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Presidential Documents

Title 3—

The President

Proclamation 9988 of February 28, 2020

American Red Cross Month, 2020

By the President of the United States of America

A Proclamation

For 139 years, the American Red Cross has provided comfort and support services to ease suffering before, during, and after emergencies in the United States and around the world. The American Red Cross provides shelter, care, and compassion in response to more than 60,000 disasters a year. It also supplies about 40 percent of our Nation's blood products; teaches skills that save lives; supports our military, veterans, and their families; and provides international humanitarian aid to countries in need. During American Red Cross Month, we thank and honor the selfless volunteers, dedicated employees, and generous supporters who invest their time, talent, and resources to provide compassionate outreach and assistance to so many.

Each year, American Red Cross workers and trained volunteers respond to a wide range of emergencies, from natural disasters that destroy entire communities to home fires that displace individual families. In response to last year's devastating hurricanes, wildfires, storms, floods, and earthquakes, the American Red Cross and its partners opened and supported emergency shelters for more than 300 days. During these and other crises, nearly 9,000 American Red Cross workers—90 percent of whom are volunteers—left their homes to work in affected areas, providing refuge, food, relief items, emotional support, recovery planning, and significant assistance to vulnerable families in their darkest hours and times of need. In 2019 alone, the American Red Cross also supported responses to 17 international disasters and humanitarian crises as a key part of the world's largest humanitarian network.

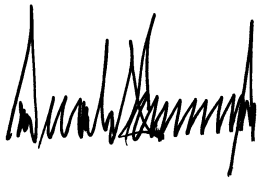
Clara Barton, a pioneering nurse from Massachusetts, founded the American Red Cross out of a desire to continue providing help and supplies to people in need following the Civil War. Her words, ''I may be compelled to face danger, but never fear it, and while our Soldiers can stand and fight, I can stand and feed and nurse them,'' echo today in the continued dedication of the American Red Cross to our service members, veterans, and their families. Today, the American Red Cross Hero Care Network provides critical and confidential services to our Armed Forces worldwide through local, State, and national resources. Last year, Hero Care Network provided more than 355,000 emergency communication services to nearly 100,000 deployed military members and their families. It is also the largest provider of free professional volunteer services to recovering wounded warriors and their families in military treatment facilities and hospitals. This network is dedicated to supporting programs and services that aid families as they navigate the demands of military life.

Across our great country, about 2,500 hospitals and other facilities depend on volunteer blood donors to meet the critical needs of patients. Each year, on average, the American Red Cross collects more than 4.6 million blood donations and nearly 1 million platelet donations from more than 2.6 million volunteers. In 2019, donations of more than 6.4 million blood products helped save and improve the lives of people of all ages, including accident victims, mothers giving birth, surgery patients, and those battling cancer and other life-threatening or altering conditions.

Every day, the American Red Cross serves people throughout the United States and around the world. Its lifesaving mission and the indelible mark it leaves around the world are possible only because of the devotion of volunteers, the generosity of donors, and the partnership of community organizations. Together, they bring critical hope, help, and healing in times of crisis, despair, and devastation.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America and Honorary Chairman of the American Red Cross, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 2020 as American Red Cross Month. I encourage all Americans to observe this month with appropriate programs, ceremonies, and activities, and to support the work of the American Red Cross and their local chapters.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of February, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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Presidential Documents

Proclamation 9989 of February 28, 2020

Irish-American Heritage Month, 2020

By the President of the United States of America

A Proclamation

During Irish-American Heritage Month, we celebrate the countless achievements of Irish Americans and recognize the remarkable contributions they have made to our Nation's character, culture, and prosperity. From America's earliest days, Irish Americans have proven themselves to be confident, fierce, tough, and faithful. They never give up, and they never give in, embodying the indomitable spirit that drives us as a people. This month, we recognize their efforts to help build a stronger, prouder America, and we acknowledge the steadfast relationship we have with the Emerald Isle.

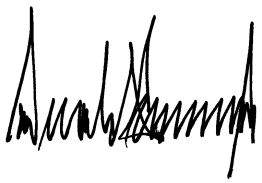
Irish Americans have played a critical role in our Nation's history and have made significant contributions to our military, government, and economy. During the Revolutionary War, General Henry Knox, the son of Irish immigrants, helped lead General George Washington's famous crossing of the Delaware River. Years later, more than 150,000 Irishmen fought to preserve our Union during the Civil War, shedding their blood so that others would experience the blessings of liberty. And one of our most famous buildings, the White House, was designed by Irish architect James Hoban, who came to the United States after the Revolutionary War. From business and politics to film and music, Irish Americans have risen to distinction and helped move our Nation forward.

As we honor the many ways in which Irish Americans have enriched our country, we acknowledge the enduring relationship the United States has with Ireland. This longstanding relationship is only growing stronger thanks to our robust economy. Approximately 700 American businesses have a presence on the Emerald Isle and account for 20 percent of the country's employment. Through our common bond of culture, language, and interests, Ireland provides a great opportunity for our businesses looking to invest in Europe. Likewise, approximately 450 Irish companies are represented in the United States. These companies employ more than 100,000 workers and have invested nearly $150 billion in our country.

This month, as we celebrate the vibrant heritage and culture of Irish Americans and partake in St. Patrick's Day festivities on March 17, we pay tribute to the tenacious Irish spirit. We admire the devotion, faith, and resilience of the more than 31 million Irish Americans who help our country flourish, and we look forward to a continued strong and enduring friendship with Ireland for years to come.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 2020 as Irish-American Heritage Month. I call upon all Americans to celebrate the achievements of Irish Americans and their contributions to our Nation with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of February, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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Presidential Documents

Proclamation 9990 of February 28, 2020

Women's History Month, 2020

By the President of the United States of America

A Proclamation

Women have influenced and advanced every facet of American life and culture. The strength, ingenuity, and spirit of our female leaders, innovators, and pioneers shape our Nation's character, government, industry, families, and communities. During Women's History Month, we honor the women who have changed our Nation and the world, and we reaffirm our commitment to supporting the next generation of female trailblazers and dreamers as they carry forward this distinguished legacy.

This year marks the centennial anniversary of the ratification of the 19th Amendment to the Constitution, securing the right to vote for women. This milestone in our country was made possible by the devotion, leadership, and perseverance of pioneers like Elizabeth Cady Stanton and Susan B. Anthony. The ratification of the 19th Amendment enabled women to finally have their voices counted in voting booths, paving the way for greater female participation in all levels of government. Heroes emerged like Frances Perkins, who, as Secretary of Labor, was the first woman to hold a cabinet-level position in the Federal Government, and Clare Boothe Luce, an influential journalist, playwright, Congresswoman, and the first woman appointed to a major ambassadorial post abroad.

Throughout our history, women have also been pioneers in fields like science, medicine, and engineering. Bessie Coleman, the world's first civilian licensed African-American pilot, and Marie Luhring, the first female truck designer, changed the way we think about aviation and transportation. Saint Katharine Drexel selflessly served those in need and left an indelible mark on nursing and education. NASA mathematician Katherine Johnson, who passed away just a few days ago, was behind some of the brilliant work that made possible the first manned spaceflights by United States astronauts. And just last year, two brave American astronauts, Flight Engineers Christina Koch and Jessica Meir, made history by conducting the first all-female spacewalk outside of the International Space Station.

My Administration is committed to empowering all women across the Nation and around the world to continue pursuing their dreams and lifting humanity to new heights. As President, I have championed policies that create economic prosperity and opportunity, enabling women to thrive as workers, parents, consumers, innovators, entrepreneurs, and investors. In 2019, women comprised 71 percent of the net increase in employment, the female unemployment rate reached near historic lows, and women for the first time made up the majority of the college-educated labor force. I have also signed into law legislation securing historic levels of funding for child care so that both women and men can better provide for their families, secure in the knowledge that their children are being well-cared for. In addition, we secured the first tax credit for employers who offer paid family leave for those earning $72,000 or less and doubled the child tax credit, benefitting nearly 40 million American families, who received an average of $2,200 in 2019. In December 2019, I was also pleased to sign legislation providing for 12 weeks of paid parental leave for all Federal employees. To drive

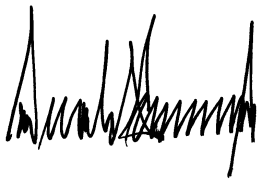
this effort further, I have also called on the Congress to pass a nationwide paid family leave program.

On the international front, last year I signed a National Security Presidential Memorandum to direct my Administration to prioritize global women's economic empowerment through the first ever whole-of-government effort dedicated to this issue: the Women's Global Development and Prosperity (W–GDP) Initiative. To date, W–GDP has reached 12 million women through United States Government programs and partnerships, with a goal of reaching 50 million women by 2025. W–GDP's efforts help secure a place for women to thrive and to lead their families, communities, and nations into new arenas of excellence.

This month, we pause as a Nation to pay tribute to the women who strengthen and enrich our society through civic action, devotion to family, and tireless dedication to community, innovation, peace, and prosperity. We pledge also to continue fighting for the further advancement of women in our society and around the globe, living up to the promise of our Nation's founding.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 2020 as Women's History Month. I call upon all Americans to observe this month and to celebrate International Women's Day on March 8, 2020, with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of February, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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Presidential Documents

Proclamation 9991 of February 28, 2020

National Consumer Protection Week, 2020

By the President of the United States of America

A Proclamation

Since my election, the United States economy has experienced a historic revitalization. Americans across our country have been the beneficiaries of and the driving force behind this extraordinary resurgence. Wages are growing at their fastest rate in a decade; the unemployment rate has reached its lowest level in half a century; and for the first time on record, there are more job openings than unemployed Americans. The vitality of our economy has led to high levels of consumer confidence. Even as we grow more prosperous, however, we must remain vigilant for bad actors seeking to harm and exploit honest and hardworking people through deception and other nefarious tactics. During National Consumer Protection Week, we reaffirm our commitment to safeguarding the American consumer from malicious practices and strengthening our efforts to prevent and prosecute fraud.

Scammers erode consumer confidence, impede the success of businesses, and steal hard-earned money from Americans. A popular tactic deployed by these corrupt individuals is to exploit Americans' trust in their government by falsely claiming to be a government employee or to be affiliated with a government agency. In 2019 alone, my Administration recorded nearly 400,000 reports of criminals representing themselves as affiliates of the Social Security Administration, law enforcement agencies, the Department of Health and Human Services, and the Internal Revenue Service. Some of these con artists tell people that their Social Security number has been suspended and threaten to freeze their assets unless they comply with demands for money or personal information. Frightened consumers are tricked into sending away thousands of dollars, mistakenly believing their money will be more secure or that they will avoid fines or penalties. These types of ploys can be especially harmful to retired Americans who rely on monthly Social Security payments as their main source of income.

To protect yourself from these vile criminals, do not trust caller ID, which scammers can easily manipulate to conceal their identity. Never respond to unsolicited incoming calls or correspondence. Instead, contact the real agency on your own. Additionally, report the potential imposter immediately to the Federal Trade Commission.

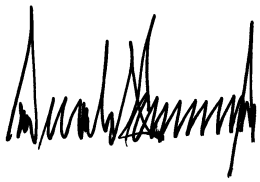
My Administration is committed to using every available resource to protect consumers and bring the perpetrators of these crimes to justice. That is why I signed an Executive Order establishing the Task Force on Market Integrity and Consumer Fraud to enhance efforts by the Department of Justice to investigate and prosecute cases of fraud on behalf of Americans, including the elderly, veterans, and service members. In order to help Americans better protect themselves against identity theft, I also signed into law legislation allowing consumers to contact each of the three major credit reporting agencies and to have their credit reports frozen for free. Additionally, last year, the Department of Justice announced the largest ever coordinated elder fraud enforcement action, which identified more than 260 defendants who had victimized more than 2 million Americans. The Department

of Justice has also taken strong action to block foreign scammers from making billions of fraudulent robocalls to American consumers.

During National Consumer Protection Week, government agencies, industry representatives, community groups, and consumer organizations come together in support of the same mission—protecting our Nation's consumers. Consumers are at the heart of our thriving economy, and protecting them must be a shared goal throughout government and across the private sector. This month, we remind all Americans to avail themselves of public and private resources available to them to safeguard their personal and financial information and to protect against fraud.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 1 through March 7, 2020, as National Consumer Protection Week. I encourage individuals, businesses, organizations, government agencies, and community groups to take advantage of the broad array of resources offered by the Federal Trade Commission, the Consumer Financial Protection Bureau, and the Department of Justice, and to share this information through consumer education activities in communities across the country.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of February, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



[FR Doc. 2020–04555
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Rules and Regulations

Federal Register
Vol. 85, No. 43
Wednesday, March 4, 2020

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Civil Monetary Penalty Inflation Adjustment

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: This final rule adjusts the level of civil monetary penalties (CMPs) in regulations maintained and enforced by the Merit Systems Protection Board (MSPB) with an annual adjustment under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) and Office of Management and Budget (OMB) guidance.

DATES: This final rule is effective on March 4, 2020.

FOR FURTHER INFORMATION CONTACT: Jennifer Everling, Acting Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW, Washington, DC 20419; Phone: (202) 653–7200; Fax: (202) 653–7130; or email: *mspb@mspb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Act), Public Law 101–410, provided for the regular evaluation of CMPs by Federal agencies. Periodic inflationary adjustments of CMPs ensure that the consequences of statutory violations adequately reflect the gravity of such offenses and that CMPs are properly accounted for and collected by the Federal Government. In April 1996, the 1990 Act was amended by the Debt Collection Improvement Act of 1996 (the 1996 Act), Public Law 104–134, requiring Federal agencies to adjust their CMPs at least once every four years. However, because inflationary adjustments to CMPs were statutorily capped at ten percent of the maximum penalty amount, but only required to be calculated every four years, CMPs in many cases did not correspond with the true measure of inflation over the preceding four-year period, leading to a decline in the real value of the penalty. To remedy this decline, the 2015 Act (section 701 of Pub. L. 114–74) requires agencies to adjust CMP amounts with annual inflationary adjustments through a rulemaking using a methodology mandated by the legislation. The purpose of these adjustments is to maintain the deterrent effect of civil penalties.

A civil monetary penalty is ''any penalty, fine, or other sanction'' that: (1) ''is for a specific amount'' or ''has a maximum amount'' under Federal law; and (2) a Federal agency assesses or enforces ''pursuant to an administrative proceeding or a civil action in the Federal courts.'' 28 U.S.C. 2461 note.

The MSPB is authorized to assess CMPs pursuant to 5 U.S.C. 1215(a)(3) and 5 U.S.C. 7326 in disciplinary actions brought by the Special Counsel. The corresponding MSPB regulation for both CMPs is 5 CFR 1201.126(a). As required by the 2015 Act, and pursuant to guidance issued by the OMB, the MSPB is now making an annual adjustment for 2020, according to the prescribed formulas.

II. Calculation of Adjustment

The CMP listed in 5 U.S.C. 1215(a)(3) was established in 1978 with the enactment of the Civil Service Reform Act of 1978 (CSRA), Public Law 95–454, section 202(a), 92 Stat. 1121–30 (Oct. 13, 1978), and originally codified at 5 U.S.C. 1207(b). That CMP was last amended by section 106 of the Whistleblower Protection Enhancement Act of 2012, Public Law 112–199, 12 Stat. 1468 (Nov. 27, 2012), now codified at 5 U.S.C. 1215(a)(3), which provided for a CMP ''not to exceed $1,000.'' The CMP authorized in 5 U.S.C. 7326 was established in 2012 by section 4 of the Hatch Act Modernization Act of 2012 (Hatch Act), Public Law 112–230, 126 Stat. 1617 (Dec. 28, 2012), which provided for a CMP ''not to exceed $1,000.'' On February 22, 2019, the MSPB issued a final rule which increased the maximum CMP allowed under both 5 U.S.C. 1215(a)(3) and 5 U.S.C. 7326 to $1,093 for the year 2019. *See* 84 FR 5583 (Feb. 22, 2019). This increase reflected the annual increase for the year 2019 mandated by the 2015 Act.

On December 16, 2019, OMB issued guidance on calculating the annual inflationary adjustment for 2020. *See* Memorandum from Russell T. Vought, Acting Dir., OMB, to Heads of Executive Departments and Agencies re: Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, M–20–05 (Dec. 16, 2019). Therein, OMB notified agencies that the annual adjustment multiplier for 2020, based on the Consumer Price Index for All Urban Consumers (CPI–U), is 1.01764 and that the 2020 annual adjustment amount is obtained by multiplying the 2019 penalty amount by the 2020 annual adjustment multiplier, and rounding to the nearest dollar. Therefore, the new maximum penalty under the CSRA and the Hatch Act is $\$1{,}093 \times 1.01764 = \$1{,}112.28$, which rounds to $1,112.

III. Effective Date of Penalties

The revised CMP amounts will go into effect on March 4, 2020. All violations for which CMPs are assessed after the effective date of this rule will be assessed at the adjusted penalty level regardless of whether the violation occurred before the effective date.

IV. Procedural Requirements

A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b), the MSPB has determined that good cause exists for waiving the general notice of proposed rulemaking and public comment procedures as to these technical amendments. The notice and comment procedures are being waived because Congress has specifically exempted agencies from these requirements when implementing the 2015 Act. The 2015 Act explicitly requires the agency to make subsequent annual adjustments notwithstanding 5 U.S.C. 553, the section of the Administrative Procedure Act that normally requires agencies to engage in notice and comment. It is also in the public interest that the adjusted rates for CMPs under the CSRA and the Hatch Act become effective as soon as possible to maintain their effective deterrent effect.

B. Regulatory Impact Analysis: E.O. 12866

The MSPB has determined that this is not a significant regulatory action under E.O. 12866. Therefore, no regulatory impact analysis is required.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). As discussed above, the 2015 Act does not require agencies to first publish a proposed rule when adjusting CMPs within their jurisdiction. Thus, the RFA does not apply to this final rule.

D. Paperwork Reduction Act

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. Chapter 35).

E. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801, *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

For the reasons set forth above, 5 CFR part 1201 is amended as follows:

PART 1201—PRACTICES AND PROCEDURES

■ 1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204, 1305, and 7701, and 38 U.S.C. 4331, unless otherwise noted.

§ 1201.126 [Amended]

■ 2. Section 1201.126 is amended in paragraph (a) by removing ''$1,093'' and adding in its place ''$1,112.''

Jennifer Everling,

Acting Clerk of the Board.

[FR Doc. 2020–03725 Filed 3–3–20; 8:45 am]

BILLING CODE 7400–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 360

RIN 3064–AF09

Securitization Safe Harbor Rule

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is amending its securitization safe harbor rule, which relates to the treatment of financial assets transferred in connection with a securitization transaction, in order to eliminate a requirement that the securitization documents require compliance with Regulation AB of the Securities and Exchange Commission in circumstances where Regulation AB by its terms would not apply to the issuance of obligations backed by such financial assets.

DATES: Effective May 4, 2020.

FOR FURTHER INFORMATION CONTACT: Phillip E. Sloan, Counsel, Legal Division, (703) 562–6137, *psloan@FDIC.gov;* George H. Williamson, Manager, Division of Resolutions and Receiverships, (571) 858–8199, *GeWilliamson@FDIC.gov.*

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The policy objective of this final rule (final rule) is to remove an unnecessary barrier to securitization transactions, in particular the securitization of residential mortgages, without adverse effects on the safety and soundness of insured depository institutions (IDIs).

The FDIC is revising the Securitization Safe Harbor Rule by removing a disclosure requirement that was established by the Securitization Safe Harbor Rule when it was amended and restated in 2010.[1] As used in this final rule, ''Securitization Safe Harbor Rule'' refers to the FDIC's securitization safe harbor rule titled ''Treatment of financial assets transferred in connection with a securitization or participation'' and codified at 12 CFR 360.6.

The Securitization Safe Harbor Rule addresses circumstances that may arise if the FDIC is appointed receiver or conservator for an IDI that has sponsored one or more securitization transactions.[2] If a securitization satisfies one of the sets of conditions established by the Securitization Safe Harbor Rule, the Rule provides that, depending on which set of conditions is satisfied, either (i) in the exercise of its authority to repudiate or disclaim contracts, the FDIC shall not reclaim, recover or recharacterize as property of the institution or receivership the financial assets transferred as part of the securitization transaction, or (ii) if the FDIC repudiates the securitization agreement pursuant to which financial assets were transferred and does not pay damages within a specified period, or if the FDIC is in monetary default under a securitization for a specified period due to its failure to pay or apply collections received by it under the securitization documents, certain remedies will be available to investors on an expedited basis.

The FDIC is removing the requirement of the Securitization Safe Harbor Rule that the documents governing a securitization transaction require compliance with Regulation AB of the Securities and Exchange Commission, 17 CFR part 229, subpart 229.1100 (Regulation AB) in circumstances where, under the terms of Regulation AB itself, Regulation AB is not applicable to the transaction. As discussed below, Regulation AB imposes significant asset-level disclosure requirements in connection with registered securitization issuances. While the SEC has not applied the Regulation AB disclosure requirements to private placement transactions, the Securitization Safe Harbor Rule has required (except for certain grandfathered transactions) that these disclosures be required as a condition for eligibility for the Securitization Safe Harbor Rule's benefits. The net effect appears to have been a disincentive for IDIs to sponsor securitizations of residential mortgages that are compliant with the Rule.

The FDIC's rationale for establishing the disclosure requirements in 2010 was to reduce the likelihood of structurally opaque and potentially risky mortgage securitizations or other securitizations that could pose risks to IDIs. In the ensuing years, a number of other regulatory changes have been implemented that have also contributed to the same objective. As a result, it is no longer clear that compliance with the public disclosure requirements of Regulation AB in a private placement or in an issuance not otherwise required to be registered is needed to achieve the

[1] The prior version of the Securitization Safe Harbor Rule, which the Securitization Safe Harbor Rule amended and restated, was adopted in 2000.

[2] The Securitization Safe Harbor Rule also addresses transfers of assets in connection with participation transactions. Since the revision included in the Rule does not address participations, this release does not include further reference to participations.

policy objective of preventing a buildup of opaque and potentially risky securitizations such as occurred during the pre-crisis years, particularly where the imposition of such a requirement may serve to restrict overall liquidity.

II. Background

The Securitization Safe Harbor Rule sets forth criteria under which, in its capacity as receiver or conservator of an IDI, the FDIC will not, in the exercise of its authority to repudiate contracts, recover or reclaim financial assets transferred in connection with securitization transactions. Asset transfers that, under the Securitization Safe Harbor Rule, are not subject to recovery or reclamation through the exercise of the FDIC's repudiation authority include those that pertain to certain grandfathered transactions, such as, for example, asset transfers made on or prior to December 31, 2010, that satisfied the conditions (except for the legal isolation condition addressed by the Securitization Safe Harbor Rule as then in effect) for sale accounting treatment under generally accepted accounting principles (GAAP) in effect for reporting periods prior to November 15, 2009, and that satisfied certain other requirements. In addition, the Securitization Safe Harbor Rule provides that asset transfers that are not grandfathered, but that satisfy the conditions (except for the legal isolation condition addressed by the Securitization Safe Harbor Rule) for sale accounting treatment under GAAP in effect for reporting periods after November 15, 2009, and that pertain to a securitization transaction that satisfies all other conditions of the Securitization Safe Harbor Rule (such asset transfers, together with grandfathered asset transfers, are referred to collectively as Safe Harbor Transfers) will not be subject to FDIC recovery or reclamation actions through the exercise of the FDIC's repudiation authority. For any securitization transaction in respect of which transfers of financial assets do not qualify as Safe Harbor Transfers but which transaction satisfies all of its other requirements, the Securitization Safe Harbor Rule provides that, in the event the FDIC as receiver or conservator remains in monetary default for a specified period under a securitization due to its failure to pay or apply collections, or repudiates the securitization asset transfer agreement and does not pay damages within a specified period, certain remedies can be exercised by investors on an expedited basis.

In adopting the amended and restated Securitization Safe Harbor Rule in 2010, the FDIC stated that the conditions of the Rule were designed to ''provide greater clarity and transparency to allow a better ongoing evaluation of the quality of lending by banks and reduce the risks to the DIF from opaque securitization structures and the poorly underwritten loans that led to onset of the financial crisis.'' [3] As part of its effort to achieve this goal, the FDIC included paragraph (b)(2) in the Securitization Safe Harbor Rule, which imposes extensive disclosure requirements relating to securitizations. These requirements include paragraph (b)(2)(i)(A) which, prior to the effectiveness of this final rule, mandates that the documents governing a securitization require disclosure of information as to the securitized financial assets on a financial asset or pool level and on a security level that, at a minimum, complies with the requirements of Regulation AB, whether or not the transaction is a registered issuance otherwise subject to Regulation AB.

The SEC first adopted Regulation AB in 2004 as a new, principles-based set of disclosure items specifically tailored to asset-backed securities. The regulation was intended to form the basis of disclosure for both Securities Act registration statements and Exchange Act reports relating to asset-backed securities. In April 2010, the SEC proposed significant revisions to Regulation AB and other rules regarding the offering process, disclosure and reporting for asset-backed securities. Among such revisions were the adoption of specified asset-level disclosures for particular asset classes and the extension of the Regulation AB disclosure requirements to exempt offerings and exempt resale transactions for asset-backed securities (ABS). As adopted in 2014, Regulation AB retained the majority of the proposed asset-specific disclosure requirements but did not apply the disclosure requirements to exempt offerings. The disclosure requirements of Regulation AB vary, depending on the type of securitization issuance. The most extensive disclosure requirements relate to residential mortgage-backed securitizations (RMBS). These requirements became effective in November 2016.

While the Securitization Safe Harbor Rule requirement for compliance with Regulation AB applies to all securitizations, the preamble to the amended and restated Securitization Safe Harbor Rule in 2010 makes clear that the FDIC was focused mostly on RMBS. The preamble states that ''securitization as a viable liquidity tool in mortgage finance will not return without greater transparency and clarity because investors have experienced the difficulties provided by the existing model of securitization. However, greater transparency is not solely for investors, but will serve to more closely tie the origination of loans to their long-term performance by requiring disclosures of performance.'' [4] In a different paragraph, the preamble states that ''[t]he evident defects in many subprime and other mortgages originated and sold into securitizations requires attention by the FDIC to fulfill its responsibilities as deposit insurer . . . The defects and misalignment of incentives in the securitization process for residential mortgages were a significant contributor to the erosion of underwriting standards throughout the mortgage finance system.'' [5]

When the FDIC adopted the Securitization Safe Harbor Rule in 2010, none of the regulatory reforms listed below had been adopted. In the absence of the protection afforded by those and other regulations adopted since 2010, the FDIC believed it was appropriate to include a disclosure condition that would inhibit the proliferation of risky securitizations, and thus required that, as a condition to safe harbor protection, privately placed transactions comply with Regulation AB disclosure requirements whether or not the SEC applied that regulation to the transactions. Since the adoption of the Securitization Safe Harbor Rule, there have been numerous regulatory developments that have the effect of limiting or precluding poorly underwritten, risky securitizations, particularly securitizations of residential mortgages.[6]

[3] 75 FR 60287, 60291 (Sept. 30, 2010).

[4] *Id.* at 60291.

[5] *Id.* at 60289.

[6] These include, among others, (i) liquidity regulations adopted in 2014 by the FDIC, the Board of Governors of the Federal Reserve System (FRB) and the Office of Comptroller of the Currency (OCC) (12 CFR part 329, 12 CFR part 249, 12 CFR part 50); (ii) capital rules adopted by the FDIC, the FRB and the OCC that became effective in 2014 (12 CFR part 324, 12 CFR part 271, 12 CFR part 3); (iii) the ability to repay rule adopted by the Bureau of Consumer Financial Protection (CFPB) pursuant to section 129C of the Truth in Lending Act (TILA) (15 U.S.C. 1639c); (iv) the Integrated Mortgage Disclosures Rules adopted by the CFPB in 2013 pursuant to the Truth in Lending Act, the Real Estate Settlement Procedures Act (RESPA), and sections 1032(f), 1098, and 1100A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act); (v) the loan originator compensation regulation adopted in 2013 by the CFPB pursuant to sections 129B and 129C of TILA (15 U.S.C. 1639B & 1639C); (vi) the appraisal rule adopted by the FDIC and other regulators in 2013 pursuant to

Continued

The other disclosure requirements of paragraph (b)(2) of the Securitization Safe Harbor Rule are unaffected by the final rule and continue to strongly promote the Rule's goal of preventing opaque and poorly underwritten securitizations. Among these are § 360.6(b)(2)(ii)(A), which is applicable to RMBS and requires that prior to issuance of the RMBS obligations, the sponsor must disclose loan level information about the underlying mortgages including, but not limited to, loan type, loan structure, interest rate, maturity and location of property; § 360.6(b)(2)(i)(B), which requires that the securitization documents mandate that on or prior to issuance of obligations there is disclosure of numerous matters, including the credit and payment performance of the obligations and the structure of the securitization, the capital or tranche structure of the securitization, priority of payments and subordination features, representations and warranties made with respect to the financial assets, the remedies and time permitted for breach of the representations and warranties, liquidity facilities and any credit enhancements permitted by the Securitization Safe Harbor Rule, any waterfall triggers or priority of payment reversal features, and policies governing delinquencies, servicer advances loss mitigation and write-offs of financial assets; § 360.6(b)(2)(i)(D), which requires, in connection with the issuance of the securitization obligations, that the documents require disclosure of the nature and amount of compensation paid to originators, the sponsor, rating agencies, and certain other parties, and the extent to which any risk of loss on the underlying assets is retained by any of them; § 360.6(b)(ii)(B), which requires that prior to issuance of the securitization obligations in an RMBS transaction, the sponsors affirm compliance with applicable statutory and regulatory standards for origination of mortgage loans, including that the mortgages are underwritten at the fully indexed rate relying on documented income, and that sponsors disclose a third party due diligence report on compliance with the representations and warranties made with respect to the financial assets; Section 360.6(b)(ii)(C), which requires that the documents governing RMBS transactions require that prior to the issuance of obligations (and while the obligations are outstanding), servicers disclose any ownership interest by the servicer or an affiliate of the servicer in other whole loans secured by the same real property that secures a loan included in the financial asset pool; and § 360.6(b)(i)(C), which requires ongoing provision of information relating to the credit performance of the financial assets. Other provisions of the Securitization Safe Harbor Rule limit the capital structure of RMBS to six credit tranches; prohibit most forms of external credit enhancement of obligations issued in an RMBS; in the case of RMBS, require that servicing and other agreements provide servicers with authority, subject to oversight, to mitigate losses on the financial assets and to modify assets and take other action to maximize the value and minimize losses on the securitized mortgage loans, and in general require that servicers take action to mitigate losses not later than 90 days after an asset first becomes delinquent; require that RMBS documents include incentives for servicing, including loan restructuring and loss mitigation activities that maximize the net present value of the financial assets; in the case of RMBS, require that the securitization documents mandate that fees and other compensation to rating agencies are payable over the five-year period after first issuance of the securitization obligations based on the performance of surveillance services, with no more than 60 percent of the total estimated compensation due at closing; and in the case of RMBS, require that the documents require the sponsor to establish a reserve fund, for one year, equal to five percent of cash proceeds of the securitization payable to the sponsor, to cover repurchases of financial assets required due to the breach of representations and warranties.

As noted in the NPR (as defined below) and discussed in more detail under *III. Discussion of Comments,* FDIC staff has been told that potential IDI sponsors of RMBS have found that it is difficult to provide certain information required by Regulation AB, either because the information is not readily available to them or because there is uncertainty as to the information requested to be disclosed and, thus, uncertainty as to whether the disclosure would be deemed accurate. FDIC staff was also advised that due to the provision of § 360.6(b)(2)(i)(A) that requires that the securitization documents require compliance with Regulation AB in private transactions, private offerings of RMBS obligations that are compliant with the Securitization Safe Harbor Rule are similarly challenging for sponsors, and that the net effect has been to discourage IDIs from participating in the securitization of residential mortgages, apart from selling the mortgages to, or with a guarantee from, the government-sponsored housing enterprises.

On August 22, 2019, the FDIC published in the **Federal Register** a notice of proposed rulemaking (NPR) in which it proposed to amend § 360.6(b)(2)(i)(A) by removing, in circumstances where under the terms of Regulation AB itself, Regulation AB is not applicable to the transaction, the requirement that the documents governing securitization transactions require disclosure of information as to the securitized financial assets on a financial asset or pool level and on a security level that, at a minimum, complies with Regulation AB. As amended, such disclosure is required under § 360.6(b)(2)(i)(A) only for an issuance of obligations that, pursuant to Regulation AB itself, is subject to Regulation AB.

The comment period under the NPR ended on October 21, 2019. The FDIC received ten comment letters in total: Five from trade organizations; one from an IDI; two from individuals; one from a financial reform advocacy group; and one from a financial market public interest group. These comment letters are available on the FDIC's website. The FDIC considered all of the comments it received when developing the final rule, which is unchanged from the rule proposed in the NPR.

III. Discussion of Comments

A majority of the comment letters support the amendment to the Securitization Safe Harbor Rule. All of the trade group and IDI letters support removing the requirement to impose Regulation AB compliance on transactions where Regulation AB is not otherwise applicable. This requirement was characterized by the letters as ''an insurmountable obstacle'', a ''barrier'', ''a regulatory impediment'', a ''disincentive'' to IDI sponsorship of RMBS, and a ''roadblock'' to increased

Section 129H of TILA (15 U.S.C. 1639h); (vii) the requirements for residential mortgage loan servicers adopted by the CFPB in 2013 pursuant to title XIV of the Dodd-Frank Act, which amended Regulation X (implementing RESPA) and Regulation Z (implementing TILA); and (viii) the interim final rule establishing new requirements for appraisal independence adopted by the FRB in 2010 pursuant to section 129E of TILA (15 U.S.C. 1639e).

Other provisions of the Securitization Safe Harbor Rule and regulatory developments also reduce the risks of risky mortgage securitizations and complex opaque structures. For example, securitization credit risk retention requirements, compliance with which is a condition set forth in a different section of the Rule, have been adopted and become effective. The Securitization Safe Harbor Rule also includes a specific disclosure requirement relating to re-securitizations.

RMBS issuance by IDIs. In addition, three of the letters observed that aligning the Regulation AB disclosure requirement contained in the Securitization Safe Harbor Rule with the SEC rule as to the scope of transactions to which Regulation AB disclosure applies would level the playing field for sponsorship of securitizations between IDIs, which prior to the final rule are required by the Securitization Safe Harbor Rule to comply with Regulation AB in private transactions, and securitization sponsors not subject to the Securitization Safe Harbor Rule, which are not required to comply with Regulation AB in connection with private transactions.[7] Indeed, the lack of alignment of the disclosure rules governing private IDI securitization sponsors and non-IDI securitization sponsors was viewed as so significant that one trade organization indicated that although its investor members would prefer obtaining Regulation AB disclosure in private transactions, the investor members generally joined with its other members in supporting the amendment ''based on the principle that the regulations applicable to industry participants should be consistent.''

Several of the letters expressed the view that removal of this Regulation AB requirement would help promote an increase in credit available to the mortgage market. Some of the letters also maintained that this amendment to the Securitization Safe Harbor Rule would increase liquidity for mortgage and other asset classes and lower costs and improve choices for consumers.

One commenter stated that the proposal was consistent with principles regarding the need for increased private securitization set forth in a Treasury Department September 2019 report on capital markets [8] and in a separate Treasury Department paper on housing finance reform.[9] This letter also stated that the proposal would provide benefits to the economy by weaning the mortgage market off of its significant dependency on government backed securitization programs and thus reduce the risk to taxpayers.

The letters from the individuals, the financial reform advocacy group and the public interest group were critical of the rule change. One of the letters asserted that an expected result of the change, an increase in RMBS, was not an appropriate goal since, according to the letters, RMBS was a primary cause of the 2008 financial crisis.[10] The letter stated the FDIC should include a finding that adequate safeguards protecting investors and the financial system remain in place, and demonstrate a dire shortage of residential mortgage credit sufficient to justify the need for the amendment. Another letter argued that while the NPR identified certain risks that could arise from the amendment to the Securitization Safe Harbor Rule, it did not adequately explain why these risks (reduced information flow to investors, a less efficient allocation of credit, increased risk of potential losses to investors, and, if private placements increased and became more risky, an increase in vulnerability of the mortgage market to a period of financial stress) were minimized by reference to post-financial crisis regulatory changes that were not specifically identified in the NPR. This letter also criticized the NPR for not explaining how such regulatory changes would prevent the amendment to the Securitization Safe Harbor Rule from leading to the conditions that led to the financial crisis.

The FDIC did note that a possible effect of removing an unnecessary barrier to IDI sponsorship of RMBS was an increase in RMBS issuance, but it does not follow that the FDIC is attempting with the final rule to cure a deficiency of mortgage credit. The FDIC believes that the reasons articulated in support of the rule are sound, and do not require a further demonstration of a shortage of mortgage credit. In addition, as for the claim that the NPR did not address the risks identified in the NPR, such as a possible increase in the vulnerability of the mortgage market to a period of financial stress in the event that the amendment results in an increase in risky, privately placed securitizations, the NPR explained that ''[i]n this respect, a significant part of the problems experienced with RMBS during the crisis were attributable to the proliferation of subprime and so-called alternative mortgages as underlying assets for those RMBS. The FDIC believes that a number of post-crisis regulatory changes make it unlikely that substantial growth of similar types of RMBS would occur again.'' [11] This analysis applies equally to the other potential risks cited in the preceding paragraph that were noted in the NPR.

One of these letters also asserted that the proposal did not address the danger that the amendment could increase activity in other potentially risky asset classes and did not adequately quantify the effects of the proposed rule. This letter also stated that the FDIC's suggestion that the amendment would increase the willingness of IDIs to sponsor securitizations was speculative, that any reduction of burden is irrelevant because it is not the FDIC's mission to reduce burden, and that the likely impact of the proposal included in the NPR must be evaluated in light of the other current deregulatory efforts.[12]

While the FDIC appreciates the concerns as to the effect of the final rule expressed in these letters, it does not believe that the concerns are justified. In adopting the final rule, the FDIC evaluated the numerous other significant disclosure requirements identified in *II. Background* and has concluded that the Securitization Safe Harbor Rule continues to require robust and adequate disclosure to investors. As noted in the NPR, a significant part of the problems experienced with RMBS during the financial crisis was attributable to the proliferation of subprime and alternative mortgages (sometimes referred to as ''nontraditional mortgages''). As further noted in the NPR, a major part of the problems with RMBS that surfaced during the financial crisis arose from poorly underwritten loans and a significant portion of these problems was attributable to relaxed lending standards and the making of mortgages to persons who were unable to repay the loans. As also noted in the FDIC study referenced in one of the letters,[13] the originate to distribute model, under which sponsoring institutions retained limited or no exposure to the mortgages that they sold to securitization vehicles, was a major source of the proliferation of poorly underwritten mortgage loans and risky RMBS issuances. The

[7] As noted below, National Credit Union Administration Rules also require compliance with Regulation AB in private transactions.

[8] *www.treasury.gov/press-center/press-releases/Documents/A-Financial-System-Capital-Markets-FINAL-FINAL.pdf.*

[9] *https://home.treasury.gov/system/files/136/Treasury-Housing-Finance-Reform-Plan.pdf.*

[10] One of the letters cited two chapters of an FDIC publication (*FDIC, Crisis and Response: An FDIC History, 2008–2013,* Chapters 1 and 4 (2017) (avail. at *https://www.fdic.gov/bank/historical/crisis/*)) as support for the view that excessive RMBS issuance was a leading cause of the 2008 financial crisis. In fact, while noting that increased RMBS issuance was one of several causes of the financial crisis, the applicable parts of the chapters focused on subprime and other high-risk alternative type mortgages, as well as relaxed lending standards, as significant contributors to the problems it discussed.

[11] 84 FR 43732, 43735.

[12] A letter also stated the amendment would result in an inconsistency with regulations of the National Credit Union Administration (NCUA), which adopted a securitization safe harbor in 2017 which includes the Regulation AB requirement. The FDIC was pleased that the NCUA adopted a securitization safe harbor rule that was consistent with the Securitization Safe Harbor Rule, and notes, in response to this letter, that the NCUA is free to maintain that consistency, if it chooses to do so, by adopting an amendment similar to the final rule.

[13] See footnote 10, *supra.*

regulatory developments mentioned in *II. Background,* which (among other items) strongly motivate lenders to ascertain a borrower's ability to pay, require that sponsors retain a portion of the risk of mortgages that they securitize, imposed new appraisal requirements and mandated more easily understandable disclosures, address these problems and other objections from commenters cited above, and have made it very unlikely that substantial growth of similar types of RMBS securitized in risky transactions will re-occur.[14]

The FDIC agrees with the comment that the NPR did not offer an analysis of whether the amendment to the Securitization Safe Harbor Rule could increase activity in other ''potentially risky asset classes.'' The discussion in the NPR, as well as the discussion in this final rule, has focused on RMBS because FDIC staff found no evidence that the Regulation AB compliance requirement of the Securitization Safe Harbor Rule had prevented would-be IDI sponsors from sponsoring securitizations of other asset classes that are subject to Regulation AB.

The comment letters reinforced the FDIC's understanding that RMBS market participants have found it difficult or impossible to comply with several requirements of Regulation AB, with the result that the Securitization Safe Harbor Rule requirement for compliance with Regulation AB in private transactions has posed an obstacle to IDI sponsorship of RMBS. The Regulation AB disclosure requirements identified in the comment letters as difficult or impossible to comply with include the back-end debt-to-equity income ratio disclosure requirement, the requirements for disclosure of appraisals, automated valuation model results and credit scores obtained by any credit party or credit party affiliate, and the inconsistency of data elements with the standards set forth in the Mortgage Industry Standards Maintenance Organization. In addition, according to one of the trade association letters, some of the required Regulation AB disclosure fields cannot be included in publicly accessible securities filings without creating ''unacceptable and reputational risks for RMBS sponsors and privacy risks to borrowers.''

Comment letters that criticized the change to the Regulation AB provision of the Securitization Safe Harbor Rule suggested that the amendment to the Securitization Safe Harbor Rule was intended to enhance proliferation of RMBS. It is important to note that by removing a regulatory requirement that poses an obstacle to IDI access to a segment of the capital markets, and acknowledging that such removal can be expected to increase RMBS sponsorship (and possibly other asset class sponsorship) by IDIs, the FDIC should not be interpreted as enunciating a policy goal to increase such IDI participation. The amendment should be viewed as clearing or leveling the field from unnecessary regulatory interference, rather than as an action whose goal is the increase of such activity.[15] If such an increase occurs, it will occur due to individual decisions of market participants, and all such issuances will be subject to the suite of post-2010 regulations mentioned in *II. Background.* The FDIC believes that if such market decisions result in increased RMBS activity, the remaining disclosure requirements of the Securitization Safe Harbor Rule together with the other requirements of the Rule, when coupled with the other post-crisis regulatory developments, will promote sustainable, prudent securitization sponsorship by IDIs to at least the same extent as such goals were promoted by the Securitization Safe Harbor Rule Regulation AB requirement when it was adopted in 2010.

As noted, one commenter asserted that the analysis that the amendment will increase private RMBS is speculative. The FDIC notes that the NPR did not predict an increase in RMBS. The NPR stated that if market participants' perceptions are correct that the rule could increase insured banks' willingness to participate in private RMBS activity, then the proposed rule ''*could* (emphasis added) result in an increase in the dollar volume of privately issued RMBS . . .'' [16]

One of the comment letters also asserted that the statement that some associated increase in U.S. economic input would be expected to accompany an increased volume of mortgage credit is a ''bold assertion apparently based on speculation for which the FDIC offers no support''. In fact, the NPR states that the possibility of increased economic activity is, in part, because ''the imputed value of credit services banks provides is a component of measured GDP. The purchase of a new home also may be accompanied by the purchase of other household goods and services that contribute to an increase in overall economic activity.'' 84 FR 43732, 43735. This comment letter also states that the FDIC must consider the impact of the proposal ''in light of the deregulatory environment that currently prevails.'' As noted in the NPR and as discussed in this Supplementary Information, an array of important regulatory safeguards now exist that should minimize the likelihood of a recurrence of a substantial volume of risky securitizations backed by poorly underwritten mortgages.

The comment letters that criticized the amendment also asserted that if the FDIC adopts the amendment to the Securitization Safe Harbor Rule, the FDIC will be acting contrary to its mandate to protect the Deposit Insurance Fund (DIF) and that, in not applying Regulation AB to transactions to which Regulation AB does not otherwise apply, the FDIC lost sight of the fact that it has a different mandate than the SEC. The FDIC does not agree with these assertions. In adopting the final rule, the FDIC carefully considered the risks to IDIs and to the DIF, and also reviewed the array of disclosure requirements that will remain part of the Securitization Safe Harbor Rule as well as the regulatory safeguards described in *II. Background.* The FDIC also notes that the final rule will enable IDIs to diversify their sources of funding and enhance options for obtaining liquidity for mortgage loans. Comment letters support this analysis. According to one letter, the amendment would benefit ''IDIs, who would see additional risk management paths that would allow them to maintain lending through a variety of economic circumstances.'' Indeed, another letter evaluated the amendment to the Regulation AB provision as ''an appropriate balance of protection of the Deposit Insurance Fund and facilitation of insured institutions' prudent participation in the private securitization markets.''

IV. The Final Rule

The final rule amends § 360.6(b)(2)(i)(A) of the Securitization Safe Harbor Rule by removing the requirement that the documents governing securitization transactions

[14] Several of these regulatory developments (the ability to pay regulation and the capital and liquidity regulations) are presumably well-recognized by investors, as they are discussed in two of the comment letters that were critical of the NPR.

[15] As noted above, one letter critical of the amendment referred to the analysis in the NPR that the amendment would reduce costs for IDIs and stated that reduction of compliance costs should not be considered an element of the FDIC's mission. The NPR cited, and this Supplementary Information cites, the reduction in costs as part of its analysis of expected effects. While a policy to remove unnecessary regulatory requirements is indeed reflected in the NPR (and in this Supplementary Information), it is not the case (and the NPR and this Supplementary Information do not suggest) that the FDIC's mission is to generally reduce compliance costs, without regard to the substance of the regulation necessitating such compliance costs.

[16] 84 FR 43732, 43735.

require disclosure of information as to the securitized financial assets on a financial asset or pool level and on a security level that, at a minimum, complies with Regulation AB in circumstances where under the terms of Regulation AB itself, Regulation AB is not applicable to the transaction. As amended, such disclosure is required under § 360.6(b)(2)(i)(A) only in the case of an issuance of obligations that is subject to Regulation AB.[17]

V. Expected Effects

A. Effects of the Final Rule

The final rule could increase the willingness of IDIs to sponsor the issuance of ABS that are exempt from registration with the SEC. Feedback from market participants suggests that the final rule may be most likely to affect incentives to issue private RMBS, since the disclosure requirements of Regulation AB are most extensive for residential mortgages.

If these market perceptions are correct, the final rule could result in an increase in the dollar volume of privately issued RMBS, presumably increasing the total flow of credit available to finance residential mortgages in the United States. For context, total issuance of RMBS secured by 1–4 family residential mortgages was approximately $1.3 trillion in 2018.[18] About $1.2 trillion of this total were agency issuances, issued through the government sponsored housing enterprises, or GSEs: The Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Government National Mortgage Association (Ginnie Mae). About $100 billion of RMBS were non-agency issuances, which includes both securities registered with the SEC (public issuances), if any, and private issuances. This level of private-label activity is low compared to pre-financial crisis levels.[19] The FDIC does not currently have a basis for quantifying the amount of any increase in RMBS issuance by IDIs that might result from the final rule, because additional factors affect the demand and supply for private-label RMBS. For example, the current level of private-label RMBS issuance volume may suggest that demand for non-agency RMBS is still weak in the aftermath of the financial crisis. In addition, the scope of participation of non-IDI sponsors of RBMS could affect the volume of RMBS sponsorship activities for IDIs, particularly if non-IDI institutions not currently involved in sponsoring private-label RMBS begin to do so.

The FDIC cannot definitively identify the set of FDIC-insured banks that have sponsored private-label RMBS. Moreover, for any bank that has sponsored private RMBS, some may have chosen to make the Regulation AB disclosures necessary for the safe harbor, and some may have chosen not to make such disclosures, but instead may have chosen to disclose to investors the risks associated with the exercise of the FDIC's receivership authorities. Information about such disclosure choices made by private RMBS issuers also is not readily available to the FDIC.

Based on the information available to it, the FDIC believes that the number of IDIs directly affected by the final rule is extremely small. The FDIC identified fewer than ten IDI sponsors of private placements of securitizations of asset classes subject to Regulation AB in 2017 and 2018.

Increased issuance sponsored by insured banks of private RMBS, to the extent it is not offset by corresponding reductions in the amount of mortgages they hold in portfolio, would result in an increase in the supply of credit available to fund residential mortgages. An increase in the supply of mortgage credit would be expected to benefit borrowers by increasing mortgage availability and decreasing mortgage costs. While problematic or predatory mortgage practices can harm borrowers, a significant body of new regulations exists to prevent such practices, as described in *II. Background.* Given this, it is more likely that any increase in mortgage credit resulting from the final rule would be beneficial to borrowers.

Some associated increase in measured U.S. economic output would be expected to accompany an increased volume of mortgage credit. This is in part because the imputed value of the credit services that banks provide is a component of measured GDP. The purchase of a new home also may be accompanied by the purchase of other household goods and services that contribute to an increase in overall economic activity.

Institutions affected by the final rule will incur reduced compliance costs as a result of not having to make the otherwise required disclosures. Based on the methodology used in its most recent Information Collection Resubmission request for part 360.6 of the FDIC regulations, the FDIC estimates that the reduction in compliance costs associated with the final rule for the IDIs identified as having been involved in private ABS issuances in 2017 and 2018 would have been about $4.9 million annually.

To the extent private-label ABS is being issued now in conformance with the disclosure requirements that are be removed under the final rule, a potential cost of the final rule is that the information available to investors about the credit quality of the assets underlying these ABS could be reduced. As a general matter, a reduction in information available to investors can result in a less efficient allocation of credit and increased risk of potential losses to investors, including banks. A related potential cost is that if privately placed securitization products were to become more widespread and risky as a result of the final rule, the vulnerability of the mortgage market to a period of financial stress could increase. In this respect, a significant part of the problems experienced with RMBS during the crisis were attributable to the proliferation of subprime and so-called alternative mortgages as underlying assets for those RMBS. As previously discussed, the FDIC believes that a number of post-crisis regulatory changes make it unlikely that substantial growth of similar types of RMBS would occur again.

B. Alternatives Considered

The FDIC considered alternatives to the final rule, and has concluded that the amendment set forth in the final rule represents the most appropriate option for achieving the policy goal of removing an unnecessary barrier to sponsorship of securitizations by IDIs. One alternative considered was to try to isolate particular disclosure fields in Regulation AB that posed obstacles to compliance and to remove those fields. However, the FDIC determined that it was not the proper agency to edit and rewrite a securities law disclosure regulation. Such an exercise was also determined to be unnecessary based on the FDIC's analysis that other provisions of the Securitization Safe Harbor Rule, together with regulatory initiatives adopted since the Rule was adopted in 2010, made the continued application of paragraph (b)(2)(i)(A) to privately placed securitization transactions unnecessary for so long as Regulation AB is not otherwise applicable to such transactions. In this connection, the FDIC notes that in the section titled ''*V.*

[17] The amendment to this provision also includes certain technical revisions required by the **Federal Register**, including a revised form of citation to Regulation AB, and deletion of the specification that the requirement for Regulation AB compliance refers to Regulation AB as in effect at the relevant time and that the requirement applies to successor public issuance requirements to Regulation AB.

[18] *Inside Mortgage Finance, 2019 Mortgage Market Statistical Annual.*

[19] *See id.* Annual non-agency single family RMBS issuance reached a high of about $1.2 trillion in 2005.

Request for Comment'', the NPR requested comments as to whether the results intended to be achieved by the proposed rule should be achieved as set forth in the proposed rule or by way of different modifications to the Securitization Safe Harbor Rule, but received no comments in response to this inquiry.

VI. Administrative Law Matters

A. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) (PRA) the FDIC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

As discussed above, the final rule revises certain provisions of the Securitization Safe Harbor Rule, which relates to the treatment of financial assets transferred in connection with a securitization or participation transaction, in order to eliminate a requirement that the securitization documents require compliance with Regulation AB of the Securities and Exchange Commission in circumstances where Regulation AB by its terms would not apply to the issuance of obligations backed by such financial assets.

The FDIC has determined that the final rule would revise an existing collection of information (3064–0177). The information collection requirements contained in this proposed rulemaking will be submitted by the FDIC to OMB for review and approval under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and § 1320.11 of the OMB's implementing regulations (5 CFR 1320.11).

The FDIC revises this information collection as follows:

Title of Information Collection: Conservator or Receiver of Financial Assets Transferred by an Insured Depository Institution in Connection with a Securitization or Participation After September 30, 2010.

OMB Control Number: 3064–0177.

Affected Public: Insured Depository Institutions.

Burden Estimate:

Information collection (IC) description	Type of burden	Estimated number of respondents	Number of responses per respondent	Estimated time per response (hrs)	Estimated annual burden (hrs)
§ 360.6(b)(2)(i)(D)	Disclosure	14	6	3	252
§ 360.6(b)(2)(ii)(B)	Disclosure	3	2	1	6
§ 360.6(b)(2)(ii)(C)	Disclosure	3	2	1	6
§ 360.6(c)(7)	Recordkeeping	14	6	1	84
Total Estimated Annual Burden (Hrs).					348

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a final rule, an agency prepare and make available for public comment a final regulatory flexibility analysis describing the impact of the rulemaking on small entities.[20] A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets less than or equal to $600 million.[21] Generally, the FDIC considers a significant effect to be a quantified effect in excess of five percent of total annual salaries and benefits per institution, or 2.5 percent of total non-interest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-insured institutions. For the reasons described below and under section 605(b) of the RFA, the FDIC certifies that this rule will not have a significant economic effect on a substantial number of small entities.

The FDIC insures 5,256 depository institutions, of which 3,891 are considered small entities for the purposes of RFA.[22] The final rule will only affect institutions currently engaged in arranging, issuing or acting as servicer for privately-placed securitizations of asset-backed securities, or likely to do so as a result of the final rule. The FDIC knows of no small, FDIC-insured institution that is currently acting in this capacity. The FDIC believes that acting as arranger, issuer or servicer for privately placed ABS requires a level of resources and capital markets expertise that would preclude a substantial number of small, FDIC-insured institutions from becoming involved in these activities.

Accordingly, the FDIC concludes that the final rule will not have a significant impact on a substantial number of small entities. For the reasons described above and pursuant to 5 U.S.C. 605(b), the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

C. The Congressional Review Act

For purposes of Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a ''major rule.''[23] If a rule is deemed a ''major rule'' by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.[24]

The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in—(A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and

[20] 5 U.S.C. 601 *et seq.*

[21] The SBA defines a small banking organization as having $600 million or less in assets, where an organization's ''assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' See 13 CFR 121.201. In its determination, the ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' See 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is ''small'' for the purposes of RFA.

[22] FDIC Call Report, September 30, 2019.

[23] 5 U.S.C. 801 *et seq.*

[24] 5 U.S.C. 801(a)(3).

export markets.[25] The OMB has determined that this final rule is a major rule for purposes of the Congressional Review Act. As required by the Congressional Review Act, the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act [26] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the final rule in a simple and straightforward manner.

D. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA), in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on IDIs, each federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on IDIs, including small depository institutions, and customers of IDIs, as well as the benefits of such regulations.[27] In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[28]

The FDIC has determined that the final rule will not impose additional reporting, disclosure, or other requirements; therefore, the requirements of RCDRIA do not apply.

E. Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the final rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L.105–277, 112 Stat. 2681).

List of Subjects in 12 CFR Part 360

Savings associations.

Authority and Issuance

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation amends 12 CFR part 360 as follows:

PART 360—RESOLUTION AND RECEIVERSHIP RULES

■ 1. The authority citation for part 360 continues to read as follows:

Authority: 12 U.S.C. 1821(d)(1),1821(d)(10)(C), 1821(d)(11), 1821(e)(1), 1821(e)(8)(D)(i), 1823(c)(4), 1823(e)(2); Sec. 401(h), Pub. L. 101–73, 103 Stat. 357.

■ 2. In § 360.6, revise paragraph (b)(2)(i)(A) to read as follows:

§ 360.6 Treatment of financial assets transferred in connection with a securitization or participation.

(b) * * *

(2) * * *

(i) * * *

(A) In the case of an issuance of obligations that is subject to 17 CFR part 229, subpart 229.1100 (Regulation AB of the Securities and Exchange Commission (Regulation AB)), the documents shall require that, on or prior to issuance of obligations and at the time of delivery of any periodic distribution report and, in any event, at least once per calendar quarter, while obligations are outstanding, information about the obligations and the securitized financial assets shall be disclosed to all potential investors at the financial asset or pool level, as appropriate for the financial assets, and security-level to enable evaluation and analysis of the credit risk and performance of the obligations and financial assets. The documents shall require that such information and its disclosure, at a minimum, shall comply with the requirements of Regulation AB. Information that is unknown or not available to the sponsor or the issuer after reasonable investigation may be omitted if the issuer includes a statement in the offering documents disclosing that the specific information is otherwise unavailable;

* * * * *

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on January 30, 2020.

Annmarie H. Boyd,

Assistant Executive Secretary.

[FR Doc. 2020–02936 Filed 3–3–20; 8:45 am]

BILLING CODE 6714–01–P

[25] 5 U.S.C. 804(2).

[26] Public Law 106–102, sec. 722, 113 Stat. 1338, 1471 (1999).

[27] 12 U.S.C. 4802(a).

[28] 12 U.S.C. 4802(b).

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

Transportation Security Administration

49 CFR Chapter XII

Notification of Arrival Restrictions Applicable to Flights Carrying Persons Who Have Recently Traveled From or Were Otherwise Present Within the People's Republic of China or the Islamic Republic of Iran

AGENCY: U.S. Customs and Border Protection and U.S. Transportation Security Administration, Department of Homeland Security.

ACTION: Notification of arrival restrictions.

SUMMARY: This document announces further modifications to the January 31, 2020, decision of the Secretary of Homeland Security (DHS) to direct all flights to the United States carrying persons who have recently traveled from, or were otherwise present within, the People's Republic of China (excluding the special autonomous regions of Hong Kong and Macau) to arrive at one of the United States airports where the United States Government is focusing public health resources. This document adds to the existing restrictions by directing all flights to the United States carrying persons who have recently traveled from, or were otherwise present within, the Islamic Republic of Iran to arrive at one of the United States airports where the United States Government is focusing public health resources. Nothing in this notification is intended to amend or modify the existing restrictions announced in the **Federal Register** on February 4, 2020 and February 7, 2020.

DATES: Flights departing after 5 p.m. EST on Monday, March 2, 2020, and covered by the arrival restrictions regarding the Islamic Republic of Iran are required to land at one of the airports identified in the documents published at 85 FR 6044 (February 4, 2020) and 85 FR 7214 (February 7, 2020). These arrival restrictions will

continue until cancelled or modified by the Secretary of DHS and notification is published in the **Federal Register** of such cancellation or modification.

FOR FURTHER INFORMATION CONTACT: Matthew S. Davies, Office of Field Operations, U.S. Customs and Border Protection at 202–325–2073.

SUPPLEMENTARY INFORMATION:

Background

The United States Government is closely monitoring an outbreak of respiratory illness caused by a novel (new) coronavirus (which has since been renamed ''SARS–CoV–2'' and causes the disease COVID–19), first identified in Wuhan City, Hubei Province, People's Republic of China. Coronaviruses are a large family of viruses that are common in many different species of animals, including camels, cattle, cats, and bats. Rarely, animal coronaviruses can infect people, and then spread between people such as with Middle East Respiratory Syndrome and Severe Acute Respiratory Syndrome.

The potential for widespread transmission of this virus by infected individuals seeking to enter the United States threatens the security of our transportation system and infrastructure, and the national security. Noting recent pronouncements by the World Health Organization and Centers for Disease Control and Prevention (CDC) to assist in preventing the introduction, transmission, and spread of this communicable disease in the United States, DHS, in coordination with the CDC and other Federal, state, and local agencies charged with protecting the American public, is implementing enhanced traveler education protocols to ensure that all travelers with recent travel from, or who were otherwise recently present within, the Islamic Republic of Iran are provided appropriate public health services. The enhanced arrival protocols concerning travelers with recent travel from, or who were otherwise recently present within, the People's Republic of China, identified in the documents published at 85 FR 6044 (February 4, 2020) and 85 FR 7214 (February 7, 2020), also remain in place without modification in this notification.

Enhanced traveler education protocols are part of a layered approach used with other public health measures already in place to detect arriving travelers who are exhibiting overt signs of illness. Related measures include reporting ill travelers identified by air carriers during travel to appropriate public health officials for evaluation, and referring ill travelers arriving at a U.S. port of entry by Customs and Border Protection (CBP) to appropriate public health officials in order to slow and prevent the introduction into, and transmission and spread of, communicable disease in the United States.

To ensure that travelers with recent presence in the Islamic Republic of Iran are screened appropriately, DHS directs that all flights to the United States carrying persons who have recently traveled from, or were otherwise present within, the Islamic Republic of Iran arrive at airports where enhanced public health services and protocols have been implemented. Although DHS will continue to work with air carriers to ensure that they identify potential persons who traveled from, or who have otherwise recently been present within, the affected areas prior to boarding, air carriers shall comply with the requirements of this document in all cases, including when such persons are identified after boarding.

On Friday, January 31, 2020, DHS posted a document on the **Federal Register** public inspection page, announcing the DHS Secretary's decision that arrival restrictions regarding the People's Republic of China (excluding the special autonomous regions of Hong Kong and Macau) would go into effect at 5 p.m. EST on Sunday, February 2, 2020, at seven airports. On Friday, February 7, 2020, DHS published a document adding four airports to the list of airports where flights subject to the arrival restrictions are permitted to land and describing when the arrival restrictions would include those airports. DHS is not adding additional airports to the list at this time.

As with actions related to the People's Republic of China, DHS anticipates that airlines will be able to fully support implementation of these arrival restrictions.

Notification of Arrival Restrictions Applicable to All Flights Carrying Persons Who Have Recently Traveled From or Were Otherwise Present Within the Islamic Republic of Iran

Pursuant to 19 U.S.C. 1433(c), 19 CFR 122.32, 49 U.S.C. 114, and 49 CFR 1544.305 and 1546.105, DHS has the authority to limit the locations where all flights entering the U.S. from abroad may land. Under this authority and effective for flights departing after 5 p.m. EST on Monday, March 2, 2020, I hereby direct all operators of aircraft to ensure that all flights carrying persons who have recently traveled from, or were otherwise present within, the Islamic Republic of Iran only land at one of the following airports:

- John F. Kennedy International Airport (JFK), New York;
- Chicago O'Hare International Airport (ORD), Illinois;
- San Francisco International Airport (SFO), California;
- Seattle-Tacoma International Airport (SEA), Washington;
- Daniel K. Inouye International Airport (HNL), Hawaii;
- Los Angeles International Airport, (LAX), California;
- Hartsfield-Jackson Atlanta International Airport (ATL), Georgia;
- Washington-Dulles International Airport (IAD), Virginia;
- Newark Liberty International Airport (EWR), New Jersey;
- Dallas/Fort Worth International Airport (DFW), Texas; and
- Detroit Metropolitan Airport (DTW), Michigan.

This direction considers a person to have recently traveled from, or otherwise been present within, the Islamic Republic of Iran if that person departed from, or was otherwise present within, the Islamic Republic of Iran within 14 days of the date of the person's entry or attempted entry into the United States.

For purposes of this document, crew and flights carrying only cargo (*i.e.,* no passengers or non-crew) are excluded from the applicable measures set forth in this notice.

This direction is subject to any changes to the airport landing destination that may be required for aircraft and/or airspace safety, as directed by the Federal Aviation Administration.

This list of affected airports may be modified by the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services and the Secretary of Transportation. This list of affected airports may be modified by an updated publication in the **Federal Register** or by posting an advisory to follow at *www.cbp.gov.* The restrictions will remain in effect until superseded, modified, or revoked by publication in the **Federal Register**.

For purposes of this **Federal Register** document, ''United States'' means the States of the United States, the District of Columbia, and territories and possessions of the United States (including Puerto Rico, the U.S. Virgin Islands, American Samoa, the

Commonwealth of the Northern Mariana Islands, and Guam).

Chad F. Wolf,

Acting Secretary, U.S. Department of Homeland Security.

[FR Doc. 2020–04542 Filed 3–2–20; 4:15 pm]

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DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

30 CFR Part 250

[Docket ID: BSEE–2020–0001; EEEE500000 20XE1700DX EX1SF0000.EAQ000]

RIN 1014–AA47

Oil and Gas and Sulfur Operations on the Outer Continental Shelf—Civil Penalty Inflation Adjustment

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Final rule.

SUMMARY: This final rule adjusts the level of the maximum daily civil monetary penalty contained in the Bureau of Safety and Environmental Enforcement (BSEE) regulations for violations of the Outer Continental Shelf Lands Act (OCSLA), in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget (OMB) guidance. The civil penalty inflation adjustment, using a 1.01764 multiplier, accounts for one year of inflation spanning from October 2018 to October 2019.

DATES: This rule is effective on March 4, 2020.

FOR FURTHER INFORMATION CONTACT: Janine Marie Tobias, Safety and Enforcement Division, Bureau of Safety and Environmental Enforcement, (202) 208–4657 or by email: *regs@bsee.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Legal Authority

The OCSLA, at 43 U.S.C. 1350(b)(1), directs the Secretary of the Interior (Secretary) to adjust the OCSLA maximum daily civil penalty amount at least once every three years to reflect any increase in the Consumer Price Index (CPI) to account for inflation. On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74) (FCPIA of 2015). The FCPIA of 2015 required Federal agencies to adjust the level of civil monetary penalties found in their regulations with an initial ''catch-up'' adjustment through rulemaking, if warranted, and then to make subsequent annual adjustments for inflation. The purpose of these adjustments is to maintain the deterrent effect of civil penalties and to further the policy goals of the underlying statutes. Agencies were required to publish the first annual inflation adjustments in the **Federal Register** by no later than January 15, 2017 and must publish recurring annual inflation adjustments by no later than January 15 of each subsequent year.

BSEE last updated the maximum daily civil penalty amounts in BSEE's regulations for OCSLA violations by a final rule published and effective on March 25, 2019. (*See* 84 FR 10,989). Consistent with OMB guidance, BSEE's final rule implemented the inflation adjustments required by the FCPIA of 2015 through October 2018.

The OMB Memorandum M–20–05 (*Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015;* available at *https://www.whitehouse.gov/wp-content/uploads/2019/12/M-20-05.pdf*) explains agency responsibilities for: Identifying applicable penalties and performing the annual adjustment; publishing revisions to regulations to implement the adjustment in the **Federal Register**; applying adjusted penalty levels; and performing agency oversight of inflation adjustments.

BSEE is promulgating this 2020 inflation adjustment for the OCSLA maximum daily civil penalties as a final rule pursuant to the provisions of the FCPIA of 2015 and OMB's guidance. A proposed rule is not required because the FCPIA of 2015 expressly exempted the annual inflation adjustments implemented pursuant to the FCPIA of 2015 from the pre-promulgation notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553 *et seq.* (the APA), allowing those adjustments to be published directly as final rules. Specifically, the FCPIA of 2015 states that agencies shall adjust civil monetary penalties ''notwithstanding Section 553 of the Administrative Procedure Act.'' (FCPIA of 2015 at section 4(b)(2)). This interpretation of the FCPIA of 2015 is confirmed by OMB Memorandum M–20–05 at 4 (''This means that the public procedure the APA generally requires—notice, an opportunity for comment, and a delay in effective date-is not required for agencies to issue regulations implementing the annual adjustment.'').

II. Calculation of Adjustments

In accordance with the FCPIA of 2015 and the guidance provided in OMB Memorandum M–20–05, BSEE has calculated the necessary inflation adjustment for the maximum daily civil monetary penalty amount in 30 CFR 250.1403 for violations of OCSLA. The previous OCSLA civil penalty inflation adjustment accounted for inflation through October 2018. The required annual civil penalty inflation adjustment promulgated through this rule accounts for inflation through October 2019.

Annual inflation adjustments are based on the percent change between the Consumer Price Index for all Urban Consumers (CPI–U) for the October preceding the date of the adjustment, and the prior year's October CPI–U. Consistent with the guidance in OMB Memorandum M–20–05, BSEE divided the October 2019 CPI–U by the October 2018 CPI–U to calculate the multiplying factor. In this case, the October 2019 CPI–U (257.346) divided by the October 2018 CPI–U (252.885) is 1.01764. OMB Memorandum M–20–05 confirms that this is the proper multiplier. (OMB Memorandum M–20–05 at 1, n.4).

The FCPIA of 2015 requires that BSEE adjust the OCSLA maximum daily civil penalty amount for inflation using the applicable 2020 multiplier (1.01764). Accordingly, BSEE multiplied the existing OCSLA maximum daily civil penalty amount ($44,675) by 1.01764 to arrive at the new maximum daily civil penalty amount ($45,463.07). The FCPIA of 2015 requires that the resulting amount be rounded to the nearest $1.00 at the end of the calculation process. Accordingly, the adjusted OCSLA maximum daily civil penalty for 2020 is $45,463.

The adjusted penalty levels take effect immediately upon publication of this rule. Pursuant to the FCPIA of 2015, the increase in the OCSLA maximum daily civil penalty amount applies to civil penalties assessed after the date the increase takes effect, even when the associated violation(s) predates such increase. Consistent with the provisions of OCSLA and the FCPIA of 2015, this rule adjusts the following maximum civil monetary penalty per day per violation as follows:

CFR citation	Description of the penalty	Current maximum penalty	Multiplier	Adjusted maximum penalty
30 CFR 250.1403	Failure to comply per-day, per-violation	$44,675	1.01764	$45,463

III. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866, 13563, and 13771)

Executive Order (E.O.) 12866 provides that the OMB Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant. (*See* OMB Memorandum M–20–05 at 3).

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 further emphasizes that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements, to the extent permitted by statute.

E.O. 13771 of January 30, 2017, directs Federal agencies to reduce the regulatory burden on regulated entities and control regulatory costs. E.O. 13771, however, applies only to significant regulatory actions, as defined in Section 3(f) of E.O. 12866. OIRA has determined that agency regulations implementing the annual adjustment required by the FCPIA of 2015 are not significant regulatory actions under E.O. 12866, provided they are consistent with OMB Memorandum M–20–05. (*See* OMB Memorandum M–20–05 at 3). Thus, E.O. 13771 does not apply to this rulemaking.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. (*See* 5 U.S.C. 603(a) and 604(a)). The FCPIA of 2015 expressly exempts these annual inflation adjustments from the requirement to publish a proposed rule for notice and comment. (*See* FCPIA of 2015 at § 4(b)(2); OMB Memorandum M–20–05 at 4). Thus, the RFA does not apply to this rulemaking.

C. Small Business Regulatory Enforcement Fairness Act

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

(1) Does not have an annual effect on the economy of $100 million or more;

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

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

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

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

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. To the extent that State and local governments have a role in Outer Continental Shelf activities, this rule will not affect that role. Therefore, a federalism summary impact statement is not required.

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

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

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

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

H. Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department of the Interior's consultation policy, under Departmental Manual Part 512 Chapters 4 and 5, and under the criteria in E.O. 13175. We have determined that it has no substantial direct effects on Federally-recognized Indian tribes or Alaska Native Claims Settlement Act (ANCSA) Corporations, and that consultation under the Department of the Interior's tribal and ANCSA consultation policies is not required.

I. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because, as a regulation of an administrative nature, this rule is covered by a categorical exclusion (*see* 43 CFR 46.210(i)). BSEE also determined that the rule does not implicate any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA. Therefore, a detailed statement under NEPA is not required.

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

This rule is not a significant energy action under the definition in E.O.

13211. Therefore, a Statement of Energy Effects is not required.

List of Subjects in 30 CFR Part 250

Administrative practice and procedure, Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Oil and gas exploration, Penalties, Pipelines, Continental Shelf—mineral resources, Continental Shelf—rights-of-way, Reporting and recordkeeping requirements, Sulfur.

Casey Hammond,

Acting Assistant Secretary—Land and Minerals Management, U.S. Department of the Interior.

For the reasons given in the preamble, Bureau of Safety and Environmental Enforcement (BSEE) amends Title 30, Chapter II, Subchapter B, Part 250 of the Code of Federal Regulations as follows.

PART 250—OIL AND GAS AND SULFUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

■ 1. The authority citation for 30 CFR Part 250 continues to read as follows:

Authority: 30 U.S.C. 1751, 31 U.S.C. 9701, 33 U.S.C. 1321(j)(1)(C), 43 U.S.C. 1334.

■ 2. Revise § 250.1403 to read as follows:

§ 250.1403 What is the maximum civil penalty?

The maximum civil penalty is $45,463 per day per violation.

[FR Doc. 2020–03694 Filed 3–3–20; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[SATS No. IL–109–FOR; Docket ID: OSM–2019–0003 S1D1S SS08011000 SX064A000 201S180110; S2D2S SS08011000 SX064A000 20XS501520]

Illinois Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the Illinois regulatory program (Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Illinois proposes revisions to its statute and regulations, including allowing the extraction of coal as an incidental part of a government-financed construction project, revising its Ownership and Control rules, and clarifying land use changes requiring a significant permit revision. Illinois intends to revise its program to be as effective as the Federal regulations.

DATES: Effective April 3, 2020.

FOR FURTHER INFORMATION CONTACT: William L. Joseph, Director, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Suite 216, Alton, Illinois 62002. Telephone: (618) 463–6460. Email: *bjoseph@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Program
II. Submission of the Amendment
III. OSMRE's Findings
IV. Summary and Disposition of Comments
V. OSMRE's Decisions
VI. Statutory and Executive Order Reviews

I. Background on the Illinois Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Illinois program effective June 1, 1982. You can find background information on the Illinois program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Illinois program in the June 1, 1982, **Federal Register** (47 FR 23858). In the September 6, 1989, **Federal Register**, (54 FR 36963), the Secretary of the Interior announced that the Illinois program was fully approved effective on that date. You can also find later actions concerning the Illinois program and program amendments at 30 CFR 913.10, 913.15, and 913.17.

II. Submission of the Amendment

By letter dated December 5, 2018 (Administrative Record No. IL–5100), Illinois sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative. By email dated December 11, 2018, Illinois requested that OSMRE's review be put on hold until it could resubmit the proposed amendment due to editorial changes requested by the Illinois Joint Committee on Administrative Rules. Illinois resubmitted the proposed amendment to OSMRE on February 20, 2019 (Administrative Record No. IL–5112). We used the amendment submitted on February 20, 2019, for our review.

We announced the receipt of the proposed amendment in the May 1, 2019, **Federal Register** (84 FR 18428). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period ended on May 31, 2019. At the request of three Illinois citizens' organizations, we reopened the public comment period in the June 10, 2019, **Federal Register** (84 FR 26802) and provided another opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period ended on June 24, 2019. We did not hold a public hearing or meeting because one was not requested. We received three public comments that are addressed in the Public Comments section of part IV, Summary and Disposition of Comments, below.

III. OSMRE's Findings

We are approving the amendment as described below. The following are findings we made concerning Illinois' amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. Any revisions that we do not specifically discuss below concerning non-substantive wording or editorial changes can be found in the full text of the program amendment available at *www.regulations.gov.*

A. Illinois Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720)—Section 1.06. Scope of the Act

Illinois proposes to revise the Illinois Surface Coal Mining Land Conservation and Reclamation Act (ISCMLCRA) (225 ILCS 720), section 1.06, ''Scope of the Act,'' by adding language allowing coal extraction as an incidental part of a government-financed project. The language added is nearly identical to that found in section 528 of SMCRA (30 U.S.C. 1278).

Illinois' proposed amendment to the Illinois Compiled Statutes Annotated is no less stringent than section 528 of SMCRA (30 U.S.C. 1278). Therefore, we are approving Illinois' revision of the scope of the ISCMLCRA.

Illinois also proposes to revise several Parts of Title 62 of the Illinois Administrative Code, discussed below.

B. Section 1701, Appendix A. Definitions

In addition to minor, non-substantive grammatical and punctuation changes, Illinois proposes to revise its regulation at section 1701, Appendix A, by amending or adding definitions, including, ''control,'' ''extraction,'' ''government financing agency,'' ''government-financed construction,'' ''knowing,'' ''own, owner or ownership,'' ''violation,'' ''violation notice'' and ''willful or willfully These definitions substantively mirror the Federal definitions at 30 CFR 701.5 and 707.5.

Illinois also proposes to revise the definition of ''permit area.'' Illinois' proposed definition is substantively the same as the Federal definition found at 30 CFR 701.5, with one exception. Specifically, Illinois proposes to include the statement that, ''the permit area excludes the area defined in this Part as the shadow area.'' The Illinois program defines ''shadow area'' as, ''any area beyond the limits of the permit area in which underground workings are located. This area includes all resources above and below the coal that are protected by the State Act that may be adversely impacted by underground mining operations including impacts of subsidence.'' Shadow area relates to underground mine workings. Section 516 of SMCRA specifically requires the Secretary ''to accommodate the distinct difference between surface and underground mining.'' 30 U.S.C. 1266. While there is no statutory or regulatory Federal counterpart definition of ''shadow area,'' OSMRE finds that Illinois' distinction between the two terms is consistent with SMCRA. Moreover, we have previously approved Illinois' treatment of shadow area as distinct from the permit area and approved the definition of shadow area within the Illinois program. For example, in the October 25, 1988, **Federal Register** (53 FR 43112), in response to commenters, we stated, ''OSMRE has previously determined that the definition of permit area does not include surface areas above underground workings, which in Illinois is defined as the shadow area.'' Based on our comparison to the Illinois program and the Federal regulations we find that the definition of ''permit area'' including the additional sentence unique to the Illinois program is no less effective than the Federal definition at 30 CFR 701.5. Therefore, we are also approving Illinois' proposed amendment to the definition of ''permit area.''

C. Part 1703 Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction

Illinois proposes adding a new section 1703 to allow the extraction of coal as an incidental part of a government-financed construction project, which incorporates language identical to the Federal regulations at 30 CFR part 707.

We find that Illinois' proposed amendment does not make its statute or regulations neither less stringent than nor less effective than the Federal regulations found at 30 CFR part 707. Therefore, we are approving Illinois' revision.

D. Part 1773 Requirements for Permits and Permit Processing

Illinois proposes to amend section 1773.15, ''Review of Permit Applications'' to comport with changes made to the Federal regulations at 30 CFR 773.12 as a result of a Federal rulemaking related to ownership and control. 72 FR 68000 (Dec. 3, 2007). Within the 2007 rulemaking, among other changes, OSMRE removed reference to ''control'' within the definition of own, owner, or ownership and with respect to ownership; limited the ability of regulatory authorities to look one level down from the applicant when making a permit eligibility determination; and confirmed that each State, ''when it processes a permit application, must apply its own ownership and control rules to determine whether the applicant owns or controls any surface coal mining operations with violations.'' 72 FR 68012. Illinois proposes to prevent the Illinois Department of Natural Resources (DNR) from considering violations upstream of the permit applicant by removing ''person who owns or controls the applicant'' from this section. We find this to be consistent with the 2007 Federal rulemaking and *Nat'l Mining Ass'n* v. *Dep't. of the Interior,* 105 F.3d 691, 694 (D.C. Cir. 1997), holding that we cannot deny permits based on violations at operations owned or controlled by the applicant's owners or controllers.

Illinois also proposes to amend section 1773.25, ''Standards for Challenging Ownership or Control Links and the Status Violations,'' to update a subsection reference.

We find that Illinois' proposed amendments do not make its statutes or regulations neither less stringent than nor less effective than the Federal regulations found at 30 CFR 773.12. Therefore, we are approving Illinois' revisions.

E. Section 1774 Permit Revisions

Illinois proposes to amend section 1774.13, ''Permit Revisions,'' to provide further clarification as to which reclamation plan land use changes require a significant revision for a permit application. Illinois proposes to remove the requirement for a significant revision for land use changes involving greater than five percent of the total permit acreage after finding the five percent limitation to be unduly restrictive and burdensome. Instead, DNR will consider changes in the reclamation plan for postmining land use in determining whether a significant revision to the permit must be obtained. Therefore, should a proposed change to the reclamation plan include a land use change from cropland, pastureland, grazing land, forestry, or fish and wildlife habitat to residential, industrial/commercial, recreation, or developed water resources that meet the size criteria of 30 CFR 77.216(a), then a significant revision of the permit must be obtained. Illinois proposes to deem such land use changes as significant permit revisions to ensure protections for conversion from the most common land uses to uses that would have minimal vegetation or pose potential safety concerns receive additional agency approvals. Illinois is establishing these guidelines to ensure the requirements of 30 CFR 774.13(b)(2) are satisfied. Section 511(a)(2) of SMCRA (30 U.S.C. 1261(a)(2)) and the Federal regulations at 30 CFR 774.13(b) require the regulatory authority to establish guidelines for the scale or extent of revisions for which all the permit application requirements will apply. OSMRE determined in the September 28, 1983, **Federal Register** (48 FR 44344) that this requirement provided flexibility to the regulatory authority to establish guidelines suitable to the operation of individual State programs. We find that Illinois' proposed amendment to be no less effective than the Federal regulations found at 30 CFR 774.13. Therefore, we are approving Illinois' proposed amendment about certain land use changes qualified as significant revisions.

F. Section 1778 Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information

Illinois proposes adding a new section 1778.9, ''Certifying and Updating Existing Permit Application Information,'' which incorporates language identical to the Federal regulations at 30 CFR 778.9.

Illinois proposes to amend section 1778.13, ''Identification of Interests,'' to ensure all elements of the Federal regulations at 30 CFR 778.11 and 778.12 are incorporated into the Illinois regulations and to be consistent with changes made to the Federal regulations as a result of the Federal rulemaking published on December 3, 2007. (72 FR 68000).

Illinois proposes to amend section 1778.14, ''Violation Information,'' by adding language to mirror the Federal regulations at 30 CFR 778.14.

Illinois proposes to amend section 1778.15, ''Right of Entry Information,'' to add language found in the Federal regulations at 30 CFR 778.13 related to property interest information to the existing right of entry language in this section, which corresponds to 30 CFR 778.15, so that all property-related rules are located in one section.

We find that Illinois' proposed amendments to the Illinois Code are no less effective than the Federal regulations found at 30 CFR part 1778. Therefore, we are approving Illinois' revisions.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment. As noted in Section II, Submission of the Amendment, above, the original comment period ended May 31, 2019. We did not receive comments on the proposed amendment during that period, but we received requests from three Illinois citizens' organizations to reopen the comment period to give the public more time to review the proposed amendment and provide comments. The comment period was reopened June 10, 2019, and ended June 24, 2019. We received three comments during this period from the Illinois Chapter Sierra Club, the Citizens Against Longwall Mining, and Stand Up To Coal.

Two commenters mentioned the ''Banner Rules,'' which refers to the Banner Agreed Order between the Illinois Attorney General and the Illinois Department of Natural Resources that outlines coal mine permitting process reforms stemming from the Banner Mine settlement. We did not take any action based on this comment. Any changes identified within the Banner Rules were not part of this proposed amendment from Illinois and, therefore, are outside the scope of this review. Further, the Banner Agreed Order is a state-mandated order, which both commenters have acknowledged, and as such, we have no jurisdiction to require such changes. When Illinois proposes to make the changes identified in the Banner Rules, that proposed amendment will be evaluated at that time to determine if the changes would render the Illinois program less effective than the Federal regulations.

Another commenter requested that OSMRE make a renewed effort to require ''upstream,'' full historic and complete ownership and control information supplied as part of a permit issuance. The commenter contends that this information is essential for citizens in Illinois. We did not take any action based on this comment. In the submitted comment, the commenter acknowledged that there are no major differences in the proposed amendment and the current Federal regulations. In the Findings section above, we confirmed that the changes proposed by Illinois conform to the requirements of SMCRA and the Federal regulations, and as such, do not make the Illinois program less effective than the Federal regulations.

Two comments were received regarding the proposed change to section 1774, Permit Revisions, in which Illinois proposes to remove the requirement for a significant revision for land use changes involving greater than five percent of the total permit acreage after finding the five percent limitation to be unduly restrictive and burdensome. The commenters asked that we not approve this change and require Illinois to keep the current five percent standard for a significant revision. We did not concur with this comment as explained in the Findings section above.

Finally, one commenter addressed section 1778 of the proposed amendment. The commenter expressed concerns that the many layers to mining corporations present significant challenges for the public to be able to ascertain if a mining permittee has past mining violations that would affect the issuance of a permit. We did not take any action based on this comment. In the submitted comment, the commenter acknowledged that the Illinois proposed changes are an update to wording to comport with the current Federal regulations. In the Findings section above, we confirmed that the changes proposed by Illinois conform to the requirements of SMCRA and the Federal regulations, and as such, do not make the Illinois program less effective than the Federal regulations.

These comments are available in their entirety at *www.regulations.gov.*

Federal Agency Comments

On February 21, 2019, pursuant to 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA (30 U.S.C. 1253(b)), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Illinois program (Administrative Record No. IL–5113). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Illinois proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on February 21, 2019, under 30 CFR 732.17(h)(11)(i), we requested comments from the EPA on the amendment (Administrative Record No. IL–5113). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On February 21, 2019, we requested comments on the amendment (Administrative Record No. IL–5113). We did not receive any comments.

V. OSMRE's Decision

Based on the above finding, we are approving the Illinois amendment that was submitted on February 20, 2019 (Administrative Record No. IL–5112).

To implement this decision, we are amending the Federal regulations at 30 CFR part 913, which codify decisions concerning the Illinois program. In accordance with the Administrative Procedure Act (5 U.S.C. 553), this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA (30 U.S.C. 1253(a)) requires that the State's program must demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not affect a taking of private property or otherwise have taking implications that would result in public property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Orders 12866—Regulatory Planning and Review and 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of State program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by section 3(a) of Executive Order 12988. The Department has determined that this **Federal Register** notification meets the criteria of section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct, rather than a general standard, and promote simplification and burden reduction. Because section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive order to the quality of this **Federal Register** notification and to changes to the Federal regulations. The review under this Executive order did not extend to the language of the State regulatory program or to the program amendment that Illinois drafted.

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

State program amendments are not regulatory actions under Executive Order 13771 because they are exempt from review under Executive Order 12866.

Executive Order 13132—Federalism

This rule is not a ''[p]olicy that [has] Federalism implications'' as defined by section 1(a) of Executive Order 13132 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.'' Instead, this rule approves an amendment to the Illinois program submitted and drafted by that State. OSMRE reviewed the submission with fundamental federalism principles in mind as set forth in sections 2 and 3 of the Executive order and with the principles of cooperative federalism as set forth in SMCRA. *See, e.g.,* 30 U.S.C. 1201(f). As such, pursuant to section 503(a)(1) and (7) (30 U.S.C. 1253(a)(1) and (7)), OSMRE reviewed the program amendment to ensure that it is ''in accordance with'' the requirements of SMCRA and ''consistent with'' the regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175, and have determined that it has no substantial direct effects on federally recognized Tribes or on the distribution of power and responsibilities between the Federal Government and Tribes. Therefore, consultation under the Department's tribal consultation policy is not required. The basis for this determination is that our decision is on the Illinois program, which does not include Tribal lands or regulation of activities on Tribal lands. Tribal lands are regulated independently under the applicable, approved Federal program.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not a significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866; and this action does not address environmental health or safety risks disproportionately affecting children.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, Part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 *et seq.*) directs OSMRE to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. (OMB Circular A–119 at p. 14). This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a

substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 17, 2019.

Alfred L. Clayborne,

Regional Director, DOI Unified Regions 3, 4 and 6.

Editorial note: This document was received for publication by the Office of the Federal Register on February 20, 2020.

For the reasons set out in the preamble, 30 CFR part 913 is amended as set forth below:

PART 913—ILLINOIS

■ 1. The authority citation for part 913 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 913.15 is amended in the table by adding an entry for ''225 ILCS 720/1.06(e); 62 IAC 1701.Appendix A; 1703.10; 1773.15, 1773.25; 1774.13; 1778.9, 1778.13, 1778.14, 1778.15'' in chronological order by ''Date of final publication'' to read as follows:

§ 913.15 Approval of Illinois regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
February 20, 2019	March 4, 2020	225 ILCS 720/1.06(e); 62 IAC 1701.Appendix A; 1703.10; 1773.15, 1773.25; 1774.13; 1778.9, 1778.13, 1778.14, 1778.15.

[FR Doc. 2020–03753 Filed 3–3–20; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[SATS No: WV–122–FOR; Docket ID OSM–2013–0011 S1D1S SS08011000 SX064A000 201S180110 S2D2S SS08011000 SX064A000 20XS501520]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendments.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving amendments to the West Virginia regulatory program (the West Virginia program), under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) that contains both West Virginia statutory and regulatory revisions. West Virginia initially submitted an amendment to revise its West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA). Senate Bill 462 amends the West Virginia Code to conform to the State's requirements for informal conferences and decisions on surface coal mining permit applications with parallel provisions of Federal law. Committee Substitute for House Bill 2352 amends the West Virginia Code to provide tax incentives for coal mine operators who reclaim bond forfeiture sites. Subsequently, West Virginia submitted another amendment consisting of a Special Reclamation Tax Credit Rule to implement the proposed statutory revisions providing tax incentives to coal mine operators to reclaim bond forfeiture sites.

DATES: This rule is effective April 3, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Owens, Acting Director, Charleston Field Office, Telephone: (304) 347–7158. Email: *chfo@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program
II. Submission of the Amendments
III. OSMRE's Findings
IV. Summary and Disposition of Comments
V. OSMRE's Decision
VI. Statutory and Executive Order Reviews

I. Background on the West Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the implementing Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of this criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendments

By letter dated August 14, 2013, and received electronically by us on August 16, 2013 (Administrative Record Number 1587), the West Virginia Department of Environmental Protection (WVDEP) submitted an amendment to its permanent regulatory program under SMCRA (30 U.S.C. 1201 *et seq.*). The amendment included changes to West Virginia's statute, the West Virginia Code (W. Va. Code), as contained in Enrolled Committee Substitute for House Bill 2352 and Enrolled Senate Bill 462.

Committee Substitute for House Bill 2352 amends W. Va. Code sec. 22–3–11(g) and (h) to provide tax incentives for mine operators who reclaim bond forfeiture sites. On April 13, 2013, the West Virginia Legislature adopted the Committee Substitute for House Bill 2352. On April 29, 2013, the Governor signed the statutory revisions into law. These changes became effective under State law on July 12, 2013.

Senate Bill 462 amends W. Va. Code secs. 22–3–20 and 21 to ensure the State's requirements for informal conferences and decisions on surface coal mining permit applications conform, more closely, with parallel provisions of Federal law. The West Virginia Legislature passed Senate Bill 462 on April 11, 2013, and the Governor signed it into law on April 29, 2013. The changes became effective under West Virginia law on July 10, 2013. We announced West Virginia's proposed amendments in the May 20, 2014, **Federal Register** (79 FR 28858). In that notice we also opened the public comment period and provided an opportunity for a public hearing on the provisions (Administrative Record Number WV–1588). The public comment period closed on June 19, 2014.

On June 6, 2014, the West Virginia State Tax Department filed a Special Reclamation Tax Credit Rule with the Secretary of State to implement the special reclamation tax incentive revisions at W. Va. Code sec. 22–3–11(g) and (h) for coal mine operators who reclaim bond forfeiture sites within the State. The Committee Substitute for Senate Bill 167 authorized the statutory revisions. On March 8, 2014, the West Virginia Legislature passed the revisions to the statute. The Governor approved the bill on March 31, 2014. On August 7, 2014, WVDEP submitted the proposed rule to us at a meeting of the Special Reclamation Fund Advisory Council (Administrative Record Number WV–1597). The Special Reclamation Tax Credit Rule is set forth in the West Virginia regulations, known as the West Virginia Code of State Rules (CSR) at secs. 110–29–1 through 6. We announced the proposed regulatory revisions in the **Federal Register** on November 13, 2014 (79 FR 67396) and reopened the comment period to provide the public 15 additional days to comment on the proposed rule (Administrative Record Number WV–1598). The public comment period closed on November 28, 2014.

III. OSMRE's Findings

Following are OSMRE's findings about West Virginia's amendments under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. As discussed below, we are approving the proposed State statutory and regulatory amendments with certain understandings. Any non-substantive wording or editorial changes that are not specifically discussed below have been approved without further discussion. However, the full text of the program amendment is available at *https://www.regulations.gov.*

A. W. Va. Code Sec. 22–3–11(g) and (h)—Special Reclamation Tax Incentive

In accordance with Committee Substitute for House Bill 2352, the State proposes to add new language to sec. 22–3–11(g) and (h) of the W. Va. Code, which encompasses the WVSCMRA, providing coal mine operators with tax incentives to reclaim bond forfeiture sites within the State.

Subsection (g)(3)(A) provides that a tax credit shall be granted against the special reclamation tax imposed by subsection (i) of W. Va. Code sec. 22–3–11 to any coal mine operator who performs reclamation or remediation at a bond forfeiture site, which otherwise would have been reclaimed using funds from the Special Reclamation Fund or Special Reclamation Water Trust Fund. West Virginia Code sec. 22–3–11(i), which is part of the West Virginia program, imposes a tonnage tax upon mined, cleaned coal. Proceeds generated by this tax are deposited in the Special Reclamation Fund and the Special Reclamation Water Trust Fund. West Virginia Code sec. 22–3–11(g)(3)(B) provides that the amount of the reclamation tax credit granted shall be equal to the amount that the Tax Commissioner determines, based on the project costs as shown in the records of the Secretary, that would have been spent from the Special Reclamation Fund or Special Reclamation Water Trust Fund to accomplish the reclamation or remediation performed by the coal mine operator. This also includes expenditures for water treatment. West Virginia Code sec. 22–3–11(g)(3)(C) provides that to claim the credit, the mine operator must file with the Tax Commissioner a written application seeking the amount of the credit earned. Within 30 days of receipt of the application, the Tax Commissioner will issue a certification of the amount of tax credit to be allocated to the eligible taxpayer. If the amount of the credit is less than the amount applied for, the Tax Commissioner must set forth in writing the reasons for the difference. If no certification is issued within the 30-day period, the application will be deemed certified. Any decision of the Tax Commissioner is appealable pursuant to the West Virginia Tax Procedure and Administration Act as set forth in Chapter 11, Article 10 of the West Virginia Code. Applications for certification of the proposed tax credit must contain the information required and be in the detail and format as required by the Tax Commissioner.

These proposed revisions are intended to provide tax incentives for coal mine operators who reclaim bond forfeiture sites within the State that would normally be reclaimed by WVDEP's Office of Special Reclamation (OSR) through the State's alternative bonding system, which is commonly known as the Special Reclamation Fund. We are approving W. Va. Code sec. 22–3–11(g)(3) with the understanding that the reclamation of a bond forfeiture site by another party must be done in a timely manner and in accordance with the approved reclamation plan or modification thereof, including the treatment of any water pollution discharge. Each reclamation plan should include a description of the measures an operator must take during the reclamation process to ensure the protection of the quality and quantity of surface water and groundwater systems. In addition, discharges from bond forfeiture sites within West Virginia are subject to National Pollutant Discharge Elimination System (NPDES) permitting requirements, including compliance with applicable water quality standards. An operator must demonstrate compliance with applicable effluent limitations and water quality standards to ensure that the hydrologic balance is preserved. Furthermore, as provided by W. Va. Code sec. 22–3–11(g)(3)(B), reimbursement for such reclamation must be limited to the amount of money that OSR would have expended to complete the bond forfeiture reclamation project. Finally, if the Tax Commissioner fails to issue a tax credit

certification within the required time period, as provided by W. Va. Code sec. 22–3–11(g)(3)(C), the amount of reimbursement provided to the operator cannot exceed the estimated cost of reclamation by the State. Given these requirements, we find that the proposed revisions at W. Va. Code sec. 22–3–11(g)(3) are not inconsistent with the Federal bonding requirements at sections 509 and 519 of SMCRA (30 U.S.C. 1259 and 1269) and 30 CFR 800.11(e) and 30 CFR 800.50. Therefore, we approve West Virginia's submission.

The proposed addition of W. Va. Code sec. 22–3–11(h) grants the Tax Commissioner authority to promulgate rules for legislative approval to carry out the purposes of this section. The pre-existing subsections (i) through (o) have been re-lettered to conform to the proposed changes.

The promulgation of legislative rules by the West Virginia Tax Commissioner, as provided by subsection (h), to implement the tax incentive requirements at subsection (g) are addressed in Finding D below. The other changes to W. Va. Code sec. 22–3–11(i) through (o) are found to be non-substantive; thus, requiring no further action.

B. W. Va. Code Sec. 22–3–20—Informal Conference

In accordance with Senate Bill 462, West Virginia proposes to revise language extending the time to hold informal conferences on surface coal mining permit applications. Proposed subsection 20(b) provides when an informal conference will be held on a surface coal mining permit application. The State currently requires that informal conferences be held within three weeks after the public comment period closes. Under the proposed amendment, the Secretary must hold the informal conference on the surface coal mining permit application within a reasonable time after the close of the public comment period.

As proposed, subsection 20(b) provides that if any person with an interest that may be adversely affected by the mining operation or the officer or head of any Federal, state, or local governmental agency may file written objections and request an informal conference within 30 days of the last publication of the required legal advertisement. Upon a request, the Secretary shall hold an informal conference in the locality of the proposed mining operation within a reasonable time after the close of the public comment period. West Virginia did not explain its decision for changing the timeframe for holding an informal conference on a permit application.

While the Federal regulations at 30 CFR 773.6(c)(2) also require the regulatory authority to hold an informal conference ''within a reasonable time following the receipt of the request,'' we encourage West Virginia to consider modifying its regulations at W. Va. CSR sec. 38–2–3.2.d and W. Va. CSR sec. 38–2–3.27.c.2 and specify a deadline for holding an informal conference on a permit application. When crafting the Federal regulations, we granted the regulatory authority discretion to determine what was ''reasonable'' in accordance with its approved program. Failure to hold a timely informal conference could result in unnecessary delays in rendering a decision on a permit application. Nevertheless, we find that the proposed revision at W. Va. Code sec. 22–3–20(b) is not inconsistent with the Federal informal conference provisions at 30 CFR 773.6(c) and 773.7(a) and section 513 and 514 of SMCRA (30 U.S.C. 1263 and 1264). Therefore, we are approving the proposed amendment to W. Va. Code sec. 22–3–20(b).

C. W. Va. Code Sec. 22–3–21—Informal Conference

In accordance with Senate Bill 462, West Virginia proposes to extend the time in which the Secretary must issue or deny a permit application. Currently, if an informal conference is held, the Secretary must issue a decision granting or denying a permit, in whole, or in part, within 30 days of the informal conference. Under the proposed revision, West Virginia seeks to extend the time for the Secretary to issue or deny a surface coal mining permit from 30 days to 60 days.

The proposed State revision mirrors the Federal provisions at 30 CFR 773.7(a) and section 514 of SMCRA (30 U.S.C. 1264). We find the proposed revision at W. Va. Code sec. 22–3–21(a) to be no less effective than the Federal informal conference provisions at 30 CFR 773.7 and no less stringent than section 514 of SMCRA. Therefore, we are approving the proposed amendment to W. Va. Code sec. 22–3–21.

D. W. Va. CSR Sec. 110–29–1—Special Reclamation Tax Credit

This proposed amendment to the West Virginia regulations clarifies and implements the proposed revisions to W. Va. Code sec. 22–3–11(g) and (h) relating to special reclamation tax incentives for mine operators who reclaim bond forfeiture sites within West Virginia. West Virginia proposes to add the Special Reclamation Tax Credit regulations it proposed in W. Va. CSR secs. 110–29–1 through 110–29–6, which would represent a new section of the West Virginia regulations.

As discussed in OSMRE's November 13, 2014, **Federal Register** (79 FR 6739), non-substantive additions to W. Va. CSR sec. 110–29–2 include definitions of ''Act,'' ''Bond forfeited mine site,'' ''Secretary,'' and ''Tax Commissioner.'' Therefore, no further action is required regarding those changes.

Proposed W. Va. CSR sec. 110–29–1.5 clarifies that the special reclamation tax credit is only available to qualified operators for taxable years beginning on or after July 12, 2013. In addition, W. Va. CSR sec. 110–29–3.3 provides that the tax credit may only be taken against the special reclamation tax imposed under W Va. Code sec. 22–3–11.

Proposed W. Va. CSR sec. 110–29–2.4 defines ''qualified operator'' as any person who obtains a permit under the WVSCMRA to mine coal and perform reclamation on a bond forfeited mine site and that qualifies for the special reclamation tax credit.

Proposed W. Va. CSR sec. 110–29–4 sets forth requirements governing the application for and the amount of the tax credit. Subsection 4 provides that a qualified operator may reclaim the bond forfeited mine site pursuant to either an Article 3 [surface or underground mining] permit or a reclamation agreement. The amount of tax credit granted to the qualified operator is based on the amount of money that would have been spent from the Special Reclamation Fund and the Special Reclamation Water Trust Fund on the bond-forfeited site for land reclamation and/or water treatment as determined and certified by the WVDEP Secretary.

Proposed W. Va. CSR sec. 110–29–5 specifies operator eligibility requirements for the tax credit and the limitation of the tax credit. An operator is not eligible to receive a tax credit for performing reclamation on a mine site that he or she has previously forfeited. A qualified operator may use the tax credit to offset payment of, or liability for, the special reclamation tax for the tax year or carry it forward for use in future tax years until no credit is remaining.

Proposed W. Va. CSR sec. 110–29–6 contains general procedures to claim and administer the tax credit. The qualified operator must provide complete and accurate forms and other information to claim the tax credit. In addition, the qualified operator must maintain records to verify the validity of its eligibility for the tax credit and the amount of tax credit claimed. Finally,

the Tax Commissioner has the authority to audit the qualified operator.

West Virginia currently has 268 bond forfeiture sites in various stages of land reclamation. In addition, water treatment activities are ongoing at 163 bond forfeiture sites, and water discharges at other bond forfeiture sites are being evaluated and may require treatment by the State. The proposed special reclamation tax credit requirements are intended to provide the WVDEP an alternative means of reclaiming bond forfeiture sites under West Virginia's alternative bonding program. However, bond forfeiture reclamation, including water treatment, by a qualified operator or other party must comply with the same standards established under the approved program. Nothing in the proposed rule, as described above, can modify or supersede West Virginia's permanent regulatory program requirements as approved by OSMRE. It is with this understanding that we find the proposed Special Reclamation Tax Credit provisions at W. Va. CSR secs. 110–29–1 through 6 to be no less stringent than the Federal statutory bonding requirements at sections 509 and 519 of SMCRA and no less effective than the Federal regulations at 30 CFR 800.11(e) and 800.50. Therefore, we approve the proposed amendment.

IV. Summary and Disposition of Comments

Public Comments

We requested public comments on the proposed amendments; however, we did not receive any public comments.

Federal Agency Comments

On May 22, 2014, and September 22, 2014, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA (30 U.S.C. 1253), we requested comments on the amendments from various Federal agencies with an actual or potential interest in the West Virginia program (Administrative Record Numbers WV–1589 and WV–1601).

The Mine Safety and Health Administration, U.S. Department of Labor (MSHA) submitted its response on June 27, 2014, (Administrative Record Number 1591). MSHA did not have any comments on the proposed changes to the revisions in West Virginia's permanent surface coal mining regulatory program.

The Bureau of Land Management (BLM) submitted its response on June 30, 2014, (Administrative Record Number 1592). The BLM did not have any comments on the proposed changes to the revisions in West Virginia's permanent surface coal mining regulatory program.

The Natural Resources Conservation Services (NRCS) submitted its response on June 27, 2014, (Administrative Record Number 1593). The NRCS did not have any comments on the proposed changes to the revisions in West Virginia's permanent surface coal mining regulatory program.

Environmental Protection Agency (EPA) Comments and Concurrence

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that West Virginia proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on May 22, 2014 and September 22, 2014, under 30 CFR 732.17(h)(11)(i), we requested comments from the EPA on the amendments (Administrative Record Nos. 1589 and 1601). EPA did submit the following comments on the proposed State amendments.

On July 24, 2014, EPA Region III provided us with comments on the State's statutory proposal to provide operators tax incentives for reclaiming bond forfeiture sites. According to EPA, discharges from bond forfeiture sites are subject to NPDES permitting requirements, including compliance with applicable water quality standards. In addition, the concept of reclamation includes protection and/or restoration of the hydrologic balance, including water quality. EPA noted that each reclamation plan should include a detailed description of the measures to be taken during the reclamation process to ensure the protection of the quality of surface and ground water systems, both on-site and off-site. EPA stated that the reclamation plan and funding mechanisms should account for the need to comply with applicable provisions of the Clean Water Act. EPA acknowledged that it supports all efforts toward finding the most effective approaches for mitigating future drainage problems from bond forfeiture mining operations. According to EPA, to prevent and/or remediate perpetual postmining drainage problems, it is important to have both a well-funded bonding program and incentives for operators to assist with reclamation of bond forfeiture mine sites.

On October 20, 2014, EPA submitted a response to our request for comments on the State's proposed Special Reclamation Tax Credit Rule. EPA acknowledged that it had reviewed the proposed amendment, but it would not be providing comments on it. However, they appreciated the opportunity to review the proposed revisions.

As discussed herein, we are approving the proposed amendments with the understanding that discharges from bond forfeiture sites within West Virginia will comply with NPDES permitting requirements, including applicable water quality standards. Furthermore, we agree that West Virginia's alternative bonding system must provide sufficient revenue to ensure that discharges from bond forfeiture sites will comply with applicable Clean Water Act provisions. We also agree that to prevent and/or remediate perpetual postmining drainage problems, it is important to have both a well-funded bonding program and incentives for operators to assist with the reclamation of bond forfeiture mine sites. Finally, we find that the proposed amendments, if implemented as discussed herein, should ensure that WVDEP will be able to achieve these objectives, while providing operators incentives to assist in the reclamation of bond forfeiture sites within West Virginia.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under Federal regulations at 30 CFR 732.17(h)(4), we are required to solicit comments from the SHPO and ACHP on amendments that may have an effect on historic properties. Although we requested comments on both proposed State statutory and regulatory amendments, we did not receive comments from the SHPO or ACHP on either amendment.

V. OSMRE's Decision

Based on the above findings, we are approving amendments that provide tax incentives for operators who reclaim bond forfeiture sites and revisions to West Virginia's informal conference provisions as submitted by WVDEP on August 14, 2013 (Administrative Record Number WV–1587). However, as discussed in Finding A, above, we are approving the revisions to W. Va. Code sec. 22–3–11(g) with the understanding that the reclamation of a bond forfeiture site by another party must be done in a timely manner and in accordance with the approved reclamation plan or modification thereof. In addition, discharges from bond forfeiture sites are subject to NPDES permitting requirements, including applicable

water quality standards. Reimbursement for such reclamation must be limited to the amount of money that WVDEP would have expended to complete the bond forfeiture reclamation project. Finally, if the Tax Commissioner fails to issue a tax credit certification within the required time period, the amount of reimbursement provided to the operator cannot exceed the estimated cost of reclamation by the State. If, in future oversight reviews, we should determine that West Virginia is not applying these provisions in accordance with our approval, other amendments may be required.

We are also approving the State's Special Reclamation Tax Credit Rule, found at W. Va. CSR secs. 110–29–1 through 6 as submitted by WVDEP on August 7, 2014 (Administrative Record Number WV–1597). West Virginia's proposed revisions at W. Va. Code sec. 22–3–11(g) clarify the special reclamation tax incentive provisions. However, as discussed above in Finding D, we are approving the Special Reclamation Tax Credit Rule with certain stipulations. Reclamation, including water treatment, by a qualified operator or other party at a bond forfeiture site under this amendment must comply with the same standards as required under the approved program. In addition, nothing in the proposed amendment can modify or supersede West Virginia's permanent regulatory program requirements as approved by us.

To implement these decisions, we are amending the Federal regulations at 30 CFR part 948 to codify decisions concerning the West Virginia program. In accordance with the Administrative Procedure Act (5 U.S.C. 553(d)(3)), this rule will take effect 30 days after the date of publication. Section 503(a) of SMCRA (30 U.S.C. 1253(a)) requires that a State program demonstrate that such State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not affect a taking of private property or otherwise have taking implications that would result in property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Order 12866—Regulatory Planning and Review and 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the approval of state program amendments is exempted from OMB review under Executive Order 12866. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

State program amendments are not regulatory actions under Executive Order 13771 because they are exempt from review under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by section 3(a) of Executive Order 12988. The Department has determined that this **Federal Register** notification meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency reviews its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency writes its legislation and regulations to minimize litigation, and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive order did not extend to the language of the State regulatory program or to the program amendment that the State of West Virginia drafted.

Executive Order 13132—Federalism

This rule is not a ''[p]olicy that [has] Federalism implications'' as defined by Section 1(a) of Executive Order 13132 because it does not have ''substantial direct effects on the States, or on the distribution of power and responsibilities among the various levels of government.'' Instead, this rule approves an amendment to the West Virginia program submitted and drafted by that State. We reviewed the submission with fundamental federalism principles in mind as set forth in Sections 2 and 3 of the Executive order and with the principles of cooperative federalism, as set forth in SMCRA. *See, e.g.,* 30 U.S.C. 1201(f). Specifically, pursuant to Section 503(a)(1) and (7)(30 U.S.C. 1253(a)(1) and (7)), we reviewed the program amendment to ensure that it is ''in accordance with'' the requirements of SMCRA and ''consistent with'' the regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175, and have determined that it has no substantial direct effects on federally recognized Tribes or on the distribution of power and responsibilities between the Federal Government and Tribes. Therefore, consultation under the Department's tribal consultation policy is not required. The basis for this determination is that our decision is on the West Virginia program, which does not include Tribal lands or regulation of activities on Tribal lands. Tribal lands are regulated independently under the applicable, approved Federal program.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is: (1) Considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not a significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory

action as defined by Executive Order 12866; and this action does not address environmental health or safety risks disproportionately affecting children.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), state program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 *et seq.*) directs us to use voluntary consensus standards in our regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. (OMB Circular A–119 at p. 14). This action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with SMCRA.

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule will not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 11, 2019.

Thomas D. Shope,

Regional Director, North Atlantic—Appalachian Region.

Editorial note: This document was received for publication by the Office of the Federal Register on February 20, 2020.

For the reasons set out in the preamble, 30 CFR part 948 is amended as set forth below:

PART 948—WEST VIRGINIA

■ 1. The authority citation for part 948 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 948.15 is amended by adding the entry ''W.Va. Code 22–3–11(g) and (h) (qualified) W. Va. Code 22–3–20 W. Va. Code 22–3–21 CSR 110–29–1 through 6, Special Reclamation Tax Credit Rule (qualified)'' to the table in chronological order by ''Date of publication of final rule'' to read as follows:

§ 948.15 Approval of West Virginia regulatory program amendments.

* * * * *

Original amendment submission dates	Date of publication of final rule	Citation/description
* *	* *	* * * *
August 14, 2013 ..... August 7, 2014.	March 4, 2020	W.Va. Code 22–3–11(g) and (h) (qualified) W.Va. Code 22–3–20, W. Va. Code 22–3–21, CSR 110–29–1 through 6, Special Reclamation Tax Credit Rule (qualified).

[FR Doc. 2020–03751 Filed 3–3–20; 8:45 am]

BILLING CODE 4310–05–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 380

[Docket No. 19–CRB–0005–WR (2021–2025) (Web V)]

Determination of Rates and Terms for Digital Performance of Sound Recordings and Making of Ephemeral Copies To Facilitate Those Performances (Web V)

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges publish a final rule governing the rates and terms for the digital performance of sound recordings by noncommercial educational webcasters and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2021, and ending on December 31, 2025.

DATES: Effective date: January 1, 2021.

ADDRESSES: Docket: For access to the docket to read submitted background documents or comments, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at *https://app.crb.gov/* and search for docket number 19–CRB–0005–WR (2021–2025).

FOR FURTHER INFORMATION CONTACT: Anita Blaine, CRB Program Specialist, by telephone at (202) 707–7658 or email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: On October 30, 2019, the Copyright Royalty Judges (Judges) published a proposed rule governing rates and terms for the digital performance of sound recordings by noncommercial educational webcasters and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing January 1, 2021, and ending on December 31, 2025. 84 FR 58095. The rates and terms in the proposed rule were the subject of a settlement between SoundExchange, Inc., (''SoundExchange'') and College Broadcasters, Inc., (''CBI'') of their interests regarding Web V [1] rates and terms for certain internet transmissions of sound recordings by college radio stations and other noncommercial educational webcasters for the period from January 1, 2021, through December 31, 2025. Joint Motion to Adopt Partial Settlement, Docket No. 19–CRB–0005–WR (2021–2025) (''Web V''). The Judges received no comments on the proposed rule.

The Judges ''may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement,'' only ''if any participant [in the proceeding] objects to the agreement and the [Judges] conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates.'' 17 U.S.C. 801(b)(7)(A)(ii). Because no Web V participant has objected to the settlement, and the Judges find no basis in the record to conclude that the settlement does not provide a reasonable basis for setting statutory terms and rates, the Judges adopt the terms and rates as proposed.

List of Subjects in 37 CFR Part 380

Copyright, Digital audio transmissions, Performance right, Sound recordings.

Final Regulations

For the reasons set forth in the preamble, the Copyright Royalty Judges amend 37 CFR part 380 as follows:

PART 380—RATES AND TERMS FOR TRANSMISSIONS BY ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES AND FOR THE MAKING OF EPHEMERAL REPRODUCTIONS TO FACILITATE THOSE TRANSMISSIONS

■ 1. The authority citation for part 380 continues to read as follows:

Authority: 17 U.S.C. 112(e), 114(f), 804(b)(3).

■ 2. Revise subpart C to read as follows:

Subpart C—Noncommercial Educational Webcasters

Sec.

380.20 Definitions.
380.21 Royalty fees for the public performance of sound recordings and for ephemeral recordings.
380.22 Terms for making payment of royalty fees and statements of account.

§ 380.20 Definitions.

For purposes of this subpart, the following definitions apply:

Educational Transmission means an eligible nonsubscription transmission (as defined in 17 U.S.C. 114(j)(6)) made by a Noncommercial Educational Webcaster over the internet.

Noncommercial Educational Webcaster means a noncommercial webcaster (as defined in 17 U.S.C. 114(f)(4)(E)(i)) that:

(1) Has obtained a compulsory license under 17 U.S.C. 112(e) and 114 and the implementing regulations therefor to make Educational Transmissions and related Ephemeral Recordings;

(2) Complies with all applicable provisions of Sections 112(e) and 114 and applicable regulations in 37 CFR part 380;

(3) Is directly operated by, or is affiliated with and officially sanctioned by, and the digital audio transmission operations of which are staffed substantially by students enrolled at, a domestically accredited primary or secondary school, college, university or other post-secondary degree-granting educational institution;

(4) Is not a ''public broadcasting entity'' (as defined in 17 U.S.C. 118(f)) qualified to receive funding from the Corporation for Public Broadcasting pursuant to its criteria; and

(5) Takes affirmative steps not to make total transmissions in excess of 159,140 Aggregate Tuning Hours (ATH) on any individual channel or station in any month, if in any previous calendar year it has made total transmissions in excess of 159,140 ATH on any individual channel or station in any month.

§ 380.21 Royalty fees for the public performance of sound recordings and for ephemeral recordings.

(a) *Minimum fee for eligible Noncommercial Educational Webcasters.* Each Noncommercial Educational Webcaster that did not exceed 159,140 total ATH for any individual channel or station for more than one calendar month in the immediately preceding calendar year and does not expect to make total transmissions in excess of 159,140 ATH on any individual channel or station in any calendar month during the applicable calendar year shall pay an annual, nonrefundable minimum fee in the amount set forth in paragraphs (a)(1) through (5) of this section (the ''Minimum Fee'') for each of its individual channels, including each of its individual side channels, and each of its individual stations, through which (in each case) it makes Educational Transmissions, for each calendar year it makes Educational Transmissions subject to this subpart. For clarity, each individual stream (*e.g.,* HD radio side channels, different stations owned by a single licensee) will be treated separately and be subject to a separate Minimum Fee. The Minimum Fee shall constitute the annual per channel or per station royalty for all Educational Transmissions totaling not more than 159,140 ATH in a month on any individual channel or station, and for Ephemeral Recordings to enable such

[1] Web V is short for Webcasting V. This proceeding is the fifth since the compulsory license for webcasting was established.

Educational Transmissions. In addition, a Noncommercial Educational Webcaster electing the reporting waiver described in § 380.22(d)(1) shall pay a $100 annual fee (the ''Proxy Fee'') to the Collective (for purposes of this subpart, the term ''Collective'' refers to SoundExchange, Inc.). The Minimum Fee for each year of the royalty period is:

(1) 2021: $550;
(2) 2022: $600;
(3) 2023: $650;
(4) 2024: $700; and
(5) 2025: $750.

(b) *Consequences of unexpectedly exceeding ATH cap.* In the case of a Noncommercial Educational Webcaster eligible to pay royalties under paragraph (a) of this section that unexpectedly makes total transmissions in excess of 159,140 ATH on any individual channel or station in any calendar month during the applicable calendar year:

(1) The Noncommercial Educational Webcaster shall, for such month and the remainder of the calendar year in which such month occurs, pay royalties in accordance, and otherwise comply, with the provisions of subpart B of this part applicable to Noncommercial Webcasters;

(2) The Minimum Fee paid by the Noncommercial Educational Webcaster for such calendar year will be credited to the amounts payable under the provisions of subpart B of this part applicable to Noncommercial Webcasters; and

(3) The Noncommercial Educational Webcaster shall, within 45 days after the end of each month, notify the Collective if it has made total transmissions in excess of 159,140 ATH on a channel or station during that month; pay the Collective any amounts due under the provisions of subpart B of this part applicable to Noncommercial Webcasters; and provide the Collective a statement of account pursuant to subpart A of this part.

(c) *Royalties for other Noncommercial Educational Webcasters.* A Noncommercial Educational Webcaster that is not eligible to pay royalties under paragraph (a) of this section shall pay royalties in accordance, and otherwise comply, with the provisions of subpart B of this part applicable to Noncommercial Webcasters.

(d) *Estimation of performances.* In the case of a Noncommercial Educational Webcaster that is required to pay royalties under paragraph (b) or (c) of this section on a per-Performance basis, that is unable to calculate actual total performances, and that is not required to report actual total performances under § 380.22(d)(3), the Noncommercial Educational Webcaster may pay its applicable royalties on an ATH basis, provided that the Noncommercial Educational Webcaster shall calculate such royalties at the applicable per-Performance rates based on the assumption that the number of sound recordings performed is 12 per hour. The Collective may distribute royalties paid on the basis of ATH hereunder in accordance with its generally applicable methodology for distributing royalties paid on such basis. In addition, and for the avoidance of doubt, a Noncommercial Educational Webcaster offering more than one channel or station shall pay per-Performance royalties on a per-channel or -station basis.

(e) *Allocation between ephemeral recordings and performance royalty fees.* The Collective must credit 5% of all royalty payments as payment for Ephemeral Recordings and credit the remaining 95% to section 114 royalties. All Ephemeral Recordings that a Licensee makes which are necessary and commercially reasonable for making Educational Transmissions are included in the 5%.

§ 380.22 Terms for making payment of royalty fees and statements of account.

(a) *Payment to the Collective.* A Noncommercial Educational Webcaster shall make the royalty payments due under § 380.21 to the Collective.

(b) *Minimum fee.* Noncommercial Educational Webcasters shall submit the Minimum Fee, and Proxy Fee if applicable (see paragraph (d) of this section), accompanied by a statement of account, by January 31st of each calendar year, except that payment of the Minimum Fee, and Proxy Fee if applicable, by a Noncommercial Educational Webcaster that was not making Educational Transmissions or Ephemeral Recordings pursuant to the licenses in 17 U.S.C. 114 and/or 17 U.S.C. 112(e) as of January 31st of each calendar year but begins doing so thereafter shall be due by the 45th day after the end of the month in which the Noncommercial Educational Webcaster commences doing so. At the same time the Noncommercial Educational Webcaster must identify all its stations making Educational Transmissions and identify which of the reporting options set forth in paragraph (d) of this section it elects for the relevant year (provided that it must be eligible for the option it elects).

(c) *Statements of account.* Any payment due under paragraph (a) of this section shall be accompanied by a corresponding statement of account on a form provided by the Collective. A statement of account shall contain the following information:

(1) The name of the Noncommercial Educational Webcaster, exactly as it appears on the notice of use, and if the statement of account covers a single station only, the call letters or name of the station;

(2) The name, address, business title, telephone number, facsimile number (if any), electronic mail address (if any) and other contact information of the person to be contacted for information or questions concerning the content of the statement of account;

(3) The signature of a duly authorized representative of the applicable educational institution;

(4) The printed or typewritten name of the person signing the statement of account;

(5) The date of signature;

(6) The title or official position held by the person signing the statement of account;

(7) A certification of the capacity of the person signing; and

(8) A statement to the following effect: I, the undersigned duly authorized representative of the applicable educational institution, have examined this statement of account; hereby state that it is true, accurate, and complete to my knowledge after reasonable due diligence; and further certify that the licensee entity named herein qualifies as a Noncommercial Educational Webcaster for the relevant year, and did not exceed 159,140 total ATH in any month of the prior year for which the Noncommercial Educational Webcaster did not submit a statement of account and pay any required additional royalties.

(d) *Reporting by Noncommercial Educational Webcasters in general—*

(1) *Reporting waiver.* In light of the unique business and operational circumstances with respect to Noncommercial Educational Webcasters, and for the purposes of this subpart only, a Noncommercial Educational Webcaster that did not exceed 80,000 total ATH for any individual channel or station for more than one calendar month in the immediately preceding calendar year and that does not expect to exceed 80,000 total ATH for any individual channel or station for any calendar month during the applicable calendar year may elect to pay to the Collective a nonrefundable, annual Proxy Fee of $100 in lieu of providing reports of use for the calendar year pursuant to the regulations at § 370.4 of this chapter. In addition, a Noncommercial Educational Webcaster that unexpectedly exceeded 80,000 total ATH on one or more

channels or stations for more than one month during the immediately preceding calendar year may elect to pay the Proxy Fee and receive the reporting waiver described in this paragraph (d)(1) during a calendar year, if it implements measures reasonably calculated to ensure that it will not make Educational Transmissions exceeding 80,000 total ATH during any month of that calendar year. The Proxy Fee is intended to defray the Collective's costs associated with the reporting waiver in this paragraph (d)(1), including development of proxy usage data. The Proxy Fee shall be paid by the date specified in paragraph (b) of this section for paying the Minimum Fee for the applicable calendar year and shall be accompanied by a certification on a form provided by the Collective, signed by a duly authorized representative of the applicable educational institution, stating that the Noncommercial Educational Webcaster is eligible for the Proxy Fee option because of its past and expected future usage and, if applicable, has implemented measures to ensure that it will not make excess Educational Transmissions in the future.

(2) *Sample-basis reports.* A Noncommercial Educational Webcaster that did not exceed 159,140 total ATH for any individual channel or station for more than one calendar month in the immediately preceding calendar year and that does not expect to exceed 159,140 total ATH for any individual channel or station for any calendar month during the applicable calendar year may elect to provide reports of use on a sample basis (two weeks per calendar quarter) in accordance with the regulations at § 370.4 of this chapter, except that, notwithstanding § 370.4(d)(2)(vi), such an electing Noncommercial Educational Webcaster shall not be required to include ATH or actual total performances and may in lieu thereof provide channel or station name and play frequency. Notwithstanding the preceding sentence, a Noncommercial Educational Webcaster that is able to report ATH or actual total performances is encouraged to do so. These reports of use shall be submitted to the Collective no later than January 31st of the year immediately following the year to which they pertain.

(3) *Census-basis reports.* (i) If any of the conditions in paragraphs (d)(3)(i)(A) through (C) of this section is satisfied, a Noncommercial Educational Webcaster must report pursuant to paragraph (d)(3) of this section:

(A) The Noncommercial Educational Webcaster exceeded 159,140 total ATH for any individual channel or station for more than one calendar month in the immediately preceding calendar year;

(B) The Noncommercial Educational Webcaster expects to exceed 159,140 total ATH for any individual channel or station for any calendar month in the applicable calendar year; or

(C) The Noncommercial Educational Webcaster otherwise does not elect to be subject to paragraph (d)(1) or (2) of this section.

(ii) A Noncommercial Educational Webcaster required to report pursuant to paragraph (d)(3)(i) of this section shall provide reports of use to the Collective quarterly on a census reporting basis in accordance with § 370.4 of this chapter, except that, notwithstanding § 370.4(d)(2), such a Noncommercial Educational Webcaster shall not be required to include ATH or actual total performances, and may in lieu thereof provide channel or station name and play frequency, during the first calendar year it reports in accordance with paragraph (d)(3) of this section. For the avoidance of doubt, after a Noncommercial Educational Webcaster has been required to report in accordance with paragraph (d)(3)(i) of this section for a full calendar year, it must thereafter include ATH or actual total performances in its reports of use. All reports of use under paragraph (d)(3)(i) of this section shall be submitted to the Collective no later than the 45th day after the end of each calendar quarter.

(e) *Server logs.* Noncommercial Educational Webcasters shall retain for a period of no less than three full calendar years server logs sufficient to substantiate all information relevant to eligibility, rate calculation and reporting under this subpart. To the extent that a third-party Web hosting or service provider maintains equipment or software for a Noncommercial Educational Webcaster and/or such third party creates, maintains, or can reasonably create such server logs, the Noncommercial Educational Webcaster shall direct that such server logs be created and maintained by said third party for a period of no less than three full calendar years and/or that such server logs be provided to, and maintained by, the Noncommercial Educational Webcaster.

(f) *Terms in general.* Subject to the provisions of this subpart, terms governing late fees, distribution of royalties by the Collective, unclaimed funds, record retention requirements, treatment of Licensees' confidential information, audit of royalty payments and distributions, and any definitions for applicable terms not defined in this subpart shall be those set forth in subpart A of this part.

Dated: February 10, 2020.

Jesse M. Feder,

Chief Copyright Royalty Judge.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2020–03304 Filed 3–3–20; 8:45 am]

BILLING CODE 1410–72–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 20, 36, 51, 54, 61, 64, and 69

[WC Docket Nos. 10–90, 07–135, 05–337, 03–109; GN Docket No. 09–51; CC Docket Nos. 01–92, 96–45; and WT Docket No. 10–208; DA 20–65; FRS 16475]

Wireline Competition Bureau Seeks To Determine Parties' Continuing Interest in Several Petitions for Reconsideration of Aspects of the USF/ICC Transformation Order

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: In this document, as part of the Commission's effort to manage its dockets and reduce backlog and in an effort to avoid the need to address issues unnecessarily, the Wireline Competition Bureau (Bureau) seeks to determine parties' continuing interest in eight pending petitions for reconsideration of various aspects of the intercarrier compensation provisions of the USF/ICC Transformation Order. The Bureau therefore plans to dismiss each Petition listed below with prejudice unless a Petitioner files a notice in the relevant dockets within 45 days of the date of **Federal Register** publication of this Public Notice specifying that it objects to the dismissal of its Petition.

DATES: Responses are due on or before April 20, 2020.

ADDRESSES: You may submit responses, identified by WC Docket Nos. 10–90, 07–135, 05–337, 03–109, GN Docket No. 09–51, CC Docket No. 01–92, CC Docket No. 96–45, and WT Docket No. 10–208, by any of the following methods:

- *Federal Communications Commission's website: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format),

send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), 844–432–2275 (videophone), or (202) 418–0432 (TTY).

A copy of each letter should be sent to: Marvin F. Sacks, Pricing Policy Division, Wireline Competition Bureau, 445 12th Street SW, Room 5–A260, Washington, DC 20554; email: *marvin.sacks@fcc.gov.* For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Marv Sacks, Wireline Competition Bureau, Pricing Policy Division at (202) 418–2017 or via email at: *marvin.sacks@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, DA 20–65, released on January 14, 2020, in which the Wireline Competition Bureau (Bureau) seeks to determine parties' continuing interest in eight pending petitions for reconsideration of various aspects of the intercarrier compensation provisions of the USF/ICC Transformation Order. 76 FR 73830, November 29, 2011. Each of the Petitions was filed in 2011 and no entities have filed comments or *ex parte* submissions regarding these petitions for several years. In addition, the various requests for relief in the Petitions appear to be moot or are otherwise no longer relevant in light of regulatory changes, including ongoing intercarrier compensation and universal service reforms, that have occurred since these filings were made. The Petitions for Reconsideration that the Bureau plans to dismiss with prejudice unless a Petitioner files a notice of objection to the dismissal in the relevant dockets are the following:

Petitioner	Petitions	Date petition filed
Public Service Commission of the District of Columbia.	Petition for Reconsideration of an aspect of the *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform—Mobility Fund,* WC Docket No. 10–90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*).	12/29/2011
MetroPCS Communications, Inc	Petition of MetroPCS Communications, Inc., For Clarification and Limited Reconsideration of aspects of the *USF/ICC Transformation Order*.	12/29/2011
National Exchange Carrier Association, Inc.; Organization for the Promotion and Advancement of Small Telecommunications Companies; and Western Telecommunications Alliance (Rural Associations).	Petition for Reconsideration and Clarification of aspects of the *USF/ICC Transformation Order*.	12/29/2011
NTCH, Inc	Petition for Reconsideration of aspects of the *USF/ICC Transformation Order*	12/29/2011
Onvoy, Inc. and its affiliate, 360networks (USA) inc.	Petition for Clarification or Reconsideration of an aspect of the *USF/ICC Transformation Order*.	12/23/2011
Sprint Nextel Corporation	Petition for Reconsideration and Clarification of aspects of the *USF/ICC Transformation Order*.	12/29/2011
United States Telecom Association	Petition for Reconsideration and Clarification of aspects of the *USF/ICC Transformation Order*.	12/29/2011
Verizon (Verizon Communications Inc. and Verizon Wireless).	Petition for Clarification or, in the Alternative, for Reconsideration of aspects of the *USF/ICC Transformation Order*.	12/29/2011

Filing Requirements. Pursuant to § 1.419 of the Commission's rules, any Petitioner objecting to the dismissal of its Petition must file a letter stating its objection on or before 45 days after publication in the **Federal Register**. *See* 47 CFR 1.419. The letter must reference WC Docket No. 10–90, GN Docket No. 09–51, WC Docket No. 07–135, WC Docket No. 05–337, CC Docket No. 01–92, CC Docket No. 96–45, WC Docket No. 03–109, and WT Docket No. 10–208, and may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- *Electronic Filers:* Letters may be filed electronically using the Commission's online Electronic Comment filing System (ECFS): *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Because more than one docket number appears in the caption of this proceeding, filers must submit two additional copies for the additional docket number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority Mail must be addressed to 445 12th Street SW, Washington DC 20554.

In addition, a copy of each letter should be sent to: Marvin F. Sacks, Pricing Policy Division, Wireline Competition Bureau, 445 12th Street SW, Room 5–A260, Washington, DC 20554; email: *marvin.sacks@fcc.gov.*

Ex Parte Rules. The proceedings this Public Notice initiates shall be treated as ''permit-but-disclose'' proceedings in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum

summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in these proceedings should familiarize themselves with the Commission's *ex parte* rules.

Federal Communications Commission.

Kirk Burgee,

Chief of Staff, Wireline Competition Bureau.

[FR Doc. 2020–03835 Filed 3–3–20; 8:45 am]

BILLING CODE 6712–01–P

SURFACE TRANSPORTATION BOARD

49 CFR Part 1039

[Docket No. EP 760]

Exclusion of Demurrage Regulation From Certain Class Exemptions

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (STB or Board) is adopting a final rule amending its regulations governing the class exemptions for the rail transportation of certain miscellaneous commodities and rail transportation by boxcar to state more clearly that the exemptions do not apply to the regulation of demurrage. The final rule also revokes, in part, the class exemption that currently covers the rail transportation of certain agricultural commodities so that the exemption will not apply to the regulation of demurrage, thereby making the agricultural commodities exemption consistent with similar class exemptions covering non-intermodal rail transportation.

DATES: This rule will be effective on April 3, 2020.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm at (202) 245–0391. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The provisions of 49 U.S.C. 10502, which authorize the Board to exempt types of rail services from its regulation, also provide that the Board may revoke an exemption (in whole or in part) should it determine that regulation is necessary to carry out the rail transportation policy (RTP). *See* 49 U.S.C. 10502(d). Currently, the Board's regulations exempt the rail transportation of certain miscellaneous commodities (*see* 49 CFR 1039.11) and boxcar transportation (*see* 49 CFR 1039.14). Although the language in the regulations for these class exemptions has consistently been interpreted by courts and the agency to effectively exclude the regulation of demurrage, the Board finds these regulations would be more easily understood by more clearly stating the demurrage exclusion.

The rail transportation of agricultural commodities (except grain, soybeans, and sunflower seeds [1]) is also exempt (*see* 49 CFR 1039.10). Unlike the miscellaneous commodities and boxcar transportation exemptions, however, the agricultural commodities exemption in section 1039.10 does not contain language that has been interpreted to effectively exclude the regulation of demurrage.

Last October, the Board issued a notice of proposed rulemaking to address both of the above issues. *Exclusion of Demurrage Regulation from Certain Class Exemptions* (*NPRM*), EP 760 (STB served Oct. 7, 2019). The *NPRM* proposed first to modify the language in section 1039.11 and section 1039.14 to reflect the longstanding court and agency precedent by more clearly stating that the miscellaneous commodities and boxcar transportation exemptions do not apply to the regulation of demurrage. The *NPRM* also proposed to revoke, in part, the exemption applicable to non-intermodal rail transportation of agricultural commodities (section 1039.10) so that the exemption would not apply to the regulation of demurrage, thereby making the agricultural commodities exemption consistent with similar class exemptions covering non-intermodal rail transportation.[2]

After considering the comments, the Board will adopt the rule as proposed in the *NPRM.* Specifically, the Board will add language to section 1039.11 and section 1039.14 to state more clearly, consistent with longstanding court and agency precedent, that these exemptions do not apply to the regulation of demurrage. Additionally, the Board finds that regulation of demurrage related to the non-intermodal rail transportation of agricultural commodities is necessary to carry out the RTP of 49 U.S.C. 10101. Therefore, pursuant to 49 U.S.C. 10502(d), the Board revokes in part the exemption for agricultural commodities at section 1039.10 to provide that the exemption does not apply to the regulation of demurrage related to the non-intermodal rail transportation of these commodities.

Background

Demurrage is a charge that is assessed when rail cars are detained beyond a specified period of time (*i.e.,* ''free time'') for loading and unloading. Demurrage is subject to Board regulation under 49 U.S.C. 10702, which, among other things, requires railroads to establish reasonable transportation-related rules and practices, and under 49 U.S.C. 10746, which requires railroads to compute demurrage charges, and establish rules related to those charges, in a way that will fulfill national needs related to freight car use and distribution and maintenance of an adequate car supply.[3]

This proceeding arose, in part, as a result of the testimony and comments submitted in *Oversight Hearing on Demurrage & Accessorial Charges,* Docket No. EP 754, in which numerous

[1] Because the agricultural commodities exemption under 49 CFR 1039.10 excepts the rail transportation of grain, soybeans, and sunflower seeds, the rail transportation of those commodities continues to be subject to the provisions of subtitle IV of title 49 and is not impacted by this decision.

[2] As noted in the *NPRM,* this partial revocation is not intended to authorize the regulation of demurrage related to intermodal transportation under the exemption at 49 CFR 1039.13.

[3] In *Demurrage Liability,* EP 707, slip op. at 15–16 (STB served Apr. 11, 2014), the Board clarified that private car storage is included in the definition of demurrage for purposes of the demurrage regulations established in that decision. The Board uses the same definition in this decision.

parties, including those involved in rail transportation subject to class exemptions, submitted comments and testified at the hearing on May 22 and 23, 2019, about, among other things, their concerns regarding recent railroad demurrage rules and charges.[4] The U.S. Department of Agriculture (USDA) submitted comments, expressing its concerns, as well as the concerns of agricultural shippers generally, about ''new and increasing [demurrage] charges and their unfair structure, which imposes steep penalties on customer performance without reciprocal penalties on railroad performance.'' USDA Comments 2, *Oversight Hearing on Demurrage & Accessorial Charges,* EP 754. After considering the submissions and hearing testimony, along with the relevant laws and regulations, the Board issued the *NPRM* and sought public comment.

As discussed in the *NPRM,* the class exemptions for miscellaneous commodities and boxcar transportation already effectively exclude the regulation of demurrage. *See NPRM,* EP 760, slip op. at 4. Specifically, the regulations state that the exemption for miscellaneous commodities ''shall not be construed as affecting in any way the existing regulations, agreements, prescriptions, conditions, allowances or levels of compensation regarding the use of equipment, whether shipper or railroad owned or leased, including car hire, per diem and mileage allowances.'' 49 CFR 1039.11(a). Similarly, under the boxcar transportation exemption, the Board retains regulatory authority over ''[c]ar hire and car service'' and ''[c]ar supply.'' 49 CFR 1039.14(b)(1), (4). Both the courts and the agency have found that the language of these provisions effectively excludes demurrage from the miscellaneous commodities and boxcar transportation exemptions. *See NPRM,* EP 760, slip op. at 4. The existing agricultural commodities exemption, however, does not specifically exclude car hire, car service, car supply, or equipment usage. The *NPRM* explained that the Board sought to make the agricultural commodities exemption more consistent with the miscellaneous commodities and boxcar transportation exemptions and that the regulation of demurrage related to agricultural commodities was necessary to carry out the RTP.

Final Rule

In response to the *NPRM,* the Board received comments and reply comments from over a dozen interested parties.[5] After considering the comments, the Board is adopting the rule proposed in the *NPRM.* Text of the final rule is below.

Amendments to 49 CFR 1039.11 and Section 1039.14

As noted above, the exemptions in 49 CFR 1039.11 and 1039.14 have long been interpreted by courts and the agency to permit regulation of demurrage. *See Savannah Port Terminal R.R.—Pet. for Declaratory Order—Certain Rates & Practices as Applied to Capital Cargo, Inc.,* FD 34920, slip op. at 7–8 (STB served May 30, 2008) (''neither of these exemptions extends to controversies over assessment of demurrage''); *Del. & Hudson Ry.* v. *Offset Paperback Mfrs.,* 126 F.3d 426, 429 (2d Cir. 1997) (explaining that the language of section 1039.14(b) ''encompass[es] demurrage charges''). The regulations themselves, however, do not explicitly refer to ''demurrage.'' To avoid confusion due to this lack of explicit reference, the *NPRM* proposed to formalize what has been established practice for many years by amending each of those regulations to clarify that they would ''not apply to the regulation of demurrage, except the regulation of demurrage related to [intermodal] transportation that is subject to section 1039.13.'' *NPRM,* EP 760, slip op. at 5. These amendments were proposed only to clarify and ensure that the regulations are consistent with court and agency precedent, not to make a substantive change. *Id.*

Most commenters either supported or did not oppose the proposed amendments to section 1039.11 and section 1039.14, and they will be adopted as proposed.[6] These changes will clarify that it is not necessary to first seek an exemption revocation when demurrage matters relating to miscellaneous commodities and boxcar transportation are brought to the Board. Moreover, the amendments will state more clearly that carriers must comply with the statutes and Board regulations governing demurrage related to miscellaneous commodity and boxcar transportation. Although this was already the case given court and agency interpretations of the regulatory text, clarifying language will mitigate the potential for confusion among stakeholders and make the regulations more easily understood.

Several commenters asked the Board to add language stating that the exemptions in section 1039.11 and section 1039.14 also do not apply to accessorial programs. (AISI Comments 4; Portland Cement Comments 2; ArcelorMittal Comments 6 n.3.) The Board declines to add the requested language. As explained in the *NPRM,* EP 760, slip op. at 5, the purpose of the proposed amendments to section 1039.11 and section 1039.14 is ''to ensure that the regulations will be clearly understood consistent with court and agency precedent, not to make a substantive change.'' Court and agency precedent specifically addresses demurrage but does not discuss accessorial charges. *See Savannah Port,* FD 34920, slip op. at 7–8; *Del. & Hudson Ry.,* 126 F.3d at 429. Adding language addressing the broad category of accessorial charges, some of which are unrelated to the categories carved out of the section 1039.11 and section 1039.14 exemptions (*e.g.,* car hire, car supply, car service, and the use of equipment) and which were not discussed in the precedent, would be a substantive change, not a clarification, beyond the purpose of the amendments proposed in the *NPRM.*[7] The Board notes, however, that to the extent specific accessorial charges relate to categories that are already carved out (*e.g.,* car hire, car supply, car service, and the use of equipment), they are already excluded from the section 1039.11 and section 1039.14 exemptions. Adding an express reference to ''demurrage'' to section 1039.11 and section 1039.14 does not change the scope of the existing

[4] Comments and written testimony from these parties are available in Docket No. EP 754.

[5] The Board received comments and/or reply comments from the following: The Association of American Railroads (AAR), the American Forest & Paper Association (AF&PA), the American Iron and Steel Institute (AISI), ArcelorMittal USA LLC (ArcelorMittal), the American Short Line and Regional Railroad Association (ASLRRA), Auriga Polymers, Inc. (Auriga), CSX Transportation, Inc. (CSXT), the Freight Rail Customer Alliance (FRCA), the Industrial Minerals Association—North America (IMA–NA), the Institute of Scrap Recycling Industries, Inc. (ISRI), International Paper, the National Industrial Transportation League (NITL), the Portland Cement Association (Portland Cement), and the Private Railcar Food and Beverage Association (PRFBA).

[6] (*See, e.g.,* Portland Cement Comments 1–2 (supporting the proposed amendments); AAR Comments 1 (stating that ''AAR does not object'' to these proposed amendments).) ASLRRA generally objects to the proposed rule and, among other things, mentions these conforming amendments, arguing that the proposed rule would have significant adverse effects on small entities. (ASLRRA Comments 3.) However, any objection that amending § 1039.11 and § 1039.14 would increase the burden on Class II and Class III railroads, (*see id.* at 2–3), is unfounded. As noted, these amendments are not substantive changes but rather clarifications that ensure that the regulations will be clearly understood consistent with court and agency precedent.

[7] (*See also* AAR Reply Comments 6–7 (opposing the addition of the broad category of accessorial charges because it would be contrary to the Board's stated purpose for its clarification proposed in the *NPRM*).)

categories carved out of these exemptions.

Amendment to 49 CFR 1039.10

As noted above, numerous parties have expressed to the Board serious concerns about recent demurrage rules and charges. Those concerns, including those reflected in the extensive record compiled in Docket No. EP 754, led the Board to issue a proposed policy statement to provide the public with information on principles the Board would consider in evaluating the reasonableness of demurrage and accessorial rules and charges, and to issue a separate notice of proposed rulemaking addressing particular demurrage billing practices. *See Policy Statement on Demurrage & Accessorial Rules & Charges,* EP 757 (STB served Oct. 7, 2019); *Demurrage Billing Requirements,* EP 759 (STB served Oct. 7, 2019). But as the Board noted in the *NPRM,* EP 760, slip op. at 5, the general principles and statutory goals articulated by the Board in those proceedings would be thwarted to the extent demurrage is not generally subject to regulation. To ensure that the regulatory relief available to agricultural shippers is on par with relief available to other non-intermodal rail transportation shippers and receivers, the Board proposed to partially revoke the exemption for agricultural commodities at section 1039.10 to exclude demurrage.

Three commenters (AAR, CSXT, and ASLRRA) oppose the proposed amendment to section 1039.10. The Board will address their arguments below.

Market Power

AAR and CSXT argue that no revocation of any exemption is permissible unless the Board first makes a finding that railroads have market power over transportation of the relevant commodities. (AAR Comments 5–6; CSXT Comments 1–2.) AAR states that the *NPRM* is ''legally insufficient due to the absence of any discussion of railroad market power over the commodities at issue.'' (AAR Comments 5.) CSXT asserts that the Board must provide ''evidence that the agency's prior conclusions that railroads lack market power over those commodities are no longer correct'' and that the *NPRM* ''does not establish the essential element of any exemption revocation: proof that railroads possess and have abused market power for the particular commodities subject to the exemption.'' (CSXT Comments 1.)

AAR and CSXT's arguments mischaracterize the Board's statutory requirements. The exemption revocation statute, 49 U.S.C. 10502(d), provides that the Board may revoke an exemption in whole or in part when it finds that regulation ''is necessary to carry out the transportation policy of'' 49 U.S.C. 10101. Notably, the exemption-*revocation* provision does not say anything about market power, in contrast to the exemption-*granting* provision, which, as pertinent here, requires a finding that regulation is not needed to advance the RTP *or* to protect shippers from the abuse of market power. *Compare* 49 U.S.C. 10502(d) *with id.* section 10502(a).

Even though it is not mentioned in the exemption-revocation statute, the agency has treated market power as an important issue in some of its past exemption revocation decisions. *See, e.g., WTL Rail Corp. Pet. for Declaratory Order & Interim Relief,* NOR 42092 et al., slip op. at 3 (STB served Feb. 17, 2006) (''[W]e have held that the extent of railroad market power is an essential issue in exemption revocation proceedings.'').[8] The statute itself, however, does not *require* such an analysis.[9] Moreover, the Board has decided exemption revocation cases without mentioning market power. *See, e.g., BNSF Ry.—Temporary Trackage Rights Exemption—Union Pac. R.R.,* FD 35963 (Sub-No. 1), slip op. at 2 (STB served Dec. 17, 2015) (granting partial revocation of an exemption because it would ''promot[e] RTP policy goals''); *S. Plains Switching, Ltd.—Acquis. Exemption—BNSF Ry.,* FD 33753 (Sub-No. 1), slip op. at 2 (STB served Sept. 15, 2006) (revocation is appropriate ''if we find that: Regulation is necessary to carry out the rail transportation policy of 49 U.S.C. [section] 10101; or revocation is necessary to ensure the integrity of the Board's processes'').[10]

Although not statutorily required to do so, and contrary to the contentions of AAR and CSXT that the Board failed to examine market power, the Board nevertheless addressed market power in the *NPRM.* The *NPRM* explained that in 1996, the Board found that a proposed exemption of demurrage from most regulation created the ''potential . . . for an abuse of market power'' because it could make shippers potentially subject to ''unreasonable charges.'' *NPRM,* EP 760, slip op. at 6 (quoting *Exemption of Demurrage from Regulation* (*Exemption of Demurrage*), EP 462, slip op. at 4 (STB served Mar. 29, 1996)). The Board's 1996 decision elaborates on how the proposed exemption could result in shippers being charged demurrage due to circumstances beyond their control:

> As the shippers point out, demurrage, which could extend well beyond the free period covered by the proposed exemption, is often caused by factors that are beyond their control. Sometimes, the carriers themselves may be responsible for the conditions giving rise to car detention. Other times, demurrage is incurred not as a storage charge, but because cars cannot reach their intended destination due to congestion in the stream of transit. And in other instances, demurrage charges accrue due to circumstances beyond the control of either the carrier or the shipper (*e.g.,* strikes, bunching, run-around, fire/explosion, and weather). Deregulating demurrage, shippers claim, could subject them to abusive practices resulting from circumstances over which they have no control.
>
> The shippers' concerns are not without basis. Although the arguments favoring the limited exemption have some appeal, the exemption could result in shippers paying unreasonable charges for detention that they did not cause. Thus, there is the potential with such an exemption for an abuse of market power.

Exemption of Demurrage, EP 462, slip op. at 4.

The testimony and comments in Docket No. EP 754 validate the Board's concerns expressed in 1996 that there is a potential for abuse of market power in the context of demurrage. *See NPRM,* EP 760, slip op. at 6. As the Board explained in the *NPRM,* the testimony and comments ''suggest that certain carrier demurrage rules and charges may

[8] *See also Mr. Sprout, Inc.* v. *United States,* 8 F.3d 118, 122–23 (2d Cir. 1993), in which the reviewing court deferred to the agency's interpretation that ''the initial inquiry in a reregulation case is whether the carrier has market power.''

[9] AAR relies heavily on some of the legislative history provided in the Conference Report accompanying the ICC Termination Act of 1995 (ICCTA). (AAR Comments 5.) While the legislative history does provide that the conferees expected the Board, in considering requests for revocation, to ''examine all competitive transportation factors that restrain rail carriers' actions and that affect the [relevant] market for transportation,'' as AAR emphasizes, it also provides that when the Board considers a revocation request, it should require either ''demonstrated abuse of market power that can be remedied only by reimposition of regulation *or* that regulation is needed to carry out the national transportation policy.'' H.R. Rep. No. 104–422, at 169 (1995), *as reprinted in* 1995 U.S.C.C.A.N. 850, 853 (emphasis added). The Conference Report language that AAR emphasizes does not overcome the clear statutory language giving the Board authority to revoke based solely on RTP concerns.

[10] *See also Norfolk & W. Ry.—Trackage Rights Exemption—Norfolk S. Ry.,* FD 32961, slip op. at 2 (STB served Aug. 22, 1997) (''Under 49 U.S.C. [§] 10502(d), we may revoke an exemption if we find that regulation of the transaction at issue is necessary to carry out the RTP of 49 U.S.C. [§] 10101.''); *Consol. Rail Corp.—Declaratory Order—Exemption,* 1 I.C.C.2d 895, 900 (1986) (party seeking revocation of an exemption must show that ''regulation is needed to carry out the national rail transportation policy.'').

not be reasonable,'' [11] and the Board ''is concerned about the imposition of demurrage charges for circumstances beyond the shipper's or receiver's reasonable control.'' *Id.*

The concerns that led the Board to find the potential for abuse of market power in the 1996 decision—unreasonable practices and charges for circumstances beyond the shipper's or receiver's control—have been borne out by the Board's observations of recent practices relating to demurrage rules and charges. For example, several carriers have implemented or announced significant reductions to ''free time'' (*i.e.,* the specified period of time for loading and unloading before demurrage charges are imposed) that, according to interested parties from a broad range of industries, have made it difficult, if not impossible, to avoid demurrage charges. *See Policy Statement on Demurrage & Accessorial Rules & Charges,* EP 757, slip op. at 2, 9–11 & nn.25–28, 30–31 (citing comments filed in Docket No. EP 754, and applicable to demurrage generally, from, among others, the Agricultural Retailers Association, the Corn Refiners Association, the National Grain and Feed Association (NGFA), NITL, and The Fertilizer Institute). In addition, the Board has received reports of recent increases in ''bunched'' deliveries of rail cars—deliveries that are not reasonably timed or spaced—that make it difficult to avoid demurrage charges no matter how promptly and efficiently the receiving party acts. *Id.* at 13–14 & nn.37–39 (citing comments filed in Docket No. EP 754 from, among others, NGFA, the American Chemistry Council, PRFBA, and the International Association of Refrigerated Warehouses). Agricultural shippers and organizations generally, and the USDA, are among the commenters that have expressed concerns about such changes in demurrage rules and charges.[12]

Therefore, the Board reaffirms its conclusion in the 1996 decision and finds partial revocation for these agricultural commodities is appropriate.

As the Board pointed out in the *NPRM,* EP 760, slip op. at 6, the 1996 *Exemption of Demurrage* decision broadly discussed the potential for the abuse of market power, and neither the participants at the Board's hearing nor the commenters in this proceeding identified any basis for treating agricultural commodities in section 1039.10 differently from other commodities with respect to demurrage charges. The only difference that AAR raises between the transportation of these agricultural commodities and that of other commodities is that the agricultural commodities exemption did not exclude demurrage. (AAR Comments 7.) But that does not mean that the agency in 1983 affirmatively found that rail carriers should be free to levy demurrage charges at will. The 1983 decision establishing the agricultural commodities exemption contains no specific reference to demurrage. *Rail Gen. Exemption Auth.—Miscellaneous Agric. Commodities,* 367 I.C.C. 298, 302–03 (1983).

The Board recognizes that the market power discussion is not particularly robust in either the 1983 decision, which broadly exempted many agricultural commodities, or the 1996 *Exemption of Demurrage* decision, which rejected a railroad proposal for a broad exemption for demurrage. But, as discussed above, the 1996 decision—unlike the 1983 exemption decision—did directly address the demurrage market power concerns that are before the Board today. So even if the general discussion of car supply in the 1983 decision, *see id.,* could be read as encompassing demurrage, the explicit language in the more recent decision in *Exemption of Demurrage* specifically finds that the potential for abuse of market power exists with respect to demurrage (and provides no reason to conclude that this potential varies by commodity). In addition, the practices documented in the Board's 2019 demurrage hearing confirm that the Board's concerns about the ''potential'' for abuses in 1996 were well-founded. Therefore, even if a finding about market power were necessary—which it is not—the specific findings in the 1996 decision are more persuasive than any inferences about market power and demurrage that might be drawn from the 1983 exemption decision.

Rail Transportation Policy

As noted above, the exemption revocation statute, 49 U.S.C. 10502(d), provides that the Board may revoke an exemption in whole or in part when it finds that regulation ''is necessary to carry out the transportation policy of'' 49 U.S.C. 10101. In the *NPRM,* the Board identified five relevant provisions of the RTP and explained how the revocation of section 1039.10 with respect to demurrage is necessary to carry out these policies.[13] *NPRM,* EP 760, slip op. at 6 (quoting 49 U.S.C. 10101(2), (4), (5), (9), (15)).

AAR alleges that the *NPRM* ''fails to even address the first two RTP factors,'' specifically section 10101(1) (''to allow, to the maximum extent possible, competition and demand for services to establish reasonable rates for transportation by rail'') and section 10101(2) (''to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required''). (AAR Comments 3–4.) AAR acknowledges that the *NPRM* quotes part of section 10101(2) but argues that the Board failed to consider the remaining part. (AAR Comments 3.)

Regarding section 10101(1), demurrage is not generally considered to be a rate for ''rail transportation.'' *See, e.g., Demurrage Liability,* EP 707, slip op. at 10 (explaining that the term ''rates for transportation'' as used in 49 U.S.C. 10743 applies to ''shipping or line-haul charges,'' not demurrage, which is addressed in section 10746). Indeed, the statute, at 49 U.S.C. 10701–10707, contains elaborate procedures for determining rate reasonableness, none of which have been applied to demurrage. But even if demurrage were considered to be a rate,[14] revocation

[11] The record in Docket No. EP 754 demonstrates that shippers and receivers can be particularly susceptible to unreasonable practices with respect to demurrage. For example, a shipper or receiver may not know in advance whether there will be issues in transit that could lead to loading or unloading delays subject to demurrage charges. Further, a shipper or receiver may not receive sufficient information to assess the validity of demurrage charges even after it receives an invoice. Concerns such as these are addressed in Docket Nos. EP 757 and EP 759, and the goals of those proceedings would be thwarted for the transportation of agricultural commodities at § 1039.10 to the extent demurrage is not subject to regulation.

[12] *See, e.g.,* USDA Comments, May 8, 2019, *Oversight Hearing on Demurrage & Accessorial Charges,* EP 754; NGFA Comments, May 8, 2019, *Oversight Hearing on Demurrage & Accessorial Charges,* EP 754; Agricultural Retailers Ass'n Comments, May 8, 2019, *Oversight Hearing on Demurrage & Accessorial Charges,* EP 754; Bunge North America Comments, May 8, 2019, *Oversight Hearing on Demurrage & Accessorial Charges,* EP 754; California League of Food Producers Comments, May 8, 2019, *Oversight Hearing on Demurrage & Accessorial Charges,* EP 754; Ag Processing, Inc. Comments, May 8, 2019, *Oversight Hearing on Demurrage & Accessorial Charges,* EP 754.

[13] When the Board considers the RTP, it does not need to ''address each and every one of the policy's fifteen components, for some may be completely unrelated to the exemption.'' *Ill. Commerce Comm'n* v. *ICC,* 787 F.2d 616, 627 (D.C. Cir. 1986). Rather, the Board is entitled to wide deference when deciding which factors of the RTP are relevant in decisions regarding exemptions. *See Alaska Survival* v. *STB,* 705 F.3d 1073, 1083–84 (9th Cir. 2013).

[14] The Board included a reference to § 10101(1) in *Exemption of Demurrage,* EP 462, slip op. at 3, in its discussion of eliminating antitrust immunity for the collective establishment of demurrage charges. However, the Board did not discuss § 10101(1) in the portion of the decision that declined to exempt demurrage from regulation, and the only discussion

here is fully consistent with section 10101(1). As the Board explained in the *NPRM* and in its 1996 decision, exempting demurrage from regulation could make ''shippers potentially subject to 'unreasonable charges.' '' *NPRM,* EP 760, slip op. at 6 (quoting *Exemption of Demurrage,* EP 462, slip op. at 4). This is not a situation where ''competition and the demand for services'' are sufficient to ensure ''reasonable'' demurrage charges.

Regarding section 10101(2), AAR points out that the *NPRM* quotes only the part of the provision that discusses requiring fair and expeditious regulatory decisions when regulation is required, and not the part about minimizing the need for Federal regulatory control over the rail transportation system. (AAR Comments 3.) AAR concludes from this that the *NPRM* ''fails to even address'' section 10101(2). (AAR Comments 3.) But any action either adopting or revoking an exemption, by definition, looks at whether regulatory control over the rail system is needed, so in any exemption proceeding, the merits discussion will distinguish between situations where the Board should ''minimize the need for Federal regulatory control over the rail transportation system'' and situations ''when regulation is required.'' The *NPRM,* EP 760, slip op. at 5–7, explained why regulation of demurrage related to rail transportation of the commodities in section 1039.10 is necessary, which illustrates that the Board has concluded that this is a situation ''when regulation is required''—and, therefore, not one where ''minimiz[ing]'' regulation is appropriate. The *NPRM* adequately considered section 10101(2) even though it did not quote it in its entirety.

Case-Specific Revocations

AAR contends that the *NPRM* fails to explain why the Board cannot handle partial revocations of section 1039.10 on a case-by-case basis where any aggrieved shipper can seek revocation in an individual case. (AAR Comments 7–8.) But demurrage cases tend to be smaller cases involving less money than is typically at stake in rate cases, which can involve tens of millions of dollars; [15] thus, as the Board explained, requiring that demurrage-related revocations be processed case-by-case for agricultural commodities would unduly ''add to the complexity, length, and cost of such proceedings to the parties and the Board.'' *NPRM,* EP 760, slip op. at 6. Particularly given that no other non-intermodal rail transportation shipper or receiver is required to take the extra step of demurrage-related revocation requests, the Board further explained that requiring proceedings that are unnecessarily complex, lengthy, and costly would be inconsistent with the directive in 49 U.S.C. 10101(2) to ''require fair and expeditious regulatory decisions when regulation is required,'' and the directive in section 10101(15) to ''provide for the expeditious handling and resolution of all proceedings required or permitted to be brought under this part.'' *NPRM,* EP 760, slip op. at 6.

Burden of the Exemption Revocation on Class II and III Carriers

ASLRRA raises concerns about the Board's analysis of the impact of the partial revocation on Class II and Class III carriers. In particular, ASLRRA argues that the Board has not sufficiently analyzed the adverse effects on small entities that could be caused by the partial revocation. (ASLRRA Comments 3.) ASLRRA asserts that the rule would require small carriers to engage in more paperwork and recordkeeping, including by subjecting them to the requirement in 49 CFR 1333.3 that they provide actual notice of demurrage liability and charges as a prerequisite to assessing demurrage. (ASLRRA Comments 3.) However, as discussed further in the Regulatory Flexibility Act (RFA) section below, section 1333.3 already requires small (and large) carriers to provide such notice in order to collect demurrage charges. Given that transportation of the agricultural commodities exempted at section 1039.10 accounts for less than 1% of all rail traffic,[16] the final rule adopted here only very slightly expands the amount of traffic for which small carriers would need to provide notice if they want to collect demurrage.

The Board understands why some small carriers, simply by virtue of their size, might believe they would have difficulty complying with certain regulations, including those relating to demurrage. But an exemption, or a revocation of an exemption, considers whether enforcement of an entire regulatory scheme enacted by Congress and implemented by the Board is appropriate, and ASLRRA has not attempted to show that its members, simply because of their size, should not be subject to any of the statutes and regulations governing demurrage for the agricultural commodities subject to the exemption. Indeed, with respect to miscellaneous commodities and boxcar transportation, court and agency precedent has already interpreted the demurrage statutes and regulations to apply to carriers of all sizes. *See NPRM,* EP 760, slip op. at 4–5. To the extent that certain regulations cause particular issues for small carriers, the Board has considered, and will continue to consider, the merits of excluding Class II and III carriers from the relevant regulations; [17] however, ASLRRA has not shown that the Board ought not apply *any* of the statutes and regulations related to demurrage, including those that protect against the potential for unreasonable rules and charges. Accordingly, the Board finds no basis for a finding that the revocation should not apply to small rail carriers.

ASLRRA also claims that there is no ''indication in this record that the STB notified the Small Business Administration Office of Advocacy of the proposed rules.'' (ASLRRA Comments 3.) This is incorrect. A copy of the decision was ''served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.'' *See NPRM,* EP 760, slip op. at 10; *see also* Docket No. EP 760 service list (listing the U.S. Small Business Administration, Chief Counsel for Advocacy as a non-party).

ASLRRA's comments express concerns about the impacts on small entities of the proposals in Docket Nos. EP 759 and EP 757. The Board notes, however, that the proposal in Docket No. EP 759 excludes Class II and III carriers from its requirements. Moreover, the proposed policy

about the meaning of ''rates'' in that portion was its citation to a shipper's comment that ''demurrage is not part of the transportation rate.'' *Exemption of Demurrage,* EP 462, slip op. at 4 n.7.

[15] Six cases involving alleged violations of the statutes governing demurrage have been referred to or filed with the Board in the past 10 years. Half of those cases involved contested demurrage charges of between $70,000-$110,000. *See Utah Central Ry.—Pet. for Declaratory Order—Kenco Logistic Services, LLC, Kenco Group, & Specialized Rail Service, Inc.,* FD 36131, slip op. at 3 (STB served Mar. 20, 2019); *Portland & Western R.R.—Pet. for Declaratory Order—RK Storage & Warehousing, Inc.,* FD 35406, slip op. at 1 (STB served Sept. 29, 2011); Compl. 6, *Brampton Enters., LLC* v. *Norfolk S. Ry.,* NOR 42118 (Mar. 29, 2010). Even the case with the largest amount at issue during that period, *Finch Paper LLC—Petition for Declaratory Order,* FD 35981 (Pet. 2, Dec. 7, 2015), involved a fraction of what is typically at stake in a rate reasonableness matter. *See, e.g., Consumers Energy Co.* v. *CSX Transp.,* NOR 42142, slip op. at 44 (STB served Aug. 2, 2018) (rate case with award of $94.9 million).

[16] Analysis of the 2018 Waybill Sample shows that the relevant agricultural commodity traffic constitutes only 0.53% percent of all traffic by tonnage, and 0.62% by carload.

[17] The Board regularly analyzes and addresses the concerns of Class II and Class III railroads in its rulemaking process. *See, e.g., Demurrage Liability,* EP 707, slip op. at 20–21, 27–28; *Reporting Requirements for Positive Train Control Expenses & Invs.,* EP 706, slip op. at 12 (STB served Aug. 14, 2013).

statement in Docket No. EP 757 is not a proposed rule and is not subject to the RFA's requirements. *See* 5 U.S.C. 603(a).

Finally, ASLRRA's concern that the proposed rule in this proceeding ''could lead to the removal of the exemptions that are under consideration in Docket No. [EP] 704 [(Sub-No.1)],'' which it says would create additional burdens, *see* ASLRRA Comments 4, should be addressed in that docket.

Conclusion

For the reasons discussed above, the Board will clarify its regulations governing exemptions for certain miscellaneous commodities and boxcar transportation to ensure that the regulations more clearly state that demurrage continues to be subject to Board regulation. Additionally, the Board concludes that the records in this proceeding and in Docket No. EP 754 support a finding that regulation of demurrage related to the non-intermodal rail transportation of agricultural commodities is necessary to carry out the RTP, and that partial revocation of the exemption to achieve that purpose is warranted.

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. Sections 601–604. In its final rule, the agency must either include a final regulatory flexibility analysis, section 604(a), or certify that the final rule would not have a ''significant impact on a substantial number of small entities,'' section 605(b).[18] Because the goal of the RFA is to reduce the cost to small entities of complying with federal regulations, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates those entities. In other words, the impact must be a direct impact on small entities ''whose conduct is circumscribed or mandated'' by the rule. *White Eagle Coop.* v. *Conner,* 553 F.3d 467, 480 (7th Cir. 2009).

In the *NPRM,* the Board stated that the proposed rule could potentially have a significant economic impact on a substantial number of small entities. The *NPRM* therefore included an initial regulatory flexibility analysis (IRFA) and request for comments in order to explore further the impact, if any, of the proposed rule on small rail carriers. A copy of the *NPRM* was served on the Chief Counsel for Advocacy, U.S. Small Business Administration (SBA). The Board received comments regarding the IRFA from one organization, ASLRRA. Having reviewed ASLRRA's comments, the Board finds it unlikely that the rule will have a significant economic impact on a substantial number of small entities. However, out of an abundance of caution, and to ensure that ASLRRA's comments are fully considered, the Board now publishes this final regulatory flexibility analysis.[19]

Description of the reasons why the action by the agency is being considered.

The Board instituted this proceeding to address an issue related to the Board's recent proceeding, *Oversight Hearing on Demurrage & Accessorial Charges,* Docket No. EP 754. The Board commenced that docket by notice served on April 8, 2019, following concerns expressed by rail users and other stakeholders about recent changes to demurrage and accessorial tariffs administered by Class I carriers, which the Board was actively monitoring. In Docket No. EP 754, USDA, among others, submitted comments expressing concerns about the new and increasing demurrage charges related to the transportation of agricultural commodities generally and the potential for those charges to have negative effects on agricultural shippers and society. *See, e.g.,* USDA Comments 5, *Oversight Hearing on Demurrage & Accessorial Charges,* EP 754.

Succinct statement of the objectives of, and legal basis for, the final rule.

For the purposes of regulatory flexibility analysis, the relevant objective of this rule is to revoke, in part, the exemption for the transportation of certain agricultural commodities (except grain, soybeans, and sunflower seeds, which are already subject to the Board's regulation) to provide that the exemption does not apply to the regulation of demurrage.[20] Partial revocation—by removing barriers to shippers' ability to contest improper demurrage charges—is necessary to carry out the RTP of 49 U.S.C. 10101. Partial revocation also would make the exemption for the rail transportation of certain agricultural commodities at 49 CFR 1039.10 consistent with similar exemptions for certain miscellaneous commodities and boxcar transportation, neither of which applies to the regulation of demurrage. Partial revocation would help ensure that this segment of exempt transportation is not treated differently from other exempt, non-intermodal rail transportation. The legal basis for the final rule is 49 U.S.C. 10502(d), which gives the Board authority to revoke an exemption, in whole or in part, when necessary to carry out the RTP of 49 U.S.C. 10101.

Description of and, where feasible, an estimate of the number of small entities to which the final rule will apply.

The rule will apply to rail carriers charging demurrage in connection with the transportation of certain agricultural commodities, certain miscellaneous commodities, and boxcar transportation, subject to the exemptions at 49 CFR 1039.10, section 1039.11, and section 1039.14, respectively. It therefore could potentially apply to approximately 656 Class II and III rail carriers.

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

The rule will subject rail carriers that charge demurrage in connection with the rail transportation of certain agricultural commodities to the Board's statutes and regulations regarding demurrage. Regulation would not impose new reporting requirements directly or indirectly on small entities because ICCTA removed regulatory paperwork burdens (with limited exceptions) on rail carriers to file tariffs or contract summary filings for rail shipments, whether exempt or non-

[18] For the purpose of RFA analysis, the Board defines a ''small business'' as only including those rail carriers classified as Class III rail carriers under 49 CFR 1201.1–1. *See Small Entity Size Standards Under the Regulatory Flexibility Act,* EP 719 (STB served June 30, 2016) (with Board Member Begeman dissenting). Class III carriers have annual operating revenues of $20 million or less in 1991 dollars, or $39,194,876 or less when adjusted for inflation using 2018 data. Class II rail carriers have annual operating revenues of less than $250 million in 1991 dollars or up to $489,935,956 when adjusted for inflation using 2018 data. The Board calculates the revenue deflator factor annually and publishes the railroad revenue thresholds on its website. 49 CFR 1201.1–1; *Indexing the Annual Operating Revenues of R.Rs.,* EP 748 (STB served June 14, 2019).

[19] Pursuant to the Small Business and Work Opportunity Act of 2007, 15 U.S.C. 631 note, the Board is also publishing a Small Entity Compliance Guide on the Board's website, available at *www.stb.gov* (click on ''About STB'', then ''Agency Materials'').

[20] Additionally, this rule also clarifies, for miscellaneous commodities and boxcar transportation, that court and agency precedent has already interpreted the demurrage statutes and regulations to apply to carriers of all sizes. Because this part of the rule simply codifies already existing law, it will not have a significant economic impact on a substantial number of small entities.

exempt.[21] To the extent that the rail transportation of certain agricultural commodities will become subject to Board regulation of demurrage, carriers will be required to provide actual notice of the demurrage tariff under which liability would arise, prior to the placement of the rail cars, as a prerequisite to assessing demurrage. *See* 49 CFR 1333.3. However, these types of notices are generally already provided, often electronically, for regulated commodities and certain other exempt transportation.[22] Rail carriers wishing to collect demurrage may need to update their demurrage practices to conform to this notice requirement to the extent they do not already do so. Only six cases involving alleged violations of the statutes governing demurrage have been brought to the Board in the past 10 years. Of those cases, only two involved a Class III carrier, and one of those two cases arose from a collection action instituted by the carrier.

In its comments, ASLRRA asserts that the Board has overlooked adverse effects on small entities that could be caused by the exemption revocation. (ASLRRA Comments 3.)[23] ASLRRA claims that the rule would require small carriers to engage in more paperwork and recordkeeping. In response to the Board's statement that, by adopting the rule, small carriers would be subject to the requirement that they provide actual notice of demurrage liability and charges as a prerequisite to assessing demurrage, ASLRRA states that ''many small railroads do not issue such notices today and many do not have the capacity to send notices electronically.'' (*Id.*) However, section 1333.3 already requires small (and large) carriers to provide such notice ''in [either] written or electronic form'' in order to collect demurrage charges. Given that transportation of the agricultural commodities exempted at section 1039.10 accounts for less than 1% of all traffic, the final rule adopted here only slightly expands the amount of traffic for which small carriers must provide notice if they want to collect demurrage.

The Board notes that the rule adopted here does not prescribe specific carrier action and that the existing rule at section 1333.3 also does not require carriers to do anything—it simply states that a carrier may not collect demurrage from a party unless that party has first been given notice. While ASLRRA alludes generally to an increased risk of litigation for small railroads if the Board were to adopt this rule ''as well as'' taking other actions, ASLRRA does not specify any particular increased litigation risk from this rule. (ASLRRA Comments 3.) Nor is any such risk likely to be significant, given that demurrage related to the rail transportation of miscellaneous commodities and boxcar transportation was already subject to Board regulation and exemption revocation was an available remedy for agricultural commodities exempted at section 1039.10 (which, as noted, constitute less than 1% of overall rail traffic).

ASLRRA also cites potential burdens that small carriers might incur if the Board were to revoke exemptions that are currently under consideration in a separate, unrelated docket. (ASLRRA Comments 4.) However, for the purpose of this final regulatory flexibility analysis, the Board is tasked with considering the impacts of the rule at issue in this docket.

Identification, to the extent practicable, of all relevant federal rules that may duplicate, overlap, or conflict with the final rule.

The Board is unaware of any duplicative, overlapping, or conflicting federal rules.

Description of any significant alternatives to the final rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the rule on small entities, including alternatives considered, such as: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; (4) any exemption from coverage of the rule, or any part thereof, for such small entities.

The Board considered two alternatives to the final rule: (1) Taking no action (thereby implementing no changes to the current regulations), and (2) exempting certain or all small rail carriers from coverage or compliance with the rule, in whole or in part (partially revoking the exemption from demurrage regulation for larger carriers but keeping the exemption in place for some or all small carriers or excepting small carriers from certain compliance obligations).

ASLRRA asserts that ''the best alternative . . . is for the Board to take no action,'' but that, if adopted, the rule should exempt all Class II and Class III carriers. (ASLRRA Comments 4.) The Board explained in its initial regulatory flexibility analysis that both alternatives would thwart the principles announced in the Board's proposed policy statement in Docket No. EP 757, and that neither alternative would accomplish the rule's objective of making the agricultural commodities exemption consistent with similar exemptions for miscellaneous commodities and boxcar transportation.[24] With respect to the second alternative, the Board also explained that it would greatly complicate cases involving demurrage disputes that involve both large and small carriers.

ASLRRA takes exception to the Board's observation that exempting Class II and III carriers would complicate cases involving demurrage disputes, arguing that ''it is likely that small railroads would play little or no substantive part in any such case, so a case could easily proceed'' without the small railroad having to participate, and that ''fewer parties in a case would simplify the case, not complicate it.'' (ASLRRA Comments 4–5.) However, when a small railroad chooses to collect demurrage as the originating or terminating carrier, its participation to facilitate the resolution of cases involving disputed charges is both necessary and appropriate.

Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801–808, the Office of

[21] All railroads are required to file with the Board summaries of all contracts for the transportation of agricultural products within seven days of the contracts' effective dates. Summaries must contain specific information contained in 49 CFR part 1313 and are posted on the agency's website, *www.stb.gov.*

[22] In the rulemaking adopting § 1333.3, ASLRRA acknowledged that only a subset of Class III rail carriers would need to hire or equip personnel to perform the task of providing notice of their demurrage tariff to their customers. *See Demurrage Liability,* EP 707, slip op. at 27 (STB served Apr. 11, 2014).

[23] ASLRRA also points to the proposed regulation in *Demurrage Billing Requirements,* EP 759, and proposed policy statement in *Policy Statement on Demurrage and Accessorial Rules and Charges,* EP 757, as possibly having adverse effects on small entities. (ASLRRA Comments 3.) However, as noted, the proposal in Docket No. EP 759 excludes Class II and Class III carriers from its requirements, and the policy statement proposed in Docket No. EP 757 does not impose compliance obligations or requirements that ''circumscribe[ ] or mandate [ ]'' the conduct of any entity, small or otherwise. *White Eagle,* 553 F.3d at 480. The Board also noted in Docket No. EP 757 that it will remain attentive to the need to consider future action to ensure that smaller rail carriers, as well as shippers and receivers, are not being forced to bear the burden of delays due to actions not attributable to them. *Policy Statement on Demurrage & Accessorial Rules & Charges,* EP 757, slip op. at 6 (STB served Oct. 7, 2019) (citing *Utah Central,* FD 36131, slip op. at 12 n.38).

[24] The ''no action'' alternative would also thwart the principles established in the Board's notice of proposed rulemaking in Docket No. EP 759 relating to demurrage billing requirements for Class I carriers.

Information and Regulatory Affairs has designated this rule as a non-major rule, as defined by 5 U.S.C. 804(2).

List of Subjects in 49 CFR Part 1039

Agricultural commodities, intermodal transportation, railroads.

It is ordered:

1. The Board adopts the final rule as set forth in this decision. Notice of the adopted rule will be published in the **Federal Register**.

2. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.

3. This decision is effective April 3, 2020.

Decided: February 28, 2020.

By the Board, Board Members Begeman, Fuchs, and Oberman.

Jeffrey Herzig,

Clearance Clerk.

For the reasons set forth in the preamble, the Surface Transportation Board amends part 1039 of title 49, chapter X, of the Code of Federal Regulations as follows:

PART 1039—EXEMPTIONS

■ 1. The authority citation for part 1039 continues to read as follows:

Authority: 49 U.S.C. 10502, 13301.

■ 2. Amend § 1039.10 by adding a sentence prior to the last sentence (after the table) to read as follows:

§ 1039.10 Exemption of agricultural commodities except grain, soybeans, and sunflower seeds.

* * * Consistent with the exemptions in § 1039.11 and § 1039.14, this exemption shall not apply to the regulation of demurrage, except the regulation of demurrage related to transportation that is subject to § 1039.13. * * *

■ 3. Amend § 1039.11 by adding a sentence at the end of paragraph (a) (after the table) to read as follows:

§ 1039.11 Miscellaneous commodities exemptions.

(a)* * * Consistent with the exemptions in § 1039.10 and § 1039.14, this exemption shall not apply to the regulation of demurrage, except the regulation of demurrage related to transportation that is subject to § 1039.13.

* * * * *

■ 4. Amend § 1039.14 by revising paragraph (d) to read as follows:

§ 1039.14 Boxcar transportation exemptions and rules.

* * * * *

(d) Carriers must continue to comply with Board accounting and reporting requirements. Railroad tariffs pertaining to the exempted transportation of commodities in boxcars will no longer apply. Consistent with the exemptions in § 1039.10 and § 1039.11, this exemption shall not apply to the regulation of demurrage, except the regulation of demurrage related to transportation that is subject to § 1039.13. This exemption shall remain in effect, unless modified or revoked by a subsequent order of the Board.

[FR Doc. 2020–04460 Filed 3–3–20; 8:45 am]

BILLING CODE 4915–01–P

Proposed Rules

Federal Register
Vol. 85, No. 43
Wednesday, March 4, 2020

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 932

[Doc. No. AMS–SC–20–0012; SC20–932–2 PR]

Olives Grown in California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the California Olive Committee (Committee) to decrease the assessment rate established for the 2020 fiscal year and subsequent fiscal years. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by April 3, 2020.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Kathie Notoro, Marketing Specialist, or Terry Vawter, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 538–1672, Fax: (559) 487–5906, or Email: *Kathie.Notoro@usda.gov* or *Terry.Vawter@usda.gov.*

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Agreement and Order No. 932, as amended (7 CFR part 932), regulating the handling of olives grown in California. Part 932 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of producers and handlers of olives operating within the area of production, and a public member.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 13563 and 13175. This proposed rule falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771.

See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order now in effect, California olive handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate would be applicable to all assessable olives beginning on January 1, 2020, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would decrease the assessment rate from $44.00 per ton of assessed olives, the rate that was established for the 2018–19 and subsequent fiscal years, to $15.00 per ton of assessed olives for the 2020 and subsequent fiscal years. The proposed lower rate is the result of a significantly higher crop size, and the need to cover Committee expenses.

The Order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on December 5, 2019, and unanimously recommended 2020 expenditures of $1,035,406, and an assessment rate of $24.00 per ton of assessed olives. In comparison, last year's budgeted expenditures were $1,628,923. However, on December 6, 2019, the Committee staff received an email requesting that the assessment rate be lower than the unanimously

agreed to rate of $24.00. The Committee met again by conference call on January 22, 2020, to discuss the possibility of a lower assessment rate. During the conference call, a handler and some producers stated they would be willing to pay up to $100.00 per ton during the next alternate low bearing year, if the crop volume tonnage drops below what is necessary to fund the Committee's activities. After further Committee discussions, an assessment rate of $15.00 per ton of assessed olives was recommended. The proposed assessment rate of $15.00 is $29.00 lower than the rate currently in effect. Producer receipts show a yield of 81,689 tons of assessable olives from the 2019 crop year. This is substantially more than the 2018 crop year, which yielded 17,953 tons of assessable olives. The 2020 fiscal year assessment rate decrease is appropriate to ensure the Committee has enough revenue to fund the recommended 2020 budgeted expenditures while ensuring the funds in the financial reserve would be kept within the maximum permitted by § 932.40.

The Order has a fiscal year and a crop year that are independent of each other. The crop year is a 12-month period that begins on August 1 of each year and ends on July 31 of the following year. The fiscal year is the 12-month period that begins on January 1 and ends on December 31 of each year. Olives are an alternate-bearing crop, with a small crop followed by a large crop. For this assessment rate proposed rule, the actual 2019 crop year receipts are used to determine the assessment rate for the 2020 fiscal year.

The major expenditures recommended by the Committee for the 2020 fiscal year includes $631,300 for program administration, $123,500 for marketing activities, $225,606 for research, and $55,000 for inspection equipment. Budgeted expenses for these items during the 2019 fiscal year were $713,900 for program administration, $513,500 for marketing activities, $343,523 for research, and $58,000 inspection equipment.

The assessment rate recommended by the Committee resulted from consideration of anticipated fiscal year expenses, actual olive tonnage received by handlers during the 2019 crop year, and the amount in the Committee's financial reserve. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the Order of approximately one fiscal year's expenses.

The assessment rate proposed in this rule would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's budget for subsequent fiscal years would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 800 producers of olives in the production area and two handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $1,000,000, and small agricultural service firms are defined as those whose annual receipts are less than $30,000,000 (13 CFR 121.201).

Based upon National Agricultural Statistics Service (NASS) information as of June 2019, the average price to producers for the 2019 crop year was $766.00 per ton, and total assessable volume for the 2019 crop year was 81,689 tons. Based on production, price paid to producers, and the total number of California olive producers, the average annual producer revenue is less than $1,000,000 ($766.00 times 81,689 tons equals $62,573,774 divided by 800 producers equals an average annual producer revenue of $78,217.22). Thus, the majority of olive producers may be classified as small entities. Both handlers may be classified as large entities under the SBA's definitions because their annual receipts are greater than $30,000,000.

This proposal would decrease the assessment rate collected from handlers for the 2020 and subsequent fiscal years from $44.00 to $15.00 per ton of assessable olives. The Committee unanimously recommended 2020 expenditures of $1,035,406 and an assessment rate of $15.00 per ton of assessable olives. The recommended assessment rate of $15.00 is $29.00 lower than the 2019 rate. The quantity of assessable olives for the 2020 Fiscal year is 81,689 tons. Thus, the $15.00 rate should provide $1,225,335 in assessment revenue. The lower assessment rate is proposed because annual receipts for the 2019 crop year are 81,689 tons compared to 17,953 tons for the 2018 crop year. Olives are an alternate-bearing crop, with a small crop followed by a large crop. Income derived from the $15.00 per ton assessment rate, along with funds from the authorized reserve and interest income, should be adequate to meet this fiscal year's expenses.

The major expenditures recommended by the Committee for the 2020 fiscal year include $631,300 for program administration, $123,500 for marketing activities, $225,606 for research, and $55,000 for inspection equipment. Budgeted expenses for these items during the 2019 fiscal year were $713,900 for program administration, $513,500 for marketing activities, $343,523 for research, and $58,000 for inspection equipment. The Committee deliberated on many of the expenses, weighed the relative value of various programs or projects, and decreased its expenses for marketing and research activities.

Prior to arriving at this budget and assessment rate, the Committee considered information from various sources including the Committee's Executive, Marketing, Inspection, and Research Subcommittees. Alternate expenditure levels were discussed by these groups, based upon the relative value of various projects to the olive industry and the increased olive production. The assessment rate of $15.00 per ton of assessable olives was derived by considering anticipated

expenses, the high volume of assessable olives, and additional pertinent factors.

A review of NASS information indicates that the average producer price for the 2019 crop year was $766.00 per ton. Therefore, utilizing the assessment rate of $15.00 per ton, the assessment revenue for the 2020 fiscal year as a percentage of total producer revenue would be approximately 0.02 percent.

This proposed action would decrease the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, decreasing the assessment would reduce the burden on handlers and may reduce the burden on producers. The Committee's meetings were widely publicized throughout the production area. The olive industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the December 5, 2019, meeting and the January 22, 2020, meetings were public meetings, and all entities, both large and small, were able to express views on this issue. Interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178 Vegetable and Specialty Crops. No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large California olive handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this action.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is proposed to be amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 932.230 is revised to read as follows:

§ 932.230 Assessment rate.

On and after January 1, 2020, an assessment rate of $15.00 per ton is established for California olives.

Dated: February 27, 2020.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020–04369 Filed 3–3–20; 8:45 am]

BILLING CODE 3410–02–P

Notices

Federal Register
Vol. 85, No. 43
Wednesday, March 4, 2020

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

[Docket Number: USDA–2020–0002]

Notice of Request for Public Comment on Updates to Technical Guidelines for Quantifying Greenhouse Gas (GHG) Emissions and Carbon Sequestration at the Entity-Scale for Agriculture and Forestry

AGENCY: Office of the Chief Economist, U.S. Department of Agriculture.

ACTION: Request for public comment.

SUMMARY: In accordance with Section 2709 of the 2008 Farm Bill, the United States Department of Agriculture (USDA) developed technical guidelines and science-based methods to quantify greenhouse gas sources and sinks from the agriculture and forest sectors at the entity-scale. In the report, *Quantifying Greenhouse Gas Fluxes in Agriculture and Forestry: Methods for Entity-Scale Inventory,* USDA stated it intends to periodically update the technical guidelines based on newly available data and methodologies, and an update is planned for completion within the next 3 years. As we prepare the updated report, USDA is seeking input from the public to ensure that relevant information and data are considered, improve the rigor of the guidelines, and enhance the usability of the methods in the updated technical guidelines. USDA is interested in your comments in response to the numbered topics, categories, and questions shown in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: Interested persons are invited to submit comments on or before 11:59 p.m. Eastern Time by April 20, 2020. Comments received after the posted deadline may not be considered, regardless of postmark.

ADDRESSES: Comments submitted in response to this notice may be submitted online Via the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and search for the Docket number USDA–2020–0002. Follow the online instructions for submitting comments.

All comments received will be posted without change and publicly available on *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: William Hohenstein, Director, USDA Office of Energy and Environmental Policy, telephone: 202–720–6698 Email: *William.hohenstein@usda.gov.*

SUPPLEMENTARY INFORMATION: The report *Quantifying Greenhouse Gas Fluxes in Agriculture and Forestry: Methods for Entity-Scale Inventory* was developed in response to the 2008 Farm Bill, Section 2709, which states that the United States Department of Agriculture (USDA) shall prepare technical guidelines that outline science-based methods to measure the carbon benefits from conservation and land management activities. The guidelines were intended for use with landowners, nongovernmental organizations, and other groups assessing increases and decreases in greenhouse gas emissions and carbon sequestration associated with changes in land management.

Notice of the project was announced in the **Federal Register** in February 2011 (76 FR 9534, February 18, 2011). The resulting report was published in 2014 as *Quantifying Greenhouse Gas Fluxes in Agriculture and Forestry: Methods for Entity-Scale Inventory,* Technical Bulletin Number 1939, Office of the Chief Economist, USDA, Washington, DC. The report and associated materials, including an erratum published in 2019, are available at: *https://www.usda.gov/oce/climate_change/estimation.htm.* The methods have also been implemented in the online tool COMET-Farm (*http://cometfarm.nrel.colostate.edu/*), a joint project of USDA's Natural Resources Conservation Service and Colorado State University.

As outlined in the report, USDA intends to periodically update the technical guidelines based on newly available data and methodologies. An update of *Quantifying Greenhouse Gas Fluxes in Agriculture and Forestry: Methods for Entity-Scale Inventory* is planned for completion within the next 3 years. The updated report is expected to undergo both expert review and public comment.

Updates to the technical guidelines will be focused on croplands, grazing lands, and animal production systems. Comments on managed wetland systems, forest systems, and land use change are also welcome. In addition to these sectors, USDA is considering adding a section on specialty crop systems.

USDA is currently seeking input from the public to ensure that relevant information and data are considered, improve the rigor of the guidelines, and enhance the usability of the methods in the updated technical guidelines. USDA is interested in your comments in response to the following:

1. Information on methods, practices, and technologies for quantification of greenhouse gas emissions and carbon sequestration at the entity-scale for agriculture.

1a. Information on methods, practices, and technologies currently included in the report, including new information on emission factors and default values. Please indicate the relevant chapter and page number(s) of the technical guidelines.

1b. Information on practices and technologies currently not included in the report. Are there additional practices and technologies for which the science and data are clear, and which should be addressed in the technical guidelines? Are estimation methods available for these technologies and practices? Please provide details.

1c. Information on promising technologies and practices for greenhouse gas mitigation and/or quantification which may become viable in the future.

2. Information to improve the rigor of the guidelines.

2a. Are there datasets that could be used to test and validate current and future methods?

2b. Are there findings that could reduce the uncertainty of current and future methods?

3. Information to improve the usability of the methods.

3a. How can USDA improve the usability of the technical guidelines for its customers?

3b. What specific changes or improvements could be made to the COMET-Farm online tool to improve the implementation of the USDA technical guidelines?

Please provide information including citations and/or contact details for the

correspondent to the address listed above.

Robert Johansson,

Chief Economist.

[FR Doc. 2020–04385 Filed 3–3–20; 8:45 am]

BILLING CODE 3410–GL–P

DEPARTMENT OF AGRICULTURE

Office of Partnerships and Public Engagement

Advisory Committee on Beginning Farmers and Ranchers

AGENCY: Office of Partnerships and Public Engagement (OPPE), U.S. Department of Agriculture (USDA).

ACTION: Announcement of public meeting of the Advisory Committee on Beginning Farmers and Ranchers (ACBFR).

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA) and rules and regulations of the USDA, the Office of Partnership and Public Engagement (OPPE) announces a meeting of the Advisory Committee on Beginning Farmers and Ranchers (ACBFR). The purpose of the ACBFR meeting is to deliberate upon matters concerning beginning farmers and ranchers that provide advice and recommendations through OPPE for the Secretary.

During this public meeting, the ACBFR will deliberate upon matters focused on, including but not limited to, the following: (A) The development of the program of coordinated assistance to qualified beginning farmers and ranchers under section 309(i) of the Consolidated Farm and Rural Development Act; (B) methods of maximizing the number of new farming and ranching opportunities created through the program; (C) methods of encouraging States to participate in the program; (D) the administration of the program; and E) other methods of creating new farming or ranching opportunities.

The most up-to-date agenda details and documents will be made available to the public before and after the meeting at: *https://www.outreach.usda.gov/committees/ACBFR.htm.*

DATES: The ACBFR meeting will be held on Monday, March 16, 2020, at 9:00 a.m.to 5:00 p.m. (Eastern Time Zone).

ADDRESSES:

(a) *Attendance in-person:* Omni Louisville Hotel, Olmstead Ballroom 4, 400 S 2nd Street, Louisville, Kentucky 40202

(b) *Public Call Information—Listen Only:* Dial: 866–816–7252 Conference ID: 6188761

(c) *Comments may be sent to: ACBeginningFarmersandRanchers@usda.gov*

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer (DFO) Maria Goldberg, OPPE, 202–720–6350, or email: *maria.goldberg@usda.gov*.

SUPPLEMENTARY INFORMATION: Members of the public are entitled to make comments during the public comment session. Commenters will be allowed a maximum of three minutes and will be scheduled on a first-come basis. If the number of persons requesting to speak is greater than what can be reasonably accommodated during the scheduled open public meeting timeframe; written comments may be submitted.

Written comments for the Committee's consideration may be submitted to Ms. Maria Goldberg, Designated Federal Officer, USDA OPPE, 1400 Independence Avenue, Room 533–A, Washington, DC 20250–0170; Fax (202) 720–7136; or email: *ACBeginningFarmersandRanchers@usda.gov.* Written comments must be received by OPPE within 30 days after the scheduled meeting.

Meeting Accommodations: USDA is committed to ensuring that all persons are included in our programs and events. If you are a person with a disability and require reasonable accommodations to participate in this meeting, please contact Maria Goldberg, 202–720- 6350 or email: *maria.goldberg@usda.gov*.

Dated: February 27, 2020.

Cikena V. Reid,

Committee Management Officer.

[FR Doc. 2020–04383 Filed 3–3–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Community Development Initiative (RCDI) for Fiscal Year 2020

AGENCY: Rural Housing Service.

ACTION: Notice of solicitation of applications.

SUMMARY: The Rural Housing Service (Agency), an Agency of the United States Department of Agriculture (USDA), announces the acceptance of applications under the Rural Community Development Initiative (RCDI) program. Applicants must provide matching funds in an amount at least equal to the Federal grant. These grants will be made to qualified intermediary organizations that will provide financial and technical assistance to recipients to develop their capacity and ability to undertake projects related to housing, community facilities, or community and economic development that will support the community.

This Notice announces that the Agency is accepting fiscal year (FY) 2020 applications for the RCDI program. Successful applications will be selected by the Agency for funding and subsequently awarded from funds appropriated for the RCDI program. The Agency will publish the amount of funding on its website at *https://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas.*

DATES: Completed applications must be submitted on paper or electronically according to the following deadlines:

The Agency must receive a paper application by 4 p.m. local time, May 18, 2020. Electronic applications must be submitted via *Grants.gov* by Midnight Eastern time on May 13, 2020. The application dates and times are firm. The Agency will not consider any application received after the deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX), electronic mail, and postage due applications will not be accepted.

ADDRESSES: Entities wishing to apply for assistance may download the application documents and requirements delineated in this Notice from the RCDI website: *http://www.rd.usda.gov/programs-services/rural-community-development-initiative-grants.*

Application information for electronic submissions may be found at *http://www.Grants.gov.*

Applicants may also request paper application packages from the Rural Development office in their state. A list of Rural Development State offices contacts can be found via *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.*

FOR FURTHER INFORMATION CONTACT: The Rural Development office for the state in which the applicant is located. A list of Rural Development State Office contacts is provided at the following link: *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.*

Paperwork Reduction Act

The paperwork burden has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0575–0180.

SUPPLEMENTARY INFORMATION: The Agency encourages applications that will support the Agency's overall goal to reduce the morbidity and mortality associated with Substance Use Disorder (including opioid misuse) in high-risk rural communities by strengthening the capacity to address one or more of the following focus areas at the community, county, state, and/or regional levels *See >https://www.cdc.gov/pwid/vulnerable-counties-data.html<:*

- *Prevention:* Reducing the occurrence of Substance Use Disorder (including opioid misuse) among new and at-risk users as well as fatal substance-related overdoses through community and provider education, and harm reduction measures including the strategic placement of overdose reversing devices, such as naloxone;
- *Treatment:* Implementing or expanding access to evidence-based practices for Substance Use Disorder (including opioid misuse) treatment such as medication-assisted treatment (MAT); and
- *Recovery:* Expanding peer recovery and treatment options that help people start and stay in recovery.

Administrator discretionary points will be awarded to applications that address this Agency Goal.

The Agency encourages applications that will help improve life in rural America. (See information on the Interagency Task Force on Agriculture and Rural Prosperity found at *www.usda.gov/ruralprosperity.*) Applicants are encouraged to consider projects that provide measurable results in helping rural communities build robust and sustainable economies through strategic investments in infrastructure, partnerships and innovation. Key strategies include:

- Achieving e-Connectivity for Rural America
- Developing the Rural Economy
- Harnessing Technological Innovation
- Supporting a Rural Workforce
- Improving Quality of Life

Overview

Federal Agency: Rural Housing Service.

Funding Opportunity Title: Rural Community Development Initiative.

Announcement Type: Notice of Solicitation of Applications.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.446.

Dates: The deadline for receipt of a paper application is 4 p.m. local time, May 18, 2020. The deadline for receipt of an electronic applications via *Grants.gov* is Midnight Eastern time on May 13, 2020. The application dates and times are firm. The Agency will not consider any application received after the deadline. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX), electronic mail and postage due applications will not be accepted. Prior to official submission of applications, applicants may request technical assistance or other application guidance from the Agency, as long as such requests are made prior to May 8, 2020. Technical assistance is not meant to be an analysis or assessment of the quality of the materials submitted, a substitute for agency review of completed applications, nor a determination of eligibility, if such determination requires in-depth analysis. The Agency will not solicit or consider scoring or eligibility information that is submitted after the application deadline. The Agency reserves the right to contact applicants to seek clarification information on materials contained in the submitted application.

A. Program Description

Congress first authorized the RCDI in 1999 (Pub. L. 106–78, which was amended most recently by the Consolidated Appropriations Act, 2019 (Pub. L. 116–6) to develop the capacity and ability of private, nonprofit community-based housing and community development organizations, low-income rural communities, and federally recognized Native American Tribes to undertake projects related to housing, community facilities, or community and economic development in rural areas. Strengthening the recipient's capacity in these areas will benefit the communities they serve. The RCDI structure requires the intermediary (grantee) to provide a program of financial and technical assistance to recipients. The recipients will, in turn, provide programs to their communities (beneficiaries).

B. Federal Award Information

The Agency will publish the amount of funding received in the FY 2020 Appropriations Act on its website at *https://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas.*

Qualified private organizations, nonprofit organizations and public (including tribal) intermediary organizations proposing to carry out financial and technical assistance programs will be eligible to receive the grant funding.

The intermediary will be required to provide matching funds in an amount at least equal to the RCDI grant.

A grant will be the type of assistance instrument awarded to successful applications.

The respective minimum and maximum grant amount per intermediary is $50,000 and $250,000.

Grant funds must be utilized within 3 years from date of the award.

A grantee that has an outstanding RCDI grant over 3 years old, as of the application due date in this Notice, is not eligible to apply for this round of funding.

The intermediary must provide a program of financial and technical assistance to one or more of the following: A private, nonprofit community-based housing and development organization, a low-income rural community or a federally recognized tribe.

(a) Restrictions substantially similar to Sections 743, 744, 745, and 746 outlined in Title VII, ''General Provisions—Government-Wide'' of the Consolidated Appropriations Act, 2019 (Pub. L. 116–6) will apply unless noted on the rural development website. Any corporation (i) that has been convicted of a felony criminal violation under any Federal law within the past 24 months or (ii) that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible for financial assistance provided with funds, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government. In addition, none of the funds appropriated or otherwise made available by this or any other Act may be available for a contract, grant, or cooperative agreement with an entity that requires employees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. Additionally, no funds appropriated in this or any other Act may be used to implement or

enforce the agreements in Standard Forms 312 and 4414 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: ''These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection.''

(b) A nondisclosure agreement may continue to be implemented and enforced notwithstanding subsection (a) if it complies with the requirements for such agreement that were in effect when the agreement was entered into.

(c) No funds appropriated in this or any other Act may be used to implement or enforce any agreement entered into during fiscal year 2014 which does not contain substantially similar language to that required in subsection (a).

C. Eligibility Information

Applicants must meet all of the following eligibility requirements by the application deadline. Applications which fail to meet any of these requirements by the application deadline will be deemed ineligible and will not be evaluated further and will not receive a Federal award.

1. Eligible Applicants

(a) Qualified private organizations, nonprofit organizations (including faith-based and community organizations and philanthropic foundations), in accordance with 7 CFR part 16, and public (including tribal) intermediary organizations are eligible applicants. Definitions that describe eligible organizations and other key terms are listed below.

(b) The recipient must be a nonprofit community-based housing and development organization, low-income rural community, or federally recognized tribe based on the RCDI definitions of these groups.

(c) Private nonprofit, faith or community-based organizations must provide a certificate of incorporation and good standing from the Secretary of the State of incorporation, or other similar and valid documentation of current nonprofit status. For low-income rural community recipients, the Agency requires evidence that the entity is a public body and census data verifying that the median household income of the community where the office receiving the financial and technical assistance is located is at, or below, 80 percent of the State or national median household income, whichever is higher. For federally recognized tribes, the Agency needs the page listing their name from the current **Federal Register** list of tribal entities recognized and eligible for funding services (see the definition of federally recognized tribes in this Notice for details on this list).

(d) Any corporation that:

(1) Has been convicted of a felony criminal violation under any Federal law within the past 24 months; or

(2) has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; is not eligible for financial assistance provided with full-year appropriated funds for Fiscal Year 2020, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

2. Cost Sharing or Matching

There is a matching requirement of at least equal to the amount of the grant. If this matching fund requirement is not met, the application will be deemed ineligible. See section D, Application and Submission Information, for required pre-award and post award matching funds documentation submission.

Matching funds are cash or confirmed funding commitments that must be at least equal to the grant amount and committed for a period of not less than the grant performance period. These funds can only be used for eligible RCDI activities and must be used to support the overall purpose of the RCDI program.

In-kind contributions such as salaries, donated time and effort, real and nonexpendable personal property and goods and services cannot be used as matching funds.

Grant funds and matching funds must be used in equal proportions. This does not mean funds have to be used equally by line item.

The request for advance or reimbursement and supporting documentation must show that RCDI fund usage does not exceed the cumulative amount of matching funds used.

Grant funds will be disbursed pursuant to relevant provisions of 2 CFR parts 200 and 400. See Section D, Application and Submission Information, for matching funds documentation and pre-award requirements.

The intermediary is responsible for demonstrating that matching funds are available and committed for a period of not less than the grant performance period to the RCDI proposal. Matching funds may be provided by the intermediary or a third party. Other Federal funds may be used as matching funds if authorized by statute and the purpose of the funds is an eligible RCDI purpose.

RCDI funds will be disbursed on an advance or reimbursement basis. Matching funds cannot be expended prior to execution of the RCDI Grant Agreement.

3. Other Program Requirements

(a) The recipient and beneficiary, but not the intermediary, must be located in an eligible rural area. The physical location of the recipient's office that will be receiving the financial and technical assistance must be in an eligible rural area. If the recipient is a low-income community, the median household income of the area where the office is located must be at or below 80 percent of the State or national median household income, whichever is higher. The applicable Rural Development State Office can assist in determining the eligibility of an area.

A listing of Rural Development State Office contacts can be found at the following link: *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.* A map showing eligible rural areas can be found at the following link: *http://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do?pageAction=RBSmenu&NavKey=property@13.*

(b) RCDI grantees that have an outstanding grant over 3 years old, as of the application due date in this Notice, will not be eligible to apply for this round of funding. Grant and matching funds must be utilized in a timely manner to ensure that the goals and objectives of the program are met.

(c) Individuals cannot be recipients.

(d) The intermediary must provide a program of financial and technical assistance to the recipient.

(e) The intermediary organization must have been legally organized for a minimum of 3 years and have at least 3 years prior experience working with private nonprofit community-based

housing and development organizations, low-income rural communities, or tribal organizations in the areas of housing, community facilities, or community and economic development.

(f) Proposals must be structured to utilize the grant funds within 3 years from the date of the award.

(g) Each applicant, whether singularly or jointly, may only submit one application for RCDI funds under this Notice. This restriction does not preclude the applicant from providing matching funds for other applications.

(h) Recipients can benefit from more than one RCDI application; however, after grant selections are made, the recipient can only benefit from multiple RCDI grants if the type of financial and technical assistance the recipient will receive is not duplicative. The services described in multiple RCDI grant applications must have separate and identifiable accounts for compliance purposes.

(i) The intermediary and the recipient cannot be the same entity. The recipient can be a related entity to the intermediary, if it meets the definition of a recipient, provided the relationship does not create a Conflict of Interest that cannot be resolved to Rural Development's satisfaction.

(j) If the recipient is a low-income rural community, identify the unit of government to which the financial and technical assistance will be provided, *e.g.,* town council or village board. The financial and technical assistance must be provided to the organized unit of government representing that community, not the community at large.

4. Eligible Grant Purposes

Fund uses must be consistent with the RCDI purpose. A nonexclusive list of eligible grant uses includes the following:

(a) Provide technical assistance to develop recipients' capacity and ability to undertake projects related to housing, community facilities, or community and economic development, *e.g.,* the intermediary hires a staff person to provide technical assistance to the recipient or the recipient hires a staff person, under the supervision of the intermediary, to carry out the technical assistance provided by the intermediary.

(b) Develop the capacity of recipients to conduct community development programs, *e.g.,* homeownership education or training for business entrepreneurs.

(c) Develop the capacity of recipients to conduct development initiatives, *e.g.,* programs that support micro-enterprise and sustainable development.

(d) Develop the capacity of recipients to increase their leveraging ability and access to alternative funding sources by providing training and staffing.

(e) Develop the capacity of recipients to provide the technical assistance component for essential community facilities projects.

(f) Assist recipients in completing pre-development requirements for housing, community facilities, or community and economic development projects by providing resources for professional services, *e.g.,* architectural, engineering, or legal.

(g) Improve recipient's organizational capacity by providing training and resource material on developing strategic plans, board operations, management, financial systems, and information technology.

(h) Purchase of computers, software, and printers, limited to $10,000 per award, at the recipient level when directly related to the technical assistance program being undertaken by the intermediary.

(i) Provide funds to recipients for training-related travel costs and training expenses related to RCDI.

5. Ineligible Fund Uses

The following is a list of ineligible grant uses:

(a) Pass-through grants, and any funds provided to the recipient in a lump sum that are not reimbursements.

(b) Funding a revolving loan fund (RLF).

(c) Construction (in any form).

(d) Salaries for positions involved in construction, renovations, rehabilitation, and any oversight of these types of activities.

(e) Intermediary preparation of strategic plans for recipients.

(f) Funding prostitution, gambling, or any illegal activities.

(g) Grants to individuals.

(h) Funding a grant where there may be a conflict of interest, or an appearance of a conflict of interest, involving any action by the Agency.

(i) Paying obligations incurred before the beginning date without prior Agency approval or after the ending date of the grant agreement.

(j) Purchasing real estate.

(k) Improvement or renovation of the grantee's or recipient's office space or for the repair or maintenance of privately-owned vehicles.

(l) Any purpose prohibited in 2 CFR part 200 or 400.

(m) Using funds for recipient's general operating costs.

(n) Using grant or matching funds for Individual Development Accounts.

(o) Purchasing vehicles.

6. Program Examples and Restrictions

The following are examples of eligible and ineligible purposes under the RCDI program. (These examples are illustrative and are not meant to limit the activities proposed in the application. Activities that meet the objectives of the RCDI program and meet the criteria outlined in this Notice will be considered eligible.)

(a) The intermediary must work directly with the recipient, not the ultimate beneficiaries. For example:

The intermediary provides training and technical assistance to the recipients on developing and updating materials related to the prevention, treatment and recovery activities for opioid use disorder and ensures that high-quality training is provided to communities affected by the opioid epidemic.

(b) The intermediary provides training to the recipient on how to conduct homeownership education classes. The recipient then provides ongoing homeownership education to the residents of the community—the ultimate beneficiaries. This ''train the trainer'' concept fully meets the intent of this initiative. The intermediary is providing technical assistance that will build the recipient's capacity by enabling them to conduct homeownership education classes for the public.

This is an eligible purpose. However, if the intermediary directly provided homeownership education classes to individuals in the recipient's service area, this would not be an eligible purpose because the recipient would be bypassed.

(c) If the intermediary is working with a low-income community as the recipient, the intermediary must provide the technical assistance to the entity that represents the low-income community and is identified in the application. Examples of entities representing a low-income community are a village board or a town council.

If the intermediary provides technical assistance to the Board of the low-income community on how to establish a cooperative, this would be an eligible purpose. However, if the intermediary works directly with individuals from the community to establish the cooperative, this is not an eligible purpose.

The recipient's capacity is built by learning skills that will enable them to support sustainable economic development in their communities on an ongoing basis.

(d) The intermediary may provide technical assistance to the recipient on

how to create and operate a revolving loan fund. The intermediary may not monitor or operate the revolving loan fund. RCDI funds, including matching funds, cannot be used to fund revolving loan funds.

(e) The intermediary may work with recipients in building their capacity to provide planning and leadership development training. The recipients of this training would be expected to assume leadership roles in the development and execution of regional strategic plans. The intermediary would work with multiple recipients in helping communities recognize their connections to the greater regional and national economies.

(f) The intermediary could provide training and technical assistance to the recipients on developing emergency shelter and feeding, short-term housing, search and rescue, and environmental accident, prevention, and cleanup program plans. For longer term disaster and economic crisis responses, the intermediary could work with the recipients to develop job placement and training programs and develop coordinated transit systems for displaced workers.

D. Application and Submission Information

1. Address To Request Application Package

Entities wishing to apply for assistance may download the application documents and requirements delineated in this Notice from the RCDI website: *http://www.rd.usda.gov/programs-services/rural-community-development-initiative-grants.*

Application information for electronic submissions may be found at *http://www.Grants.gov*.

Applicants may also request paper application packages from the Rural Development office in their state. A list of Rural Development State office contacts can be found via *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.* You may also obtain a copy by calling 202–205–9685.

2. Content and Form of Application Submission

If the applicant is ineligible or the application is incomplete, the Agency will inform the applicant in writing of the decision, reasons therefore, and its appeal rights and no further evaluation of the application will occur.

A complete application for RCDI funds must include the following:

(a) A summary page, double-spaced between items, listing the following: (This information should not be presented in narrative form.)

(1) Applicant's name,

(2) Applicant's address,

(3) Applicant's telephone number,

(4) Name of applicant's contact person, email address and telephone number,

(5) County where applicant is located,

(6) Congressional district number where applicant is located,

(7) Amount of grant request, and

(8) Number of recipients.

(b) A detailed Table of Contents containing page numbers for each component of the application.

(c) A project overview, no longer than one page, including the following items, which will also be addressed separately and in detail under ''Building Capacity and Expertise'' of the ''Evaluation Criteria.''

(1) The type of technical assistance to be provided to the recipients and how it will be implemented.

(2) How the capacity and ability of the recipients will be improved.

(3) The overall goals to be accomplished.

(4) The benchmarks to be used to measure the success of the program. Benchmarks should be specific and quantifiable.

(d) Organizational documents, such as a certificate of incorporation and a current good standing certification from the Secretary of State where the applicant is incorporated and other similar and valid documentation of current non-profit status, from the intermediary that confirms it has been legally organized for a minimum of 3 years as the applicant entity.

(e) Verification of source and amount of matching funds, *e.g.,* a copy of a bank statement if matching funds are in cash or a copy of the confirmed funding commitment from the funding source.

The verification must show that matching funds are available for the duration of the grant performance period. The verification of matching funds must be submitted with the application or the application will be considered incomplete.

The applicant will be contacted by the Agency prior to grant award to verify that the matching funds provided with the application continue to be available. The applicant will have 15 days from the date contacted to submit verification that matching funds continue to be available.

If the applicant is unable to provide the verification within that timeframe, the application will be considered ineligible. The applicant must maintain bank statements on file or other documentation for a period of at least 3 years after grant closing except that the records shall be retained beyond the 3-year period if audit findings have not been resolved.

(f) The following information for each recipient:

(1) Recipient's entity name,

(2) Complete address (mailing and physical location, if different),

(3) County where located,

(4) Number of Congressional district where recipient is located,

(5) Contact person's name, email address and telephone number and,

(6) Form RD 400–4, ''Assurance Agreement.'' If the Form RD 400–4 is not submitted for the applicant and each recipient, the recipient will be considered ineligible. No information pertaining to that recipient will be included in the income or population scoring criteria and the requested funding may be adjusted due to the deletion of the recipient.

(g) Submit evidence that each recipient entity is eligible. Documentation must be submitted to verify recipient eligibility. Acceptable documentation varies depending on the type of recipient:

(1) Nonprofits—provide a current valid letter confirming non-profit status from the Secretary of the State of incorporation, a current good standing certification from the Secretary of the State of incorporation, or other valid documentation of current nonprofit status of each recipient.

A nonprofit recipient must provide evidence that it is a valid nonprofit when the intermediary applies for the RCDI grant. Organizations with pending requests for nonprofit designations are not eligible.

(2) Low-income rural community—provide evidence the entity is a public body (copy of Charter, relevant Acts of Assembly, relevant court orders (if created judicially) or other valid documentation), a copy of the 2010 census data to verify the population, and 2010 American Community Survey (ACS) 5-year estimates (2006–2010 data set) data as evidence that the median household income is at, or below, 80 percent of either the State or national median household income. We will only accept data and printouts from *https://factfinder.census.gov.*

(3) Federally recognized tribes—provide the page listing their name from the **Federal Register** list of tribal entities published most recently by the Bureau of Indian Affairs. The 2019 list is available at 84 FR 1200 pages 1200–1205 and *https://www.federalregister.gov/documents/2019/02/01/2019-00897/indian-entities-recognized-by-and-eligible-to-receive-*

services-from-the-united-states-bureau-of. For Tribes that received federal recognition after the most recent publication, statutory citations and additional documentation may suffice.

(h) Each of the ''Evaluation Criteria'' must be addressed specifically and individually by category. Present these criteria in narrative form. Narrative (not including attachments) must be limited to five pages per criterion. The ''Population and Income'' criteria for recipient locations can be provided in the form of a list; however, the source of the data must be included on the page(s).

(i) A timeline identifying specific activities and proposed dates for completion.

(j) A detailed project budget that includes the RCDI grant amount and matching funds. This should be a line-item budget, by category. Categories such as salaries, administrative, other, and indirect costs that pertain to the proposed project must be clearly defined. Supporting documentation listing the components of these categories must be included. The budget should be dated: Year 1, year 2, and year 3, as applicable.

(k) The indirect cost category in the project budget should be used only when a grant applicant has a federally negotiated indirect cost rate. A copy of the current rate agreement must be provided with the application. Non-federal entities that have never received a negotiated indirect cost rate, except for those non-Federal entities described in Appendix VII to Part 200-States and Local Government and Indian Tribe Indirect Cost Proposals, paragraph (d)(1)(B), may use the de minimis rate of 10 percent of modified total direct costs (MTDC).

(l) Form SF–424, ''Application for Federal Assistance.''

(Do not complete Form SF–424A, ''Budget Information.'' A separate line-item budget should be presented as described in Letter (j) of this section.)

(m) Form SF–424B, ''Assurances—Non-Construction Programs.''

(n) Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.''

(o) Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions.''

(p) Form AD–1049, ''Certification Regarding Drug-Free Workplace Requirements.''

(q) Certification of Non-Lobbying Activities.

(r) Standard Form LLL, ''Disclosure of Lobbying Activities,'' if applicable.

(s) Form RD 400–4, ''Assurance Agreement,'' for the applicant and each recipient. The applicant and each prospective recipient must sign Form RD 400–4, Assurance Agreement, which assures USDA that the recipient is in compliance with Title VI of the Civil Rights Act of 1964, 7 CFR part 15, and other Agency regulations: That no person will be discriminated against based on race, color or national origin, in regard to any program or activity for which the recipient receives Federal financial assistance; That nondiscrimination statements are in advertisements and brochures.

Applicants must collect and maintain data provided by recipients on race, sex, and national origin and ensure Ultimate Recipients collect and maintain this data. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity'' (62 FR 58782), October 30, 1997. Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.

The applicant and the recipient must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975, Executive Order 12250, Executive Order 13166 Limited English Proficiency (LEP), and 7 CFR part 1901, subpart E.

(t) Identify and report any association or relationship with Rural Development employees. (A statement acknowledging whether or not a relationship exists is required.)

(u) Form AD–3030, ''Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants,'' if you are a corporation. A corporation is any entity that has filed articles of incorporation in one of the 50 States, the District of Columbia, the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands, or the various territories of the United States including American Samoa, Guam, Midway Islands, Northern Mariana Islands, Puerto Rico, or the U.S. Virgin Islands. Corporations include both for profit and non-profit entities.

3. Dun and Bradstreet Data Universal Numbering System (DUNS) and System for Awards Management (SAM)

Grant applicants must obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number and register in the System for Award Management (SAM) prior to submitting an application pursuant to 2 CFR 25.200(b). In addition, an entity applicant must maintain registration in SAM at all times during which it has an active Federal award or an application or plan under consideration by the Agency. Similarly, all recipients of Federal financial assistance are required to report information about first-tier subawards and executive compensation in accordance to 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR 170.200(b).

An applicant, unless excepted under 2 CFR 25.110(b), (c), or (d), is required to:

(a) Be registered in SAM before submitting its application;

(b) Provide a valid DUNS number in its application; and

(c) Continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency.

The Federal awarding agency (RHS) may not make a federal award to an applicant until the applicant has complied with all applicable DUNS and SAM requirements and, if an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

As required by the Office of Management and Budget (OMB), all grant applications must provide a DUNS number when applying for Federal grants, on or after October 1, 2003. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free number at 1–866–705–5711 or via internet at *http://fedgov.dnb.com/webform.* Additional information concerning this requirement can be obtained on the *Grants.gov* website at *http://www.Grants.gov.* Similarly, applicants may register for SAM at *https://www.sam.gov* or by calling 1–866–606–8220.

The applicant must provide documentation that they are registered in SAM and their DUNS number. If the applicant does not provide

documentation that they are registered in SAM and their DUNS number, the application will not be considered for funding. The required forms and certifications can be downloaded from the RCDI website at: *http://www.rd.usda.gov/programs-services/rural-community-development-initiative-grants.*

4. Submission Dates and Times

The deadline for receipt of a paper application is 4 p.m. local time, May 18, 2020. The deadline for electronic applications via *Grants.gov* is Midnight Eastern time on May 13, 2020. The application dates and times are firm. The Agency will not consider any application received after the deadline. You may submit your application in paper form or electronically through *Grants.gov*. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX), electronic mail, and postage due applications will not be accepted.

To submit a paper application, the original application package must be submitted to the Rural Development State Office where the applicant's headquarters is located.

A listing of Rural Development State Offices contacts can be found via *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.*

Applications will not be accepted via FAX or electronic mail.

Applicants may file an electronic application at *http://www.Grants.gov*. *Grants.gov* contains full instructions on all required passwords, credentialing, and software. Follow the instructions at *Grants.gov* for registering and submitting an electronic application. If a system problem or technical difficulty occurs with an electronic application, please use the customer support resources available at the *Grants.gov* website.

Technical difficulties submitting an application through *Grants.gov* will not be a reason to extend the application deadline. If an application is unable to be submitted through *Grants.gov*, a paper application must be received in the appropriate Rural Development State Office by the deadline noted previously.

First time *Grants.gov* users should carefully read and follow the registration steps listed on the website. These steps need to be initiated early in the application process to avoid delays in submitting your application online.

In order to register with System for Award Management (SAM), your organization will need a DUNS number. Be sure to complete the Marketing Partner ID (MPID) and Electronic Business Primary Point of Contact fields during the SAM registration process.

These are mandatory fields that are required when submitting grant applications through *Grants.gov*. Additional application instructions for submitting an electronic application can be found by selecting this funding opportunity on *Grants.gov*.

5. Funding Restrictions

Meeting expenses. In accordance with 31 U.S.C. 1345, ''Expenses of Meetings,'' appropriations may not be used for travel, transportation, and subsistence expenses for a meeting. RCDI grant funds cannot be used for these meeting-related expenses. Matching funds may, however, be used to pay for these expenses.

RCDI funds may be used to pay for a speaker as part of a program, equipment to facilitate the program, and the actual room that will house the meeting.

RCDI funds cannot be used for meetings; they can, however, be used for travel, transportation, or subsistence expenses for program-related training and technical assistance purposes. Any training not delineated in the application must be approved by the Agency to verify compliance with 31 U.S.C. 1345. Travel and per diem expenses (including meals and incidental expenses) will be allowed in accordance with 2 CFR parts 200 and 400.

E. Application Review Information

1. Evaluation Criteria

Applications will be evaluated using the following criteria and weights:

(a) Building Capacity and Expertise—Maximum 40 Points

The applicant must demonstrate how they will improve the recipients' capacity, through a program of financial and technical assistance, as it relates to the RCDI purposes.

Capacity-building financial and technical assistance should provide new functions to the recipients or expand existing functions that will enable the recipients to undertake projects in the areas of housing, community facilities, or community and economic development that will benefit the community. Capacity-building financial and technical assistance may include, but is not limited to: Training to conduct community development programs, *e.g.,* homeownership education, or the establishment of minority business entrepreneurs, cooperatives, or micro-enterprises; organizational development, *e.g.,* assistance to develop or improve board operations, management, and financial systems; instruction on how to develop and implement a strategic plan; instruction on how to access alternative funding sources to increase leveraging opportunities; staffing, *e.g.,* hiring a person at intermediary or recipient level to provide technical assistance to recipients.

The program of financial and technical assistance that is to be provided, its delivery, and the measurability of the program's effectiveness will determine the merit of the application.

All applications will be competitively ranked with the applications providing the most improvement in capacity development and measurable activities being ranked the highest.

The narrative response must contain the following items. This list also contains the points for each item.

(1) Describe the nature of financial and technical assistance to be provided to the recipients and the activities that will be conducted to deliver the technical assistance; (10 Points)

(2) Explain how financial and technical assistance will develop or increase the recipient's capacity. Indicate whether a new function is being developed or if existing functions are being expanded or performed more effectively; (7 Points)

(3) Identify which RCDI purpose areas will be addressed with this assistance: Housing, community facilities, or community and economic development; (3 Points)

(4) Describe how the results of the technical assistance will be measured. What benchmarks will be used to measure effectiveness? Benchmarks should be specific and quantifiable; (5 Points)

(5) Demonstrate that the applicant/intermediary has conducted programs of financial and technical assistance and achieved measurable results in the areas of housing, community facilities, or community and economic development in rural areas. (10 Points)

(6) Provide in a chart or excel spreadsheet, the organization name, point of contact, address, phone number, email address, and the type and amount of the financial and technical assistance the applicant organization has provided to the following for the last 3 years: (5 Points)

(i) Nonprofit organizations in rural areas.

(ii) Low-income communities in rural areas (also include the type of entity, *e.g.,* city government, town council, or village board).

(iii) Federally recognized tribes or any other culturally diverse organizations.

(b) Soundness of Approach—Maximum 15 Points

The applicant can receive up to 15 points for soundness of approach. The overall proposal will be considered under this criterion.

The maximum 15 points for this criterion will be based on the following:

(1) The proposal fits the objectives for which applications were invited, is clearly stated, and the applicant has defined how this proposal will be implemented. (7 Points)

(2) The ability to provide the proposed financial and technical assistance based on prior accomplishments. (6 Points)

(3) Cost effectiveness will be evaluated based on the budget in the application. The proposed grant amount and matching funds should be utilized to maximize capacity building at the recipient level. (2 Points)

(c) Population and Income—Maximum 15 Points

Population is based on the average population from the 2010 census data for the communities in which the recipients are located. The physical address, not mailing address, for each recipient must be used for this criterion. Community is defined for scoring purposes as a city, town, village, county, parish, borough, Indian reservation or census-designated place where the recipient's office is physically located.

The applicant must submit the census data from the following website in the form of a printout of the applicable ''Fact Sheet'' to verify the population figures used for each recipient. The data can be accessed on the internet at *https://factfinder.census.gov* fill in field and click ''Go''; the name and population data for each recipient location must be listed in this section.

The average population of the recipient locations will be used and will be scored as follows:

Population	Scoring (points)
10,000 or less	5
10,001 to 20,000	4
20,001 to 30,000	3
30,001 to 40,000	2
40,001 to 50,000	1

The average of the median household income for the communities where the recipients are physically located will determine the points awarded. The physical address, not mailing address, for each recipient must be used for this criterion. Applicants may compare the average recipient median household income to the State median household income or the national median household income, whichever yields the most points. The national median household income to be used is $51,914.

The applicant must submit the income data in the form of a printout of the applicable information from the following website to verify the income for each recipient. The data being used is from the 2010 American Community Survey (ACS) 5-year estimates (2006–2010 data set). The data can be accessed on the internet at *https://factfinder.census.gov;* click on ''Advanced Search,'' (click on ''Show Me All'' tab), ''Topics,'' ''Dataset,'' locate 2010 ACS 5 year estimates, close table, check the ''Median Income'' table (S1903 on page 2), fill in the ''state, county or place'' field (at top of page), select ''Go'' and click ''View''; the name and income data for each recipient location must be listed in this section (use the Household and Median Income column). Points will be awarded as follows:

Average recipient median income	Scoring (points)
Less than or equal to 70 percent of state or national median household income	10
Greater than 70, but less than or equal to 80 percent of state or national median household income	5
In excess of 80 percent of state or national median household income	0

(d) State Director's Points Based on Project Merit—Maximum 10 Points

(1) This criterion will be addressed by the Agency, not the applicant.

(2) Up to 10 points may be awarded by the Rural Development State Director to any application(s) that benefits their State regardless of whether the applicant is headquartered in their State. The total points awarded under this criterion, to all applications, will not exceed 10.

(3) When an intermediary submits an application that will benefit a State that is not the same as the State in which the intermediary is headquartered, it is the intermediary's responsibility to notify the State Director of the State which is receiving the benefit of their application. In such cases, State Directors awarding points to applications benefiting their state must notify the reviewing State in writing.

(4) Assignment of any points under this criterion requires a written justification and must be tied to and awarded based on how closely the application aligns with the Rural Development State Office's strategic goals.

(e) Administrator Discretionary Points—Maximum 20 Points

The Administrator may award up to 20 discretionary points for projects to address geographic distribution of funds, emergency conditions caused by economic problems, natural disasters and other initiatives identified by the Secretary.

The Administrator will award points to any application that supports the Agency's overall goal to reduce the morbidity and mortality associated with Substance Use Disorder (including opioid misuse) in high-risk rural communities by strengthening the capacity to address one or more of the following focus areas at the community, county, state, and/or regional levels: 1. Prevention: Reducing the occurrence of Substance Use Disorder (including opioid misuse) among new and at-risk users as well as fatal substance-related overdoses through community and provider education, and harm reduction measures including the strategic placement of overdose reversing devices, such as naloxone; 2. Treatment: Implementing or expanding access to evidence-based practices for Substance Use Disorder (including opioid misuse) treatment such as medication-assisted treatment (MAT); and 3. Recovery: Expanding peer recovery and treatment options that help people start and stay in recovery.

2. Review and Selection Process

(a) Rating and ranking.

Applications will be rated and ranked on a national basis by a review panel based on the ''Evaluation Criteria'' contained in this Notice.

If there is a tied score after the applications have been rated and ranked, the tie will be resolved by

reviewing the scores for ''Building Capacity and Expertise'' and the applicant with the highest score in that category will receive a higher ranking. If the scores for ''Building Capacity and Expertise'' are the same, the scores will be compared for the next criterion, in sequential order, until one highest score can be determined.

(b) Initial screening.

The Agency will screen each application to determine eligibility during the period immediately following the application deadline. Listed below are examples of reasons for rejection from previous funding rounds. The following reasons for rejection are not all inclusive; however, they represent the majority of the applications previously rejected.

(1) Recipients were not located in eligible rural areas based on the definition in this Notice.

(2) Applicants failed to provide evidence of recipient's status, *i.e.,* documentation supporting nonprofit evidence of organization.

(3) Applicants failed to provide evidence of committed matching funds or matching funds were not committed for a period at least equal to the grant performance period.

(4) Application did not follow the RCDI structure with an intermediary and recipients.

(5) Recipients were not identified in the application.

(6) Intermediary did not provide evidence it had been incorporated for at least 3 years as the applicant entity.

(7) Applicants failed to address the ''Evaluation Criteria.''

(8) The purpose of the proposal did not qualify as an eligible RCDI purpose.

(9) Inappropriate use of funds (*e.g.,* construction or renovations).

(10) The applicant proposed providing financial and technical assistance directly to individuals.

(11) The application package was not received by closing date and time.

F. Federal Award Administration Information

1. Federal Award Notice

Within the limit of funds available for such purpose, the awarding official of the Agency shall make grants in ranked order to eligible applicants under the procedures set forth in this Notice.

Successful applicants will receive a selection letter by mail containing instructions on requirements necessary to proceed with execution and performance of the award.

This letter is not an authorization to begin performance. In addition, selected applicants will be requested to verify that components of the application have not changed at the time of selection and on the award obligation date, if requested by the Agency.

The award is not approved until all information has been verified, and the awarding official of the Agency has signed Form RD 1940–1, ''Request for Obligation of Funds'' and the grant agreement.

Unsuccessful applicants will receive notification including appeal rights by mail.

2. Administrative and National Policy Requirements

Grantees will be required to do the following:

(a) Execute a Rural Community Development Initiative Grant Agreement.

(b) Execute Form RD 1940–1, ''Request for Obligation of Funds.''

(c) Use Form SF 270, ''Request for Advance or Reimbursement,'' to request reimbursements. Provide receipts for expenditures, timesheets and any other documentation to support the request for reimbursement.

(d) Provide financial status and project performance reports on a quarterly basis starting with the first full quarter after the grant award.

(e) Maintain a financial management system that is acceptable to the Agency.

(f) Ensure that records are maintained to document all activities and expenditures utilizing RCDI grant funds and matching funds. Receipts for expenditures will be included in this documentation.

(g) Provide annual audits or management reports on Form RD 442–2, ''Statement of Budget, Income and Equity,'' and Form RD 442–3, ''Balance Sheet,'' depending on the amount of Federal funds expended and the outstanding balance.

(h) Collect and maintain data provided by recipients on race, sex, and national origin and ensure recipients collect and maintain the same data on beneficiaries. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity,'' (62 FR 58782), October 30, 1997. Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.

(i) Provide a final project performance report.

(j) Identify and report any association or relationship with Rural Development employees.

(k) The intermediary and recipient must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Executive Order 12250, Age Act of 1975, Executive Order 13166 Limited English Proficiency, and 7 CFR part 1901, subpart E.

(l) The grantee must comply with policies, guidance, and requirements as described in the following applicable Code of Federal Regulations, and any successor regulations:

(i) 2 CFR parts 200 and 400 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Awards).

(ii) 2 CFR parts 417 and 180 (Government-wide Debarment and Suspension (Nonprocurement)).

(m) Form AD–3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants,'' must be signed by corporate applicants who receive an award under this Notice.

3. Reporting

After grant approval and through grant completion, you will be required to provide the following, as indicated in the Grant Agreement:

(a) SF–425, ''Federal Financial Report'' and SF–PPR, ''Performance Progress Report'' will be required on a quarterly basis (due 30 working days after each calendar quarter). The Performance Progress Report shall include the elements described in the grant agreement.

(b) Final financial and performance reports will be due 90 calendar days after the period of performance end date.

(c) A summary at the end of the final report with elements as described in the grant agreement to assist in documenting the annual performance goals of the RCDI program for Congress.

G. Federal Awarding Agency Contact

Contact the Rural Development office in the State where the applicant's headquarters is located. A list of Rural Development State Offices contacts can be found via *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.*

H. Other Information

Survey on Ensuring Equal Opportunity for Applicants, OMB No. 1894–0010 (applies to nonprofit applicants only—submission is optional).

No reimbursement will be made for any funds expended prior to execution of the RCDI Grant Agreement unless the intermediary is a non-profit or

educational entity and has requested and received written Agency approval of the costs prior to the actual expenditure.

This exception is applicable for up to 90 days prior to grant closing and only applies to grantees that have received written approval but have not executed the RCDI Grant Agreement.

The Agency cannot retroactively approve reimbursement for expenditures prior to execution of the RCDI Grant Agreement.

Program Definitions

Agency—The Rural Housing Service or its successor.

Beneficiary—Entities or individuals that receive benefits from assistance provided by the recipient.

Capacity—The ability of a recipient to implement housing, community facilities, or community and economic development projects.

Conflict of interest—A situation in which a person or entity has competing personal, professional, or financial interests that make it difficult for the person or business to act impartially. Regarding use of both grant and matching funds, Federal procurement standards prohibit transactions that involve a real or apparent conflict of interest for owners, employees, officers, agents, or their immediate family members having a financial or other interest in the outcome of the project; or that restrict open and free competition for unrestrained trade. Specifically, project funds may not be used for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest, including, but not limited to, owner(s) and their immediate family members. An example of conflict of interest occurs when the grantee's employees, board of directors, or the immediate family of either, have the appearance of a professional or personal financial interest in the recipients receiving the benefits or services of the grant.

Federally recognized tribes—Tribal entities recognized and eligible for funding and services from the Bureau of Indian Affairs, based on the most recent notice in the **Federal Register** published by the Bureau of Indian Affairs and Tribes that received federal recognition after the most recent publication. Tribally Designated Housing Entities are eligible RCDI recipients.

Financial assistance—Funds, not to exceed $10,000 per award, used by the intermediary to purchase supplies and equipment to build the recipient's capacity.

Funds—The RCDI grant and matching money.

Intermediary—A qualified private organization, nonprofit organization (including faith-based and community organizations and philanthropic organizations), or public (including tribal) organization that provides financial and technical assistance to multiple recipients.

Low-income rural community—An authority, district, economic development authority, regional council, federally recognized tribe, or unit of government representing an incorporated city, town, village, county, township, parish, Indian reservation or borough whose income is at or below 80 percent of either the state or national Median Household Income as measured by the 2010 Census.

Matching funds—Cash or confirmed funding commitments. Matching funds must be at least equal to the grant amount and committed for a period of not less than the grant performance period.

Recipient—The entity that receives the financial and technical assistance from the Intermediary. The recipient must be a nonprofit community-based housing and development organization, a low-income rural community or a federally recognized Tribe.

Rural and rural area—Any area other than (i) a city or town that has a population of greater than 50,000 inhabitants; and (ii) the urbanized area contiguous and adjacent to such city or town.

Technical assistance—Skilled help in improving the recipient's abilities in the areas of housing, community facilities, or community and economic development.

Non-Discrimination Statement

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

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

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

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

(2) *Fax:* (202) 690–7442; or

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

Persons With Disabilities

Individuals who are deaf, hard of hearing, or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities who wish to file a program complaint, please see information above on how to contact us by mail directly or by email.

If you require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Appeal Process

All adverse determinations regarding applicant eligibility and the awarding of points as part of the selection process are appealable pursuant to 7 CFR part 11. Instructions on the appeal process will be provided at the time an applicant is notified of the adverse decision.

In the event the applicant is awarded a grant that is less than the amount requested, the applicant will be required to modify its application to conform to the reduced amount before execution of the grant agreement. The Agency reserves the right to reduce or withdraw the award if acceptable modifications are not submitted by the awardee within 15 working days from the date the request for modification is made. Any

modifications must be within the scope of the original application.

Justin R. Domer,

Acting Administrator, Rural Housing Service.

[FR Doc. 2020–04430 Filed 3–3–20; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

[Docket No. 200227–0067]

RIN 0605–XD005

Announcement of Departmental Web Portal for Guidance Documents

AGENCY: Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (84 FR 55235), the Department of Commerce (Department) announces the launch of a dedicated web page for the Department's guidance documents.

DATES: The Department of Commerce's web page for guidance documents was launched on February 28, 2020.

ADDRESSES: The Department of Commerce's web page for guidance documents is located at *www.commerce.gov/guidance.*

FOR FURTHER INFORMATION CONTACT: Xenia Kler, Office of the Assistant General Counsel for Legislation and Regulation, 202–482–5354, or via email *xkler1@doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On October 9, 2019, the President issued Executive Order 13891, which addresses the issuance and treatment of agency guidance documents. The Executive Order seeks to ensure that when federal agencies issue guidance documents, the agencies: Do not treat those guidance documents as imposing binding obligations on the public; take public input into account in formulating significant guidance documents; and make the guidance documents readily available to the public.

The Executive Order defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.'' It further distinguishes guidance documents from, among other things, rules promulgated under the Administrative Procedure Act (APA) (5 U.S.C. 553), which, as authorized by statute, may bind the public, and agency adjudications conducted under the APA (5 U.S.C. 554), which may bind parties on a case-by-case basis. Guidance documents may help clarify existing obligations, but unlike statutes, regulations, and adjudications, cannot themselves impose obligations on the public.

As part of the government-wide effort to ensure the availability of agency guidance documents, Executive Order 13891 and an associated implementing memorandum from the Office of Management and Budget (OMB Memorandum M–20–02) direct agencies to establish a single website containing, or linking to, all of an agency's guidance documents currently in effect. Accordingly, the Department announces that it is now providing access to its guidance documents through a centralized web portal at *www.commerce.gov/guidance.*

The Department, through its component bureaus, issues a variety of guidance documents in an effort to assist businesses and the public in understanding their obligations, as well as agency procedures, under existing statutes and regulations. These documents are intended to provide information and be helpful to the public and none are intended to impose new or additional obligations. The Department's new web portal will serve as a central hub for information on the Department's guidance documents and provides links to the corresponding guidance web pages maintained by individual bureaus of the Department. The Department will, to the greatest extent possible, make all of the guidance documents currently in effect across the Department and its bureaus accessible through this web portal. Note that many of these guidance documents have been, and to ensure maximum public accessibility will continue to be, also available through the relevant subject matter section of the website of the bureau that issued them.

Dated: February 27, 2020.

Beth M. Grossman,

Assistant General Counsel for Legislation and Regulation.

[FR Doc. 2020–04386 Filed 3–3–20; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

[Docket No.: 200130–0038]

RIN 0690–XC008

Commerce Alternative Personnel System

AGENCY: Office of Administration, Office of Human Resources Management, Department of Commerce.

ACTION: Notice of modifications to the Commerce Alternative Personnel System project plan.

SUMMARY: This notice announces modifications of the provisions of the Commerce Alternative Personnel System, formerly the Department of Commerce Personnel Management Demonstration Project, published in the **Federal Register** on December 24, 1997. This notice makes permanent the three-year probationary period, a hallmark of the original Department of Commerce Demonstration Project and later the Commerce Alternative Personnel System.

DATES: The modified Commerce Alternative Personnel System is effective March 4, 2020.

FOR FURTHER INFORMATION CONTACT: Department of Commerce—Sandra Thompson, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 51020, Washington, DC 20230, (202) 482–0056 or Valerie Smith at (202) 482–0272.

SUPPLEMENTARY INFORMATION:

Background

Under 5 U.S.C. 4703, the Office of Personnel Management (OPM) may authorize Federal agencies to conduct demonstration projects that waive various provisions of Title 5 of the United States Code that pertain to Federal employees' conditions of employment. On December 24, 1997, OPM announced it had approved a Department of Commerce (DoC) demonstration project for an alternative personnel management system and published the final plan in the **Federal Register** (62 FR 67434). The demonstration project was designed to simplify current classification systems for greater flexibility in classifying work and paying employees; establish a performance management and rewards system for improving individual and organizational performance; and improve recruiting and examining to attract highly qualified candidates. The purpose of the project was to strengthen the contribution of human resources management and test whether the same innovations conducted under the

National Institute of Standards and Technology alternative personnel management system would produce similarly successful results in other DoC environments. The project was implemented on March 29, 1998. A provision in the Consolidated Appropriations Act, 2008 (Pub. L. 110–161, Division B, section 108) made the demonstration project permanent (extended it indefinitely) and eliminated the cap on the number of individuals who could be included in the project. The project was subsequently renamed the Commerce Alternative Personnel System (CAPS).

CAPS provides for modifications to be made to the project plan as experience is gained, results are analyzed, and conclusions are reached on how the system is working. Since its initial implementation, DoC's project plan has been modified fourteen times to clarify certain authorities, and to extend and expand the demonstration project/alternative personnel system: 64 FR 52810 (September 30, 1999); 68 FR 47948 (August 12, 2003); 68 FR 54505 (September 17, 2003); 70 FR 38732 (July 5, 2005); 71 FR 25615 (May 1, 2006); 71 FR 50950 (August 28, 2006); 74 FR 22728 (May 14, 2009); 80 FR 25 (January 2, 2015); 81 FR 20322 (April 7, 2016); 81 FR 40653 (June 22, 2016); 81 FR 54787 (August 17, 2016); 82 FR 1688 (January 6, 2017); 83 FR 54707 (October 31, 2018); and 84 FR 22807 (May 20, 2019).

This notice announces that DoC is modifying the CAPS project plan to make the three-year probationary period, a feature of the original demonstration project, permanent for all employees in the competitive and excepted service in the Scientific and Engineering (ZP) Career Path assigned to research and development (R&D) positions, identified by the Functional Classification Code assigned through the classification process.

John K. Guenther,

Acting Director for Human Resources Management and Chief Human Capital Officer.

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I. Executive Summary
II. Basis for CAPS Project Plan Modification
III. Changes to the CAPS Project Plan: Authorities and Waiver of Required Laws and Regulations

I. Executive Summary

CAPS is designed to (1) improve hiring and allow DoC to compete more effectively for high-quality candidates through direct hiring, selective use of higher entry salaries, and selective use of recruitment incentives; (2) motivate and retain staff through higher pay potential, pay-for-performance, more responsive personnel systems, and selective use of retention incentives; (3) strengthen the manager's role in personnel management through delegation of personnel authorities; and (4) increase the efficiency of personnel systems through the installation of a simpler and more flexible classification system based on pay banding through reduction of guidelines, steps, and paperwork in classification, hiring, and other personnel systems, and through automation.

The current participating organizations include 1 office of the Deputy Secretary in the Office of the Secretary, 6 offices of the Chief Financial Officer/Assistant Secretary for Administration in the Office of the Secretary; the Bureau of Economic Analysis; 2 units of the National Telecommunications and Information Administration (NTIA): The Institute for Telecommunication Sciences and the First Responder Network Authority (an independent authority within NTIA); and 12 units of the National Oceanic and Atmospheric Administration: Office of Oceanic and Atmospheric Research, National Marine Fisheries Service, the National Environmental Satellite, Data, and Information Service, National Weather Service—Space Environment Center, National Ocean Service, Program Planning and Integration Office, Office of the Under Secretary, Marine and Aviation Operations, Office of the Chief Administrative Officer, Office of the Chief Financial Officer, the Office of Human Capital Services, formerly the Workforce Management Office, and the Office of the Chief Information Officer.

II. Basis for CAPS Project Plan Modification

A. Three-Year Probationary/Trial Period

CAPS is designed to provide supervisors/managers at the lowest organizational level the authority, control, and flexibility to recruit, retain, develop, recognize, and motivate its workforce, while ensuring adequate accountability and oversight.

Since its initial project plan was published in 1997, DoC has had a provision, first in its OPM approved demonstration project and later in its approved CAPS, requiring employees in the Scientific and Engineering (ZP) Career Path performing R&D work to serve a probationary period of three years, with the flexibility of the supervisor/manager to determine, at any time after one year, that the R&D employee has successfully completed the probationary period. The purpose of the three-year probationary period is to allow a manager/supervisor to view the full cycle of a research assignment before making a final decision on retaining the employee. The full cycle of R&D work typically extends years from the assignment of a research project through the publication of results; thus, the one-year probationary period or trial period (term employees) in the competitive service and the two-year probationary or trial period in the excepted service are insufficient for management to evaluate a new employee's performance and conduct to determine whether his/her continued employment is in the best interest of DoC.

However, DOC's ability to fully utilize this extended probationary period has in recent years been constrained by changes in how a key statutory term has been interpreted by the U.S. Court of Appeals for the Federal Circuit (Federal Circuit or Court), and by the subsequent adoption of this interpretation by OPM in its regulations. Specifically, the Federal Circuit, in two decisions, held that the definition of ''employee'' in 5 U.S.C. 7511(a)(1) included individuals serving in a probationary or trial period as long as those individuals had completed one year (in the case of individuals in the competitive service) or two years (in the case of non-preference individuals in the excepted service) of current continuous federal service in the same or similar position. *See Van Wersch* v. *Department of Health and Human Services*, 197 F.3d 1144 (Fed. Cir. 1999); *McCormick* v. *Department of the Air Force*, 307 F.3d 1339 (Fed. Cir. 2002). As ''employees'' have the right to appeal adverse actions to the Merit Systems Protection Board under 5 U.S.C. 7701(a), this interpretation meant those individuals who were performing R&D work would have the right to appeal adverse employment decisions after as little as one year—effectively negating the three-year probationary period for R&D employees provided for under CAPS. After the Federal Circuit's rulings, OPM revised its regulations, making conforming changes to 5 CFR parts 315 and 752 (73 FR 7187 (February 7, 2008)).

B. Waivers

Under 5 U.S.C. 4703, DoC has the authority to waive 5 U.S.C. 7511(a)(1), as it has been interpreted by the Federal Circuit, as well as OPM's revised regulations which implement that interpretation. By this notice, we announce that we are doing so.

At the time DoC's original plan for the demonstration project that was to become CAPS was approved and implemented, probationary employees were not afforded procedural and appeal rights under 5 CFR part 752; only employees who had successfully completed their probationary period were afforded procedural protections and appeal rights. As a result of the Federal Circuit's subsequent interpretation of 5 U.S.C. 7511, and OPM's concomitant revised interpretation, employees were granted procedural protections and appeal rights prior to the conclusion of the three-year probationary period established in CAPS. Thus, DoC can no longer fully use the three-year probationary period established in CAPS to determine employees' fitness for Federal service. The waivers of law and regulations provided for by this notice restore the basic intent of the three-year probationary period included in DoC's 1997 plan, which is to allow management sufficient time to assess an employee's work performance and conduct to ensure that employees who are retained beyond probation are capable of carrying out the full cycle of R&D work, thus contributing to the objectives of high-quality hires and a high-performing workforce.

III. Changes to the CAPS Project Plan: Authorities and Waiver of Laws and Regulations Required

The subsection of the CAPS project plan titled ''Authorities and Waiver of Laws and Regulations Required'' (62 FR 67434, December 24, 1997) is modified to revise or add the following waivers of law and regulations:

- Waive 5 U.S.C. 4303(f)(2), Actions based on Unacceptable performance, as follows: For research and development positions in the Scientific and Engineering Career Path only, waiving the language ''or who has not completed 1 year of current continuous employment under other than a temporary appointment limited to 1 year or less''.
- Waive 5 U.S.C. 4303(f)(3) as follows: For research and development positions in the Scientific and Engineering Career Path only, waiving the language ''the reduction in grade or removal of an employee in the excepted service who has not completed 1 year of current continuous employment in the same or similar positions.''
- Waive 5 U.S.C. 7501(1), Adverse actions, as follows: For research and development positions in the Scientific and Engineering Career Path only, waiving the language ''or who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less''.
- Waive 5 U.S.C. 7511(a)(1)(A)(ii), 7511(a)(1)(B), 7511(a)(1)(C)(ii), Adverse Actions as follows: Waived only for research and development positions in the Scientific and Engineering Career Path.
- Revise and Waive 5 CFR 315.802, Length of probationary period; crediting service as follows: Revised from ''waived only for positions in the Scientific and Engineering Career path'' to waived only for research and development positions in the Scientific and Engineering Career Path.
- Waive 5 CFR 315.803(b), Agency action during probationary period (general) as follows: Waived only for research and development positions in the Scientific and Engineering Career Path.
- Waive 5 CFR 315.805, Termination of probationers for conditions arising before appointment as follows: Waived only for research and development positions in the Scientific and Engineering Career Path.
- Waive 5 CFR 315.806, Appeal rights to the Merit Systems Protection Board as follows: Waived only for research and development positions in the Scientific and Engineering Career Path.
- Waive 5 CFR 752.401(c)(2), 752.401(c)(3), 752.401(c)(5), Coverage as follows: Waived only for research and development positions in the Scientific and Engineering Career Path.
- Waive 5 CFR 752.401(d)(11), Coverage as follows: For research and development positions in the Scientific and Engineering Career Path only, waiving the language ''unless he or she meets the requirements of paragraph (c)(5) of this section''.
- Waive 5 CFR 752.401(d)(13), Coverage as follows: For research and development positions in the Scientific and Engineering Career Path only, waiving the language ''unless he or she meets the requirements of paragraph (c)(2) of this section''.
- Department Administrative Order (DAO) 202–302, Employment in the Excepted Service as follows: For research and development positions in the Scientific and Engineering Career Path only, waiving the language in Section 1. PURPOSE, .02 ''changes the trial period for excepted service positions from one (1) year to two (2) years, except when regulations require a shorter period.''

For research and development positions in the Scientific and Engineering Career Path only waiving the language in Section 7. TRIAL PERIODS, .01 ''Department policy requires satisfactory completion of a two-year (2) trial period for employees in the excepted service, except for appointments where regulation requires a shorter period.''

- DAO–202–315, Probationary and Trial Periods as follows: For research and development positions in the Scientific and Engineering Career Path only waiving the language in Section 1. PURPOSE, .02 ''In addition, this revision clarifies that the trial period for excepted service positions is two (2) years, unless a shorter period is required by regulation.''

For research and development positions in the Scientific Engineering Career Path only waiving the language in Section 3. PROBATIONARY AND TRIAL PERIODS FOR INITIAL APPOINTMENTS, .02, Coverage, ''Each employee serving under a career/career-conditional or term appointment in the competitive service will serve a probationary or trial period prescribed by 5 CFR, Parts 315, Subpart H and Subpart I, and 5 CFR 316.304, respectively, and by this Order. Each employee serving under a career/career-conditional appointment in the excepted service will serve a two-year (2) trial period.''

For research and development positions in the Scientific and Engineering Career Path only waiving the language in Section 3.03 Length, b. Excepted Service, ''All trial periods for employees in the excepted service are for *two (2) years,* except for appointments where regulation requires a shorter period.'' and ''For intermittent employees (*i.e.,* those who do not have a regularly scheduled tour of duty), the trail period is two (2) calendar years.''

[FR Doc. 2020–03057 Filed 3–3–20; 8:45 am]

BILLING CODE 3510–EA–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether

increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[2/19/2020 through 2/26/2020]

Firm name	Firm address	Date accepted for investigation	Product(s)
MEDI, LLC d/b/a Eyelet Design	574 East Main Street, Waterbury, CT 06702.	2/21/2020	The firm manufactures metal cans and cannisters as well as metal caps and closures.
Trilap Precision Finishing, LLC	649 Lawrence Street, 2nd Floor, Lowell, MA 01852.	2/24/2020	The firm manufactures small metal parts, primarily of aluminum.
Columbia Gem House, Inc. d/b/a Trigem Designs.	12507 Northeast 95th Street, Vancouver, WA 98682.	2/25/2020	The firm manufacturers jewelry with precious or semi-precious stones.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Irette Patterson,

Program Analyst.

[FR Doc. 2020–04366 Filed 3–3–20; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2093]

Grant of Authority; Establishment of a Foreign-Trade Zone Under the Alternative Site Framework Jefferson County, Colorado

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for '' . . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the FTZ Board (the Board) to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Jefferson County Economic Development Corporation (the Grantee), a non-profit corporation, has made application to the Board (B–9–2019, docketed February 25, 2019), requesting the establishment of a foreign-trade zone under the ASF with a service area of Boulder, Clear Creek, Gilpin and Jefferson Counties, Colorado, adjacent to the Rocky Mountain Metropolitan Airport Customs and Border Protection user fee airport;

Whereas, notice inviting public comment has been given in the **Federal Register** (84 FR 7018–7019, March 1, 2019) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 298, as described in the application, and subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit, and to the user fee agreement for the Rocky Mountain Metropolitan Airport CBP user fee airport remaining in effect.

Dated: February 20, 2020.

Wilbur L. Ross, Jr.,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

[FR Doc. 2020–04364 Filed 3–3–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–857; A–580–870; A–489–816; A–552–817]

Certain Oil Country Tubular Goods From India, the Republic of Korea, Turkey, and the Socialist Republic of Vietnam: Final Results of Expedited First Sunset Reviews of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable March 4, 2020.

SUMMARY: As a result of these sunset reviews, the Department of Commerce (Commerce) finds that revocation of the antidumping duty orders on certain oil country tubular goods (OCTG) from India, the Republic of Korea (Korea), the Republic of Turkey (Turkey), and the Socialist Republic of Vietnam (Vietnam) would be likely to lead to continuation or recurrence of dumping. The magnitude of the dumping margins likely to prevail are indicated in the ''Final Results of Sunset Review'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Chelsey Simonovich, AD/CVD Operations, Office VI, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–1979.

SUPPLEMENTARY INFORMATION:

Background

In 2014, Commerce published in the **Federal Register** its final affirmative determinations of sales at less than fair value with respect to imports of certain OCTG from India, Korea, Turkey, and Vietnam.[1] On June 4, 2019, Commerce published the notice of initiation of the sunset reviews of the *AD Orders* on OCTG from India, Korea, Turkey, and Vietnam.[2]

On July 3, 2019, Commerce received complete substantive responses to the notices of initiation from domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[3] Commerce received no substantive responses from respondent interested parties. As a result, Commerce conducted an expedited, *i.e.,* 120-day, sunset review of these *AD Orders* pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2).

Scope of the Orders

The merchandise subject to the AD Orders is certain OCTG. For a complete description of the products covered, see the Issues and Decision Memorandum.[4]

[1] *See Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances: Certain Oil Country Tubular Goods from India,* 79 FR 41981 (July 18, 2014); *Certain Oil Country Tubular Goods from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances,* 79 FR 41983 (July 18, 2014); *Certain Oil Country Tubular Goods from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, in Part,* 79 FR 41971 (July 18, 2014); *Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances,* 79 FR 41973 (July 18, 2014).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 84 FR 25741 (June 4, 2019).

[3] *See* Petitioners' Letters, ''Oil Country Tubular Goods from India: Substantive Response of the Domestic Industry to Commerce's Notice of Initiation of Five-Year (''Sunset'') Reviews'' (Petitioners' Substantive Response for India); ''Oil Country Tubular Goods from South Korea: Substantive Response to Notice of Initiation'' (Petitioners' Substantive Response for Korea); ''Oil Country Tubular Goods from Turkey: Substantive Response of the Domestic Industry to Commerce's Notice of Initiation of Five-Year (''Sunset'') Reviews'' (Petitioners' Substantive Response for Turkey); and ''Oil Country Tubular Goods from Vietnam: Substantive Response of the Domestic Industry to Commerce's Notice of Initiation of Five-Year (''Sunset'') Reviews'' (Petitioners' Substantive Response for Vietnam), each dated July 3, 2019.

[4] See Memorandum, ''Issues and Decision Memorandum: Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders on Certain Oil Country Tubular Goods from India, the Republic of Korea, the Republic of Turkey, and the Socialist Republic of Vietnam,'' dated concurrently with, and hereby adopted by this notice (Issues and Decision Memorandum).

Analysis of Comments Received

All issues raised in these reviews are addressed in the Issues and Decision Memorandum, including the likelihood of continuation or recurrence of dumping in the event of revocation, and the magnitude of dumping margins likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in the Issues and Decision Memorandum, which is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and is available to all parties in the Central Records Unit in Room B8024 of the main Commerce building. A list ofthe topics discussed in the Issues and Decision Memorandum is attached to this notice as anAppendix. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://trade.gov/enforcement/.* The signed and electronic versions of the Decision Memorandum are identical in content.

Final Results of Sunset Review

Pursuant to sections 751(c)(1), 752(c)(1) and (3) of the Act, Commerce determines that revocation of the antidumping duty orders on OCTG from India, Korea, Turkey, and Vietnam would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average margins up to 11.24 percent for India, 6.49 percent for Korea, 35.86 percent for Turkey, and 111.47 percent for Vietnam.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction. We are issuing and publishing these results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: October 2, 2019.

P. Lee Smith,

Deputy Assistant Secretary for Policy and Negotiations Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the AD Orders
IV. History of the Orders
V. Legal Framework
VI. Discussion of the Issues
VII. Final Results of the Review
VIII. Recommendation

[FR Doc. 2020–04395 Filed 3–3–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA063]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting (webinar).

SUMMARY: The Pacific Fishery Management Council's (Council) Ad Hoc Climate and Communities Core Team (CCCT) will hold a webinar, which is open to the public.

DATES: The webinar will be held Friday, March 20, 2020, from 9 a.m. to 11:30 a.m. Pacific Daylight Time, or when business for the day has been completed.

ADDRESSES: A public listening station is available at the Council office (address below). To attend the webinar (1) join the meeting by using this link: *https://meetings.ringcentral.com/join,* (2) enter the Meeting ID provided in the meeting announcement (see *http://www.pcouncil.org*) and click JOIN, (3) you will be prompted to either download the RingCentral meetings application or join the meeting without a download via your web browser, and (4) enter your name and click JOIN. NOTE: We require all participants to use a telephone or cell phone to participate. (1) You must use your telephone for the audio portion of the meeting by dialing the TOLL number provided on your screen followed by the meeting ID and participant ID, also provided on the screen. (2) Once connected, you will be in the meeting, seeing other participants and a shared screen, if applicable.

Technical Information and System Requirements: PC-based attendees are required to use Windows® 10, 8; Mac®-based attendees are required to use Mac OS® X 10.5 or newer; Mobile attendees are required to use iPhone®, iPad®, Android™ phone or Android tablet (See the RingCentral mobile apps in your app store). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2280, extension 412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dr. Kit Dahl, Pacific Council; telephone: (503) 820–2422.

SUPPLEMENTARY INFORMATION: The primary purpose of this CCCT webinar is to consider Council guidance from the March 2020 Council meeting on completion of the climate change scenario planning exercise, which is part of the Fishery Ecosystem Plan Climate and Communities Initiative, and plan necessary activities.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The public listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least ten days prior to the meeting date.

Dated: February 28, 2020.

Rey Israel Marquez,

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

[FR Doc. 2020–04449 Filed 3–3–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA062]

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Citizen Science Operations Committee via webinar.

DATES: The Citizen Science Operations Committee meeting will be held via webinar on Monday, March 30, 2020, from 1 p.m. until 3 p.m.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julia Byrd (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance. There will be an opportunity for public comment at the beginning of the meeting.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julia Byrd, Citizen Science Program Manager, SAFMC; phone: (843) 302–8439 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *julia.byrd@safmc.net.*

SUPPLEMENTARY INFORMATION: The Citizen Science Operations Committee serves as advisors to the Council's Citizen Science Program. Committee members include representatives from the Council's Citizen Science Advisory Panel, Southeast Regional Office, Southeast Fisheries Science Center, and Science and Statistical Committee. Their responsibilities include developing programmatic recommendations, reviewing policies, providing program direction/multi-partner support, identifying citizen science research needs, and providing general advice.

Items to be addressed during this webinar meeting include:

1. Discuss Citizen Science Program evaluation, including Program objectives and strategies, and provide recommendations as appropriate
2. Other Business

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: February 28, 2020.

Rey Israel Marquez,

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

[FR Doc. 2020–04448 Filed 3–3–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

43rd Meeting of the U.S. Coral Reef Task Force

AGENCY: Coral Reef Conservation Program (CRCP), Office for Coastal Management (OCM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public meeting; request for public comment.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) and the U.S. Department of Interior (DOI) will hold a public meeting of the 43rd U.S. Coral Reef Task Force (USCRTF). NOAA and DOI will be accepting oral and written comments.

DATES: The public meeting will be held on Wednesday, March 18, 2020, from 8:30 a.m. to 5 p.m. with an opportunity to provide public comments. Written comments must be received on or before March 12, 2020.

For the specific date, time, and location of the public meeting, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: You may submit comments to the USCRTF by any of the following methods:

Public Meeting and Oral Comments: A public meeting will be held in Washington, DC NOAA and DOI will be accepting oral comments at this meeting. For the specific location, see **SUPPLEMENTARY INFORMATION**.

Written Comments: Please direct written comments to Jason Philibotte, NOAA, USCRTF Steering Committee Point of Contact, NOAA Coral Reef Conservation Program, 1305 East-West Highway, NOS/OCM, Silver Spring, MD 20910 or via email to *Jason.Philibotte@noaa.gov.* Comments that the USCRTF

Steering Committee Point of Contact receives are considered part of the public record and may be publicly accessible. Any personally identifiable information (*e.g.,* name, address) submitted voluntarily by the sender may also be publicly accessible. NOAA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Jason Philibotte, NOAA USCRTF Steering Committee Point of Contact, NOAA Coral Reef Conservation Program, 1305 East-West Highway, NOS/OCM, Silver Spring, MD 20910 at (301) 533–0767 or Liza Johnson, USCRTF Executive Secretary, U.S. Department of Interior, MS–3530–MIB, 1849 C Street NW, Washington, DC 20240 at (202) 208–5004 or visit the USCRTF website at *http://www.coralreef.gov.*

SUPPLEMENTARY INFORMATION: The meeting provides a forum for coordinated planning and action among federal agencies, state and territorial governments, and nongovernmental partners. Registration is requested for all events associated with the meeting. This meeting has time allotted for public comment. All public comments must be submitted in written format. A written summary of the meeting will be posted on the USCRTF website within two months of occurrence. For information about the meeting, registering and submitting public comments, go to *http://www.coralreef.gov.*

Commenters may address the meeting, the role of the USCRTF, or general coral reef conservation issues. Before including your address, phone number, email address, or other personally identifiable information in your comments, you should be aware that your entire comment, including personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Established by Presidential Executive Order 13089 in 1998, the USCRTF mission is to lead, coordinate and strengthen U.S. government actions to better preserve and protect coral reef ecosystems. Co-chaired by the Departments of Commerce and Interior, USCRTF members include leaders of 13 federal agencies, seven U.S. states and territories, and three freely associated states.

You may participate and submit oral comments at the public meeting. The public meeting occurs annually in Washington, DC, and is scheduled as follows:

Date: Wednesday, March 18, 2020.

Time: 8:30 a.m. to 5 p.m., local time.

Location: Department of Interior, Auditorium, 1849 C St. NW, Washington, DC 20240.

Written comments must be received on or before Thursday, March 12, 2020.

Dated: February 28, 2020.

Nicole R. LeBoeuf,

Acting Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2020–04443 Filed 3–3–20; 8:45 am]

BILLING CODE 3510–08–P

U.S. INTERNATIONAL DEVELOPMENT FINANCE CORPORATION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, March 11, 2020 2:00 p.m. (OPEN Portion) 2:15 p.m. (CLOSED Portion)

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue NW, Washington, DC.

STATUS: Meeting OPEN to the Public.

MATTERS TO BE CONSIDERED:

1. Approval—Audit Committee Nominations
2. Approval—Risk Committee Nominations
3. Minutes of the Open Session of the December 11, 2019, Board of Directors Meeting

FURTHER MATTERS TO BE CONSIDERED (CLOSED TO THE PUBLIC 2:15 P.M.)

1. Reports
2. Finance Project—Cambodia, Ecuador, Guatemala, India, Indonesia, Kenya, Mexico, Nigeria, Peru, Uganda
3. Insurance Project—Kenya
4. Insurance Project—St. Lucia
5. Finance Project—Mexico
6. Finance Project—Singapore
7. Minutes of the Closed Session of the December 11, 2019, Board of Directors Meeting
8. Pending Projects

ATTENDANCE AT THE OPEN PORTION OF THE MEETING: Members of the public planning to attend the the open portion of the Board meeting are asked to register no later than Monday, March 9, 2020. To register, attendees must email *Catherine.Andrade@dfc.gov* with the attendee's full name as it appears on their official, government-issued identification. Access will not be granted to the open portion of the Board meeting without official, government-issued identification.

CONTACT PERSON FOR MORE INFORMATION: Agenda subject to change. Information on the meeting may be obtained from Catherine F.I. Andrade at (202) 336–8768, or via email at *Catherine.Andrade@dfc.gov.*

Dated: March 2, 2020.

Catherine Andrade,

Corporate Secretary, U.S. International Development Finance Corporation.

[FR Doc. 2020–04523 Filed 3–2–20; 4:15 pm]

BILLING CODE 3210–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0043]

Agency Information Collection Activities; Comment Request; Borrower Defense to Loan Repayment Universal Form

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before May 4, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0043. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W–208D, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in

accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Borrower Defense to Loan Repayment Universal Form.

OMB Control Number: 1845–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 96,000.

Total Estimated Number of Annual Burden Hours: 48,000.

Abstract: The Department of Education (the Department) amends the William D. Ford Federal Direct Loan (Direct Loan) Program regulations issued under the Higher Education Act of 1965, as amended (HEA), to implement changes made to the regulations in § 685.206(e)—Borrower responsibilities and defenses. These final regulations are a result of negotiated rulemaking and will add a new requirement to the current regulations. These final regulations require the collection of this information from borrowers who believe they qualify for a borrower defense to repayment discharge, as permitted under Section 455(h) of the Higher Education Act of 1965, as amended. The regulations provide, among other things, for the Secretary to discharge a borrower's Direct Loan based on the loan in question being disbursed after July 1, 2020. The Department is attaching a list of elements that we are proposing be included on a revised Application for Borrower Defense to Loan Repayment form (Universal Borrower Defense Application). This revised form will be based on the current Universal Borrower Defense Application, OMB control number 1845–0146, and will facilitate processing claims from all borrowers who believe that they have a valid borrower defense claim.

Dated: February 28, 2020.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer.

[FR Doc. 2020–04423 Filed 3–3–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Call for Written Third-Party Comments

AGENCY: Accreditation Group, Office of Postsecondary Education, U.S. Department of Education.

ACTION: Call for written third-party comments.

SUMMARY: This notice provides information to members of the public on submitting written comments for accrediting agencies currently undergoing review for purposes of recognition by the U.S. Secretary of Education.

FOR FURTHER INFORMATION CONTACT: Herman Bounds, Director, Accreditation Group, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Room 270–01, Washington, DC 20202, telephone: (202) 453–7615, or email: *herman.bounds@ed.gov.*

SUPPLEMENTARY INFORMATION: This solicitation of third-party comments concerning the performance of accrediting agencies under review by the Secretary of Education is required by § 496(n)(1)(A) of the Higher Education Act (HEA) of 1965, as amended. These accrediting agencies will be on the agenda for the Summer 2020 National Advisory Committee on Institutional Quality and Integrity (NACIQI) meeting. The meeting date has not been determined but will be announced in a separate **Federal Register** notice.

Agencies Under Review and Evaluation

Below is a list of agencies currently undergoing review and evaluation by the Department's Office of Postsecondary Education Accreditation Group, including each agency's current scope of recognition, which are scheduled to appear at the Summer 2020 meeting of NACIQI, for which dates have not yet been determined.

Application for Renewal of Recognition (State Agency for the Approval of Vocational Education)

1. Puerto Rico State Agency for the Approval of Public Postsecondary Vocational, Technical Institutions and Programs.

Application for Renewal of Recognition (State Agency for the Approval of Nurse Education)

1. New York State Board of Regents, State Education Department, Office of the Professions (Nursing Education).

2. Missouri State Board of Nursing.

Application for Granting of Academic (Masters and Doctoral) Degrees by Federal Agencies and Institutions

1. National Intelligence University: Undergoing Substantive Change (Reorganization/Command Change).

2. U.S. Army Command and General Staff College: Undergoing Substantive Change (Curriculum Change).

Compliance Report

1. Accrediting Council for Independent Colleges and Schools compliance report includes findings of noncompliance with the criteria in 34 Code of Federal Regulations (CFR) § 602 as referenced in the Decision of the Secretary (Docket No. 16–44–0) available at *https://opeweb.ed.gov/e-Recognition/PublicDocuments* under NACIQI meeting date: 06/23/2016 for ACICS. Scope of Recognition: The accreditation of private postsecondary institutions offering certificates or diplomas, and postsecondary institutions offering associate, bachelor's, or master's degrees in programs designed to educate students for professional, technical, or occupational careers, including those that offer those programs via distance education.

Submission of Written Comments Regarding a Specific Accrediting Agency or State Approval Agency Under Review

Written comments about the recognition of a specific accrediting or State agency must be received by April 1, 2020,in the *ThirdPartyComments@ed.gov* mailbox and include the subject line ''Written Comments: (agency name).'' The email must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number of the person(s) making the comment. Comments should

be submitted as a Microsoft Word document or in a medium compatible with Microsoft Word (not a PDF file) that is attached to an electronic mail message (email) or provided in the body of an email message. Comments about an agency that has submitted a compliance report scheduled for review by the Department must relate to the criteria for recognition cited in the senior Department official's letter that requested the report, or in the Secretary's appeal decision, if any. Comments about an agency that has submitted a petition for renewal of recognition must relate to the agency's compliance with the Criteria for the Recognition of Accrediting Agencies, or the Criteria and Procedures for Recognition of State Agencies for the Approval of Vocational and Nurse Education as appropriate, which are available at *http://www.ed.gov/admins/finaid/accred/index.html.*

Only written material submitted by the deadline to the email address listed in this notice, and in accordance with these instructions, become part of the official record concerning agencies scheduled for review and are considered by the Department and NACIQI in their deliberations.

A later **Federal Register** notice will describe how to register to provide oral comments at the Summer 2020 meeting regarding the recognition of a specific accrediting agency or State approval agency.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 20 U.S.C. 1011c.

Robert L. King,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2020–04410 Filed 3–3–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Establishment of Online Portal for DOE Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with an Executive Order and Office of Management and Budget (OMB) Memorandum M–20–02, the U.S. Department of Energy (DOE) established an online portal for the public to access DOE guidance documents. The portal provides links to DOE program web pages containing guidance documents, as required by the Executive Order.

DATES: The portal and associated link are currently active as of March 4, 2020.

ADDRESSES: The portal may be found at *energy.gov/guidance.*

FOR FURTHER INFORMATION CONTACT: Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires, among other things, that within 120 days of the issuance of implementing guidance from OMB,[2] agencies must establish an online database that contains or links to all agency guidance documents in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02, DOE established an online portal for the public to access DOE guidance documents. This portal may be found at *energy.gov/guidance.* DOE's online guidance portal contains links to DOE program websites containing guidance documents, as that term is defined in E.O. 13891.[3] The portal also reiterates that: (1) The contents of the guidance documents found through the portal do not have the force and effect of law and are not legally binding, except as authorized by law or as incorporated into a contract, and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by DOE.

In accordance with E.O. 13891 and OMB Memorandum M–20–02, any existing DOE guidance document or associated web page that is not currently included in the online portal may, without further notice, be included in the online portal on or before June 27, 2020. Any existing DOE guidance document or associated web page not included in the online portal by that date will be re-issued according to the procedures in E.O. 13891.

Signed in Washington, DC, on February 27, 2020.

Daniel Cohen,

Assistant General Counsel for Legislation, Regulation and Energy Efficiency.

[FR Doc. 2020–04439 Filed 3–3–20; 8:45 am]

BILLING CODE 6450–01–P

[1] 84 FR 55235 (October 15, 2019).

[2] OMB issued its guidance memorandum on October 31, 2019. (See M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (October 31, 2019) available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*)

[3] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, which sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.''

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: CP18–102–001.

Applicants: Cheyenne Connector, LLC.

Description: Amendment to Certificate of Public Convenience and Necessity of Cheyenne Connector, LLC.

Filed Date: 2/25/20.

Accession Number: 20200225–5032.

Comments Due: 5 p.m. ET 3/9/20.

Docket Numbers: CP18–103–001.

Applicants: Rockies Express Pipeline LLC.

Description: Amendment to Certificate of Public Convenience and Necessity of Rockies Express Pipeline LLC.

Filed Date: 2/24/20.

Accession Number: 20200224–5151.

Comments Due: 5 p.m. ET 3/9/20.

Docket Numbers: RP20–546–000.

Applicants: Vector Pipeline L. P.

Description: Annual Fuel Use Report for 2019 of Vector Pipeline L. P. under RP20–546.

Filed Date: 2/25/20.

Accession Number: 20200225–5088.

Comments Due: 5 p.m. ET 3/9/20.

Docket Numbers: RP20–547–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: NRA Name Change Cleanup GenOn to Canal to be effective 3/27/2020.

Filed Date: 2/25/20.

Accession Number: 20200225–5101.

Comments Due: 5 p.m. ET 3/9/20.

Docket Numbers: RP20–548–000.

Applicants: Viking Gas Transmission Company.

Description: § 4(d) Rate Filing: Annual LMCRA—Spring 2020 to be effective 4/1/2020.

Filed Date: 2/25/20.

Accession Number: 20200225–5147.

Comments Due: 5 p.m. ET 3/9/20.

Docket Numbers: RP20–516–001.

Applicants: Gulf South Pipeline Company, LLC.

Description: Tariff Amendment: Amendment to Docket No. RP20–516–000 to be effective 4/1/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5029.

Comments Due: 5 p.m. ET 3/9/20.

Docket Numbers: RP20–549–000.

Applicants: Rover Pipeline LLC.

Description: § 4(d) Rate Filing: Housekeeping on 2–26–20 to be effective 3/27/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5025.

Comments Due: 5 p.m. ET 3/9/20.

Docket Numbers: RP20–550–000.

Applicants: Midcontinent Express Pipeline LLC.

Description: Compliance filing Annual Report of Operational Purchases and Sales 2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5038.

Comments Due: 5 p.m. ET 3/9/20.

Docket Numbers: RP20–551–000.

Applicants: Guardian Pipeline, L.L.C.

Description: § 4(d) Rate Filing: EPCR Semi-Annual Adjustment—Spring 2020 to be effective 4/1/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5045.

Comments Due: 5 p.m. ET 3/9/20.

Docket Numbers: RP20–552–000.

Applicants: Texas Eastern Transmission, LP.

Description: § 4(d) Rate Filing: Negotiated Rates—EcoEnergy eff 3–1–2020 to be effective 3/1/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5049.

Comments Due: 5 p.m. ET 3/9/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 26, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–04396 Filed 3–3–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1910–020; ER10–1911–020.

Applicants: Duquesne Light Company, Duquesne Power, LLC.

Description: Notice of Change in Status of the Duquesne MBR Sellers.

Filed Date: 2/25/20.

Accession Number: 20200225–5206.

Comments Due: 5 p.m. ET 3/17/20.

Docket Numbers: ER18–1960–002.

Applicants: Tenaska Pennsylvania Partners, LLC.

Description: Notification of Change in Status of Tenaska Pennsylvania Partners, LLC.

Filed Date: 2/26/20.

Accession Number: 20200226–5212.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER18–2513–003.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Report Filing: 2020–02–21_Errata to Compliance Filing to Address Self-Fund to be effective N/A.

Filed Date: 2/21/20.

Accession Number: 20200221–5108.

Comments Due: 5 p.m. ET 3/13/20.

Docket Numbers: ER20–609–001.

Applicants: Ohio Power Company, AEP Ohio Transmission Company, Inc., PJM Interconnection, L.L.C.

Description: Compliance filing: Ohio Power submits Compliance filing in Docket No. ER20–609 (Buckeye ILDSA) to be effective 2/14/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5084.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1072–000.

Applicants: Midcontinent Independent System Operator, Inc., ALLETE, Inc.

Description: § 205(d) Rate Filing: 2020–02–25_SA 3411 SRC–SWLP Construction Agreement (Nemadji) to be effective 2/26/2020.

Filed Date: 2/25/20.

Accession Number: 20200225–5149.

Comments Due: 5 p.m. ET 3/17/20.

Docket Numbers: ER20–1073–000.

Applicants: SR Terrell, LLC.

Description: Baseline eTariff Filing: MBR Application to be effective 4/25/2020.

Filed Date: 2/25/20.

Accession Number: 20200225–5163.

Comments Due: 5 p.m. ET 3/17/20.

Docket Numbers: ER20–1074–000.

Applicants: Marsh Landing LLC.

Description: Initial rate filing: Filing of Black Start Agreement to be effective 4/26/2020.

Filed Date: 2/25/20.

Accession Number: 20200225–5166.

Comments Due: 5 p.m. ET 3/17/20.

Docket Numbers: ER20–1075–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2020–02–25 CPM Soft Offer Cap Initiative to be effective 6/1/2020.

Filed Date: 2/25/20.

Accession Number: 20200225–5168.

Comments Due: 5 p.m. ET 3/17/20.

Docket Numbers: ER20–1076–000.

Applicants: Emera Maine.

Description: Tariff Cancellation: Notice of Termination of Interconnection Agreement—ReEnergy Fort Fairfield LLC to be effective 2/24/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5040.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1077–000.

Applicants: Emera Maine.

Description: Tariff Cancellation: Notice of Termination of Expired Service Agreement—ReEnergy Fort Fairfield LLC to be effective 2/24/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5042.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1078–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

Description: § 205(d) Rate Filing: 2020–02–26_Ameren Illinois Company Att O Materials & Supplies filing to be effective 6/1/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5059.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1079–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Transmission Company of Illinois.

Description: § 205(d) Rate Filing: 2020–02–26_Ameren Transmission Company of Illinois Att O Materials & Supplies to be effective 6/1/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5061.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1080–000.

Applicants: Midcontinent Independent System Operator, Inc., Union Electric Company.

Description: § 205(d) Rate Filing: 2020–02–26_Union Electric Company Att O Materials & Supplies filing to be effective 6/1/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5067.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1081–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Attachment V GIA Pro Forma CleanUp Filing to be effective 1/23/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5189.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1082–000.

Applicants: Oklahoma Gas and Electric Company.

Description: Order No. 864 Compliance Filing of Oklahoma Gas and Electric Company.

Filed Date: 2/26/20.

Accession Number: 20200226–5222.

Comments Due: 5 p.m. ET 3/18/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 26, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–04399 Filed 3–3–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–512–000]

Texas Eastern Transmission, L.P.; Notice of Revised Schedule for Environmental Review of the Cameron Extension Project

This notice identifies the Federal Energy Regulatory Commission staff's revised schedule for the completion of the environmental assessment (EA) for Texas Eastern Transmission, L.P.'s Cameron Extension Project. The first notice of schedule, issued on November 22, 2019, identified March 9, 2020 as the EA issuance date. On November 20, 2019, FERC staff requested additional environmental information to assist in its EA analysis regarding air modeling analysis and air quality screening of the proposed compressor station to demonstrate that emissions of criteria pollutants do not result in exceedance of the National Ambient Air Quality Standards. On February 20, 2020, Texas Eastern Transmission, L.P. filed the requested supplemental information and Commission staff is currently reviewing the information for completeness. Because this information was not provided in time to meet the original schedule, Commission staff has revised the schedule for issuance of the EA, as described below.

Schedule for Environmental Review

Issuance of the EA April 16, 2020
90-day Federal Authorization Decision Deadline July 15, 2020

If a schedule change becomes necessary, an additional notice will be provided so that the relevant agencies are kept informed of the project's progress.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the eLibrary link, select General Search from the eLibrary menu, enter the selected date range and Docket Number excluding the last three digits (*i.e.,* CP19–512), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: February 27, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–04445 Filed 3–3–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP20–553–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate—Releases to Plymouth Rock to be effective 3/1/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5064.

Comments Due: 5 p.m. ET 3/9/20.

Docket Numbers: RP20–554–000.

Applicants: Cimarron River Pipeline, LLC.

Description: § 4(d) Rate Filing: Fuel Tracker 2020—Summer Season Rates to be effective 4/1/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5068.

Comments Due: 5 p.m. ET 3/9/20.

Docket Numbers: RP20–555–000.

Applicants: Mitsui & Co. Energy Marketing and Service, MITSUI & CO. CAMERON LNG SALES LLC.

Description: Joint Petition for Limited Waivers, et al. of Mitsui & Co. Energy Marketing and Services (USA) Inc., et al. under RP20–555.

Filed Date: 2/25/20.

Accession Number: 20200225–5208.

Comments Due: 5 p.m. ET 3/3/20.

Docket Numbers: RP20–556–000.

Applicants: Midwestern Gas Transmission Company.

Description: § 4(d) Rate Filing: Annual Fuel Retention Percentage Adjustment—2020 Rate to be effective 4/1/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5088.

Comments Due: 5 p.m. ET 3/9/20.

The filings are accessible in the Commission's eLibrary system by

clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 26, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–04400 Filed 3–3–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20–41–000.

Applicants: Thunderhead Wind Energy LLC, WEC Infrastructure LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act, et al. of Thunderhead Wind Energy LLC, et al.

Filed Date: 2/26/20.

Accession Number: 20200226–5344.

Comments Due: 5 p.m. ET 3/18/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–547–001.

Applicants: Goldman Sachs Renewable Power Marketing LLC.

Description: Tariff Amendment: Response to Letter Requesting Additional Information to be effective 1/2/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5182.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1083–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Cancellation: Notice of Cancellation of Rate Schedules FERC No. 174 and No. 175 to be effective 1/2/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5249.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1084–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA, SA No. 3202; Queue No. W3–077 (consent) to be effective 4/30/2014.

Filed Date: 2/26/20.

Accession Number: 20200226–5258.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1085–000.

Applicants: Virginia Electric and Power Company, PJM Interconnection, L.L.C.

Description: Compliance filing: Dominion submits revisions to OATT, Att. H–16A re: RM19–5 to be effective 1/27/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5261.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1086–000.

Applicants: Pegasus Wind A, LLC.

Description: Baseline eTariff Filing: Pegasus Wind A, LLC Application for Market-Based Rate Authority to be effective 4/27/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5269.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1087–000.

Applicants: New England Electric Transmission Corporation.

Description: Compliance filing: Order No. 864 Compliance Filing to be effective 1/27/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5278.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1088–000.

Applicants: New England Hydro Transmission Electric Company.

Description: Compliance filing: Order No. 864 Compliance Filing to be effective 1/27/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5290.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1089–000.

Applicants: New England Hydro Transmission Corporation.

Description: Compliance filing: Order No. 864 Compliance Filing to be effective 1/27/2020.

Filed Date: 2/26/20.

Accession Number: 20200226–5291.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1090–000.

Applicants: NorthWestern Corporation.

Description: Order No. 864 Compliance Filing of NorthWestern Corporation.

Filed Date: 2/26/20.

Accession Number: 20200226–5346.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1091–000.

Applicants: Union Electric Company, Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2020–02–27_SA 3431 UEC-Farmington Construction Agreement to be effective 4/28/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5040.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1092–000.

Applicants: Public Service Company of Colorado, Southwestern Public Service Company.

Description: Order No. 864 Compliance Filing of Public Service Company of Colorado and Southwestern Public Service Company.

Filed Date: 2/26/20.

Accession Number: 20200226–5354.

Comments Due: 5 p.m. ET 3/18/20.

Docket Numbers: ER20–1093–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Tariff Clean-Up Filing Effective 20200205 to be effective 2/5/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5065.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1094–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: ISO–NE and NEPOOL; Market Rule 1 Revisions to NCPC Provisions to be effective 5/1/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5073.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1095–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 607R37 Evergy Kansas Central, Inc. NITSA NOA to be effective 2/1/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5086.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1096–000.

Applicants: Southwestern Electric Power Company.

Description: § 205(d) Rate Filing: SWEPCO–AECC Bates Delivery Point Agreement Cancellation to be effective 4/27/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5088.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1097–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1534R11 Kansas Municipal Energy

Agency NITSA NOA to be effective 2/1/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5094.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1098–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2646R7 Kansas Municipal Energy Agency NITSA NOA to be effective 2/1/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5104.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1099–000.

Applicants: Midcontinent Independent System Operator, Inc., ITC Midwest LLC.

Description: § 205(d) Rate Filing: 2020–02–27_SA 3430 ITC–IPL FSA (J495) to be effective 2/28/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5106.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1100–000.

Applicants: New York Independent System Operator, Inc., New York State Electric & Gas Corporation.

Description: § 205(d) Rate Filing: 205 re: LGIA SA2487 between NYISO, NYSEG and Baron Winds to be effective 2/12/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5111.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1101–000.

Applicants: Wabash Valley Power Association, Inc.

Description: § 205(d) Rate Filing: Filing of New Wholesale Power Supply Contracts to be effective 4/27/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5128.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1102–000.

Applicants: Hatchet Ridge Wind, LLC.

Description: Tariff Cancellation: Cancellation of Extraneous MBR Tariff in Docket ER11–2489–000 to be effective 2/26/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5131.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1103–000.

Applicants: Ocotillo Express LLC.

Description: Tariff Cancellation: Cancellation of Extraneous MBR Tariff in Docket No. ER12–2639–000 to be effective 2/26/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5132.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1104–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: 2–27–20 Unexecuted Agreements, City and County of San Francisco WDT SA (SA 275) to be effective 4/28/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5145.

Comments Due: 5 p.m. ET 3/19/20.

Docket Numbers: ER20–1105–000.

Applicants: New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 205: Short Term Reliability Planning Process to be effective 5/1/2020.

Filed Date: 2/27/20.

Accession Number: 20200227–5201.

Comments Due: 5 p.m. ET 3/19/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 27, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–04401 Filed 3–3–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Revocation of Market-Based Rate Authority and Termination of Electric Market-Based Rate Tariff

	Docket Nos.
Electric Quarterly Reports	ER02–2001–020
Mint Energy, LLC	ER10–1110–000
Westmoreland Partners	ER10–2291–001
E–T Global Energy, LLC	ER11–2039–001
BBPC, LLC	ER11–3028–002
Amerigreen Energy, Inc	ER11–3879–001
Mac Trading, Inc	ER11–4447–000
Liberty Hill Power LLC	ER12–1202–001
Imperial Valley Solar Company (IVSC) 1, LLC.	ER12–1170–003
Lexington Power & Light, LLC.	ER15–455–000
Clear Choice Energy, LLC	ER13–183–000
Energy Discounters, LLC	ER14–663–001
Infinite Energy Corporation	ER14–2421–000
North Energy Power, LLC	ER15–626–000

On January 23, 2020, the Commission issued an order announcing its intent to revoke the market-based rate authority of several public utilities that had failed to file their required Electric Quarterly Reports.[1] The Commission directed those public utilities to file the required Electric Quarterly Reports within 15 days of the date of issuance of the order or face revocation of their authority to sell power at market-based rates and termination of their electric market-based rate tariffs.[2]

The time period for compliance with the January 23 Order has elapsed. The above-captioned companies failed to file their delinquent Electric Quarterly Reports. The Commission hereby revokes, effective as of the date of issuance of this notice, the market-based rate authority and terminates the electric market-based rate tariff of each of the companies who are named in the caption of this order.

Dated: February 27, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–04447 Filed 3–3–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR20–7–000]

Sheetz, Inc. v. Colonial Pipeline Company; Notice of Complaint

Take notice that on February 25, 2020, pursuant to Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission's (Commission) 18 CFR 385.206 (2019), Part 343 of the Commission's Rules and Regulations, 18 CFR 343, *et seq.* (2019) and sections 1(5), 6, 8, 9,13, 15, and 16 of the Interstate Commerce Act (ICA), 49 U.S.C. App. 1(5), 6, 8, 9, 13, 15, and 16 and section 1803 of the Energy Policy Act of 1992, Sheetz, Inc., (Sheetz or Complainant) filed a formal complaint against Colonial Pipeline Company (Colonial or Respondent), challenging the just and reasonableness of (1) Colonial's cost-based transportation rates in FERC Tariff No. 99.56.0 and all predecessor tariffs; (2) Colonial's market-based rate authority and rates charged pursuant to that authority; and (3) Colonial's charges relating to product loss allocation and transmix, all as more fully explained in the complaint.

[1] *Elec. Quarterly Reports,* 170 FERC 61,020 (2020) (January 23 Order).

[2] *Id.* at Ordering Paragraph A.

Complainant certifies that copies of the complaint were served on the contacts for Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on March 27, 2020.

Dated: February 27, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–04397 Filed 3–3–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1073–000]

SR Terrell, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of SR Terrell, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 17, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 26, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–04398 Filed 3–3–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–53–000]

National Fuel Gas Supply Corporation; Notice of Application for Amendment

Take notice that on February 18, 2020, National Fuel Gas Supply Corporation, 6363 Main Street, Williamsville, New York 14221, filed an application pursuant to section 7(c) of the Natural Gas Act, to amend the certificate of public convenience and necessity issued by the Commission in Docket No. CP14–70–000 authorizing the West Side Expansion and Modernization Project. The proposed amendment seeks to remove the ''spare'' designation from 1,775 horsepower of compression at its Mercer Compressor Station in Mercer County, Pennsylvania so that it may be used on a regular basis to accommodate a shipper's request to re-direct a portion of its firm transportation capacity to a different primary delivery point, all as more fully described in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web 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 at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Margaret D. Sroka, attorney for National Fuel Gas Supply Corporation, 6363 Main Street, Williamsville, New York 14221, 716–857–7066; or *srokam@natfuel.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of

the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 3 copies of filings made in the proceeding with the Commission and must provide a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, and will be notified of any meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

As of the February 27, 2018 date of the Commission's order in Docket No. CP16–4–001, the Commission will apply its revised practice concerning out-of-time motions to intervene in any new Natural Gas Act section 3 or section 7 proceeding.[1] Persons desiring to become a party to a certificate proceeding are to intervene in a timely manner. If seeking to intervene out-of-time, the movant is required to show good cause why the time limitation should be waived, and should provide justification by reference to factors set forth in Rule 214(d)(1) of the Commission's Rules and Regulations.[2]

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 3 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on March 19, 2020.

Dated: February 27, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–04446 Filed 3–3–20; 8:45 am]

BILLING CODE 6717–01–P

[1] *Tennessee Gas Pipeline Company, L.L.C.,* 162 FERC 61,167 at 50 (2018).

[2] 18 CFR 385.214(d)(1).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R07–SFUND–2020–0105; FRL–10005–78–Region 7]

Notice of Proposed CERCLA Settlement Agreement for Recovery of Past Response Costs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: Notice is hereby given by the U.S. Environmental Protection Agency (EPA), Region 7, of a proposed CERCLA 122(h)(1) Settlement Agreement for Recovery of Past Response Costs with Airosol Company, Inc. This agreement pertains to the Airosol Company, Inc. property located at 1206 Illinois Street in Neodesha, Kansas.

DATES: Comments must be received on or before April 6, 2020.

ADDRESSES: The proposed settlement agreement is available for public inspection at EPA Region 7's office. A copy of the proposed agreement may also be obtained from Mr. Steven L. Sanders, EPA Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219, telephone number (913) 551–7578. You may send comments, identified by Docket ID No. EPA–R07–SFUND–2020–0105 to *https://www.regulations.gov.* Follow the online instructions for submitting comments. You may also send comments,identified by the Airosol Company, Inc. facility, 1206 Illinois Street, Neodesha, Kansas 66757 to Mr. Sanders at the above address or electronically to *sanders.steven@epa.gov.*

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Steven L. Sanders, Senior Counsel, Office of Regional Counsel, Environmental Protection Agency, Region 7 Office, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7578; email address *sanders.steven@epa.gov.*

SUPPLEMENTARY INFORMATION:

Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–SFUND–2020–0105 at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. If CBI exists, please contact Mr. Steven L. Sanders. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Notice is hereby given by the Environmental Protection Agency, Region 7, of a CERCLA 122(h)(1) Settlement Agreement for Recovery of

Past Response Costs, with Airosol Company, Inc. This agreement pertains to the Airosol Company, Inc. property located at 1206 Illinois Street in Neodesha, Kansas. Airosol Company, Inc. agrees to pay $300,000 in past response costs over a three-year period.

The settlement includes a covenant by EPA not to sue against Airosol Company, Inc., pursuant to section 107(a) of CERCLA for recovery of past response costs. For thirty (30) days following the date of publication of this document, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement agreement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Dated: February 25, 2020.

Mary Peterson,

Director, Superfund Division, EPA Region 7.

[FR Doc. 2020–04437 Filed 3–3–20; 8:45 am]

BILLING CODE 6560–50–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 April 3, 2020.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Security Bancshares, Inc., Paris, Tennessee;* to become a bank holding company by acquiring Security Bank and Trust Company, Paris, Tennessee. Simultaneously, Security Bancshares, Inc. to merge with Dyer F&M Bancshares, Inc. and thereby indirectly acquire The Farmers and Merchants Bank, both of Dyer, Tennessee.

Board of Governors of the Federal Reserve System, February 28, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–04432 Filed 3–3–20; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2018–0060, Docket Number NIOSH–316]

Technical Report: Current Intelligence Bulletin: NIOSH Practices in Occupational Risk Assessment

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: NIOSH announces the availability of *Current Intelligence Bulletin: NIOSH Practices in Occupational Risk Assessment.*

DATES: The final document was published on February 28, 2020 on the CDC website.

ADDRESSES: The document may be obtained at the following link: *https://www.cdc.gov/niosh/docs/2020-106/default.html.*

FOR FURTHER INFORMATION CONTACT: Robert D. Daniels (*mailto: RDaniels@cdc.gov*), National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 1090 Tusculum Ave., MS C–15, Cincinnati, OH 45226, phone (513) 533–8329 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On July 26, 2018, NIOSH published a request for comment in the **Federal Register** [83 FR 35486] on the draft version of the document *Draft Current Intelligence Bulletin: NIOSH Practices in Occupational Risk Assessment.* NIOSH received comments from four respondents including professional organizations and the public. All comments received were carefully reviewed and addressed, where appropriate. In general, revisions in response to comments focused on clarifying the approach used by NIOSH in its risk assessments supporting recommended exposure limits and how this approach differs from environmental risk assessments. NIOSH Responses to Peer Review and Public Comments documents can be found in the Supporting Documents section on *www.regulations.gov* for this docket.

Dated: February 28, 2020.

Frank J. Hearl,

Chief of Staff, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2020–04436 Filed 3–3–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—RFA–TS–20–001, Amytrophic Lateral Sclerosis (ALS).

Date: May 13, 2020.

Time: 1:00 p.m.–5:30 p.m., EDT.

Place: Teleconference, Centers for Disease Control and Prevention, 4770

Buford Highway NE, Atlanta, Georgia 30341.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Kimberly Leeks, Ph.D., M.P.H., Scientific Review Official, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway NE, Building 106, MS S106–9, Atlanta, Georgia 30341, Telephone (770) 488–6562, *KLeeks@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–04394 Filed 3–3–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Comment Request; University Centers of Excellence in Developmental Disabilities Education, Research and Service Annual Report [OMB #0985–0030]

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of information listed above. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the Proposed Extension with revision and solicits comments on the information collection requirements related to the University Centers of Excellence in Developmental Disabilities (UCEDD) Education, Research and Service final 5-year report.

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by May 4, 2020.

ADDRESSES: Submit electronic comments on the collection of information to: Pamela O'Brien, Project Officer. Submit written comments on the collection of information to Administration for Community Living, Washington, DC 20201, Attention: Pamela O'Brien.

FOR FURTHER INFORMATION CONTACT: Pamela O'Brien, Administration for Community Living, Washington, and DC 20201, (202) 795–7417.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in the PRA and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval.

To comply with this requirement, ACL is publishing a notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, ACL invites comments on our burden estimates or any other aspect of this collection of information, including:

(1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility;

(2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used to determine burden estimates;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act of 2000) directs the Secretary of Health and Human Services to develop and implement a system of program accountability to monitor the grantees funded under the DD Act of 2000. The program accountability system shall include the National Network of University Centers for Excellence in Developmental Disabilities (UCEDD) Education, Research, and Service.

The DD Act of 2000 states that the UCEDD Annual Report should contain information on progress made in achieving the projected goals of the Center for the previous year.

Reporting on the extent to which the goals were achieved; a description of the strategies that contributed to achieving the goals; the extent to which the goals were not achieved, a description of factors that impeded the achievement; and an accounting of the manner in which funds paid to the Center under this subtitle for a fiscal year were expended. Information on proposed revisions to the goals and a description of successful efforts to leverage funds, other than funds made available under the DD Act of 2000.

In addition, the DD Act of 2000 states those grantees must also report on data collected regarding:

(1) Consumer satisfaction with the advocacy;

(2) capacity building;

(3) systemic change activities initiated by the UCEDD;

(4) the extent to which the UCEDD's advocacy, capacity building, and systemic change activities provided results through improvements; and

(5) the extent to which collaboration was achieved in the areas of advocacy, capacity building, and systemic change.

UCEDD is a discretionary grant program that supports States the operation and administration of a national network of UCEDDs in the States. UCEDDS are interdisciplinary education, research, and public service units of universities, public or not-for-profit entities associated with universities that engage in core functions. For example, provision of interdisciplinary pre-service preparation and continuing education of students and fellows; provision of community services, including training or technical assistance; conduct of research; and dissemination of information.

Addressing, directly or indirectly one or more of the areas of emphasis such as, quality assurance, education and early intervention, child care, health, employment, housing, transportation, recreation, and other services available or offered to individuals in a community, including formal and informal community supports, that affect their quality of life.

Currently, UCEDDs engage in four broad tasks: Conducting interdisciplinary training, promoting exemplary community service programs and providing technical assistance at all levels from local service delivery to community and state governments, conducting research, and disseminating information to the field.

UCEDD accomplishments include:

• Directing exemplary training programs. The provision of training is offered in an interdisciplinary format where faculty and trainees represent a variety of disciplines, such as pediatrics, education, psychology, and nursing thereby expanding opportunities for students to learn about the differing perspectives of various professionals providing services to individuals with developmental disabilities and their families.

• Providing community services and technical assistance. Staff offer expertise through training and technical assistance activities to individuals with developmental disabilities, family members of these individuals, professionals, paraprofessionals, students, systems, support service organizations, volunteers, among others.

• Contributing to the development of new knowledge through research and information dissemination. UCEDDs develop and field test models of service delivery and evaluate existing innovative practices, which are then disseminated to the field to translate research into practice.

The proposed data collection tools may be found on the ACL website for review at *https://www.acl.gov/about-acl/public-input.*

Estimated Program Burden: ACL estimates the burden associated with this collection of information as follows:

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Annual burden hours
Total	67	1	143	9,581

Dated: February 25, 2020.

Lance Robertson,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2020–04414 Filed 3–3–20; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–4843]

Soft (Hydrophilic) Daily Wear Contact Lenses—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 ''Soft (Hydrophilic) Daily Wear Contact Lenses—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 May 4, 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–4843 for ''Soft (Hydrophilic) Daily Wear Contact Lenses—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.govinfo.gov/content/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 ''Soft (Hydrophilic) Daily Wear Contact Lenses—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 final 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 soft (hydrophilic) daily wear contact lenses. 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.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* This guidance document is also available at *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Soft (Hydrophilic) Daily Wear Contact Lenses—Performance Criteria for Safety and Performance Based Pathway; Draft Guidance for Industry and Food and Drug Administration Staff'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 19022 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 have been approved by OMB as listed in the following table:

21 CFR part or guidance	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: February 28, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–04425 Filed 3–3–20; 8:45 am]

BILLING CODE 4164–01–P

[1] Available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/safety-and-performance-based-pathway.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0601]

Agency Information Collection Activities; Proposed Collection; Comment Request; Current Good Manufacturing Practice Regulations for Medicated Feeds

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the recordkeeping requirements for manufacturers of medicated animal feeds.

DATES: Submit either electronic or written comments on the collection of information by May 4, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before May 4, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 4, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2010–N–0601 for ''Current Good Manufacturing Practice Regulations for Medicated Feeds.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on

respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Current Good Manufacturing Practice Regulations for Medicated Feeds—21 CFR Part 225

OMB Control Number 0910–0152—Extension

Under section 501 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 351), FDA has the statutory authority to issue current good manufacturing practice (cGMP) regulations for drugs, including medicated feeds. Medicated feeds are administered to animals for the prevention, cure, mitigation, or treatment of disease, or growth promotion and feed efficiency. Statutory requirements for cGMPs have been codified under part 225 (21 CFR part 225). Medicated feeds that are not manufactured in accordance with these regulations are considered adulterated under section 501(a)(2)(B) of the FD&C Act. Under part 225, a manufacturer is required to establish, maintain, and retain records for a medicated feed, including records to document procedures required during the manufacturing process to assure that proper quality control is maintained. Such records would, for example, contain information concerning receipt and inventory of drug components, batch production, laboratory assay results (*i.e.,* batch and stability testing), labels, and product distribution.

This information is needed so that FDA can monitor drug usage and possible misformulation of medicated feeds to investigate violative drug residues in products from treated animals and to investigate product defects when a drug is recalled. In addition, FDA will use the cGMP criteria in part 225 to determine whether or not the systems and procedures used by manufacturers of medicated feeds are adequate to assure that their feeds meet the requirements of the FD&C Act as to safety, and also that they meet their claimed identity, strength, quality, and purity, as required by section 501(a)(2)(B) of the FD&C Act.

A license is required when the manufacturer of a medicated feed involves the use of a drug or drugs that FDA has determined requires more control because of the need for a withdrawal period before slaughter or because of carcinogenic concerns. Conversely, a license is not required, and the recordkeeping requirements are less demanding for those medicated feeds for which FDA has determined that the drugs used in their manufacture need less control. Respondents to this collection of information are commercial feed mills and mixer/feeders.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN

[Registered licensed commercial feed mills] [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
225.42(b)(5) through (8) requires records of receipt, storage, and inventory control of medicated feeds.	825	260	214,500	1	214,500
225.58(c) and (d) requires records of the results of periodic assays for medicated feeds that are in accord with label specifications and also those medicated feeds not within documented permissible assay limits.	825	45	37,125	0.50 (30 minutes)	18,562.50
225.80(b)(2) requires that verified medicated feed label(s) be kept for 1 year.	825	1,600	1,320,000	0.12 (7 minutes)	158,400
225.102(b)(1) through (5), requires records of master record files and production records for medicated feeds.	825	7,800	6,435,000	0.08 (5 minutes)	514,800
225.110(b)(1) and (2) requires maintenance of distribution records for medicated feeds.	825	7,800	6,435,000	0.02 (1 minute)	128,700
225.115(b)(1) and (2) requires maintenance of complaint files by the medicated feed manufacturer.	825	5	4,125	0.12 (7 minutes)	495
Total					1,035,457.50

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN

[Registered licensed mixer/feeders] [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
225.42(b)(5) through (8) requires records of receipt, storage, and inventory control of medicated feeds.	100	260	26,000	0.15 (9 minutes)	3,900
225.58(c) and (d) requires records of the results of periodic assays for medicated feeds that are in accord with label specifications and also those medicated feeds not within documented permissible assay limits.	100	36	3,600	0.50 (30 minutes)	1,800
225.80(b)(2) requires that verified medicated feed label(s) be kept for 1 year.	100	48	4,800	0.12 (7 minutes)	576

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN—Continued

[Registered licensed mixer/feeders] [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
225.102(b)(1) through (5) requires records of master record files and production records for medicated feeds.	100	260	26,000	0.40 (24 minutes) ..	10,400
Total					16,676

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL RECORDKEEPING BURDEN

[Nonregistered unlicensed commercial feed mills] [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
225.142 requires procedures for identification, storage, and inventory control (receipt and use) of Type A medicated articles and Type B medicated feeds.	4,186	4	16,744	1	16,744
225.158 requires records of investigation and corrective action when the results of laboratory assays of drug components indicate that the medicated feed is not in accord with the permissible assay limits.	4,186	1	4,186	4	16,744
225.180 requires identification, storage, and inventory control of labeling in a manner that prevents label mix-ups and assures that correct labels are used for medicated feeds.	4,186	96	401,856	0.12 (7 minutes)	48,223
225.202 requires records of formulation, production, and distribution of medicated feeds.	4,186	260	1,088,360	0.65 (39 minutes)	707,434
Total					789,145

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 4—ESTIMATED ANNUAL RECORDKEEPING BURDEN

[Nonregistered unlicensed mixer/feeders] [1]

21 CFR section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
225.142 requires procedures for identification, storage, and inventory control (receipt and use) of Type A medicated articles and Type B medicated feeds.	3,400	4	13,600	1	13,600
225.158 requires records of investigation and corrective action when the results of laboratory assays of drug components indicate that the medicated feed is not in accord with the permissible assay limits.	3,400	1	3,400	4	13,600
225.180 requires identification, storage, and inventory control of labeling in a manner that prevents label mix-ups and assures that correct labels are used for medicated feeds.	3,400	32	108,800	0.12 (7 minutes)	13,056
225.202 requires records of formulation, production, and distribution of medicated feeds.	3,400	260	884,000	0.33 (20 minutes) ..	291,720
Total					331,976

Our estimated burden for the information collection reflects a decrease of 65,265.20 hours. We attribute this adjustment to a decrease in the number of respondents for Registered Licensed Commercial Feed Mills. Medicated Feed Mill licensing is voluntary. Firms may withdraw if they go out of business or if they change the source of the drug and a license is not required.

Dated: February 27, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–04461 Filed 3–3–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2018–E–2588, FDA–2018–E–2589, and FDA–2018–E–2590]

Determination of Regulatory Review Period for Purposes of Patent Extension; FASENRA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for FASENRA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by May 4, 2020. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by August 31, 2020. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before May 4, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 4, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket Nos. FDA–2018–E–2588, FDA–2018–E–2589, and FDA–2018–E–2590 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; FASENRA.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the dockets 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 § 10.20 (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.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological

product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product, FASENRA (benralizumab). FASENRA is indicated for the add-on maintenance treatment of patients with severe asthma aged 12 years and older and with an eosinophilic phenotype. Subsequent to this approval, the USPTO received patent term restoration applications for FASENRA (U.S. Patent Nos. 7,179,464; 7,718,175; and 8,101,185) from Kyowa Hakko Kirin Co., Ltd., and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated September 18, 2018, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of FASENRA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for FASENRA is 4,127 days. Of this time, 3,763 days occurred during the testing phase of the regulatory review period, while 364 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* July 30, 2006. The applicant claims July 29, 2006, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was July 30, 2006, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* November 16, 2016. FDA has verified the applicant's claim that the biologics license application (BLA) for FASENRA (BLA 761070) was initially submitted on November 16, 2016.

3. *The date the application was approved:* November 14, 2017. FDA has verified the applicant's claim that BLA 761070 was approved on November 14, 2017.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its applications for patent extension, this applicant seeks 5 years, or 1,552 days or 1,244 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: February 27, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–04363 Filed 3–3–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Hypertension and Microcirculation.

Date: March 23, 2020.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neuroimmunology, Neuroinflammation, Infection, and Brain Cancer.

Date: March 24, 2020.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Samuel C. Edwards, Ph.D., Chief, BDCN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR19–385: Environmental Risks for Psychiatric Disorder: Biological Basis of Pathophysiology.

Date: March 24, 2020.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Julius Cinque, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, (301) 435–1252, *cinquej@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Motivated Behavior, Alcohol and Heavy Metals.

Date: March 25, 2020.

Time: 1:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, (301) 435–1119, *selmanom@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular Sciences.

Date: March 25, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Eugene Carstea, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7818, Bethesda, MD 20892, (301) 408–9756, *carsteae@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Drug Discovery and Clinical Field Studies.

Date: March 25, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Tera Bounds, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, (301) 435–2306, *boundst@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Leveraging Health Information Technology (Health IT) to Address Minority Health and Health Disparities.

Date: March 25, 2020.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Delia Olufokunbi Sam, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, (301) 435–0684, *olufokunbisamd@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Toxicology and Digestive, Kidney and Urological Systems AREA/REAP Review.

Date: March 25, 2020.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Aiping Zhao, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892–7818, (301) 435–0682, *zhaoa2@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cognitive Processing and Neuropsychiatric Disorders.

Date: March 25, 2020.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jenny Raye Browning, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (301) 402–8197, *jenny.browning@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Clinical Field Studies.

Date: March 25, 2020.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Neerja Kaushik-Basu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435–2306, *kaushikbasun@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neuroscience and Bioengineering.

Date: March 25, 2020.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert C Elliott, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, (301) 435–3009, *elliotro@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 27, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04372 Filed 3–3–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Preventative Health Services Use.

Date: March 9, 2020.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Kimberly Firth, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Suite 2W200, Bethesda, MD 20892, (301) 402–7702, *firthkm@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel; Conference Grants.

Date: March 13, 2020.

Time: 12:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dario Dieguez, Jr., Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 827–3101, *dario.dieguez@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04377 Filed 3–3–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biomaterials, Delivery, and Nanotechnology.

Date: March 24–25, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Nitsa Rosenzweig, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7760, Bethesda, MD 20892, (301) 404–7419, *rosenzweign@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Hematology and Vascular.

Date: March 24, 2020.

Time: 2:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Bukhtiar H Shah, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, (301) 806–7314, *shahb@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 27, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04371 Filed 3–3–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors of the NIH Clinical Center.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the OFFICE OF THE DIRECTOR, NATIONAL INSTITUTES OF HEALTH, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors of the NIH Clinical Center.

Date: March 23–24, 2020.

Open: March 23, 2020, 8:00 a.m. to 5:00 p.m.

Agenda: Scientific presentations and interviews.

Place: NIH, Bldg. 10, 10 Center Drive, Bethesda, MD 20892.

Closed: March 24, 2020, 8:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Bldg. 10, 10 Center Drive, Bethesda, MD 20892.

Contact Person: John Gallin, MD, NIH Associate Director for Clinical Research, Clinical Center, National Institutes of Health, 10 Center Drive, Room 6–2551, Bethesda, Md 20892, 301–496–4114, *Jgallin@Mail.Nih.Gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has stringent procedures for entrance into NIH federal property. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: February 27, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04370 Filed 3–3–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of intramural programs and projects conducted by the NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: March 30–31, 2020.

Open: March 30, 2020, 8:45 a.m. to 9:05 a.m.

Agenda: Reports from the institute staff.

Place: Porter Neuroscience Research Center, Building 35A, Room 610, 35 Convent Drive, Bethesda, MD 20892.

Closed: March 30, 2020, 9:05 a.m. to 4:50 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: Porter Neuroscience Research Center, Building 35A, Room 610, 35 Convent Drive, Bethesda, MD 20892.

Closed: March 31, 2020, 9:00 a.m. to 3:25 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: Porter Neuroscience Research Center, Building 35A, Room 610, 35 Convent Drive, Bethesda, MD 20892.

Contact Person: Andrew J. Griffith, Ph.D., MD, Director, Division of Intramural Research, National Institute on Deafness and Other Communication Disorders, 35A Convent Drive, GF 103, Rockville, MD 20892, (301) 496–1960, *griffita@nidcd.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *https://www.nidcd.nih.gov/about/advisory-committees,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: February 27, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04380 Filed 3–3–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors Chairs Meeting, Office of The Director, National Institutes of Health.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Board of Scientific Counselors, National Institutes of Health.

Date: May 15, 2020.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: The meeting will include a discussion of policies and procedures that apply to the regular review of NIH intramural scientists and their work.

Place: National Institutes of Health, 1 Center Drive, Building 1, Room 151, Bethesda, MD 20892.

Conference Line Access: 1–888–233–9215.

Participant Passcode: 59105.

Contact Person: Margaret McBurney, Program Specialist, Office of the Deputy Director for Intramural Research, National Institutes of Health, 1 Center Drive, Room 160, Bethesda, MD 20892–0140, (301) 496–1921, *mmburney@od.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Office of Intramural Research home page: *http://sourcebook.od.nih.gov/*.

Dated: February 28, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04441 Filed 3–3–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting. The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Clinical Trial in People Living with HIV.

Date: March 27, 2020.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Suite 209A, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Keary A. Cope, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6705 Rockledge Drive, Suite 209A, Bethesda, MD 20892–7924, 301–827–7912, *copeka@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 27, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04375 Filed 3–3–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Advancing Sustained/Extended Release for HIV Prevention (A–SER) (R01 Clinical Trial Not Allowed).

Date: March 30, 2020.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G11, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: J. Bruce Sundstrom, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G11, Bethesda, MD 20892–9823, 240–669–5045, *sundstromj@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 28, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04440 Filed 3–3–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Review Subcommittee Member Conflict Review.

Date: March 30, 2020.

Time: 1:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2116, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Beata Buzas, Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2116, MSC 6902, Bethesda, MD 20817, (301) 443–0800, *bbuzas@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: February 27, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04379 Filed 3–3–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Cooperative Centers of Excellence in Hematology (U54).

Date: March 23–24, 2020.

Time: 8:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, Bethesda, Conference Room Rooftop, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7119, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–2242, *jerkinsa@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Hematology Central Coordinating Center (U24).

Date: March 24, 2020.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, Bethesda, Conference Room Rooftop, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7119, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–2242, *jerkinsa@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 27, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04381 Filed 3–3–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Deep Learning.

Date: March 9, 2020.

Time: 12:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Nijaguna Prasad, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Gateway Building, Suite 2W200, Bethesda, MD 20892, (301) 496–9667, *nijaguna.prasad@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel; Aging Health Disparities.

Date: March 19, 2020.

Time: 11:30 a.m. to 12:45 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Kimberly Firth, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Suite 2W200, Bethesda, MD 20892, (301) 402–7702, *firthkm@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel; Second Stage Review

Date: March 24, 2020.

Time: 10:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Kimberly Firth, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Suite 2W200, Bethesda, MD 20892, (301) 402–7702, *firthkm@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 27, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04378 Filed 3–3–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Catalyze Product Definition.

Date: April 1, 2020.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6705 Rockledge Drive, Bethesda, MD 20892, (301) 827–7930, *goltrykl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis; Enabling Technologies.

Date: April 2, 2020.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20814 (Telephone Conference Call).

Contact Person: Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6705 Rockledge Drive, Bethesda, MD 20892, (301) 827–7930, *goltrykl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; HLB–SIMPLe: Heart, Lung, and Blood Co-morbidities Implementation Models in People Living with HIV.

Date: April 7, 2020.

Time: 8:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites—Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National, Heart, Lung, and Blood Institute, 6705 Rockledge Drive, Bethesda, MD 20892, *susan.sunnarborg@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; HLB–SIMPLe: Heart, Lung, and Blood Co-morbidities Implementation Models in People Living with HIV—Research Coordinating Center.

Date: April 7–8, 2020.

Time: 1:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National, Heart, Lung, and Blood Institute, 6705 Rockledge Drive, Bethesda, MD 20892, *susan.sunnarborg@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Grant Review for NHLBI K Award Recipients (R03).

Date: April 14, 2020.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Lindsay M. Garvin, Ph.D., Scientific Review Officer, Office of Scientific Review, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Suite 208–Y, Bethesda, MD 20892, (301) 827–7911, *lindsay.garvin@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Genetics of Blood Pressure Review.

Date: April 14, 2020.

Time: 12:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Shelley S. Sehnert, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6705 Rockledge Drive, Suite 208–T, Bethesda, MD 20892–7924, (301) 827–7984, *ssehnert@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 27, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04376 Filed 3–3–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Stroke, Traumatic Brain Injury and Sport-Related Concussions.

Date: March 25, 2020.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Samuel C. Edwards, Ph.D., Chief, BDCN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of the Vascular and Hematological Systems.

Date: March 27, 2020.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Natalia Komissarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, 301–435–1206, *komissar@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: The Cancer Biotherapeutics Development (CBD).

Date: March 27, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Laura Asnaghi, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 6200, Bethesda, MD 20892, 301–443–1196, *laura.asnaghi@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Innovative Immunology Research.

Date: March 27, 2020.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David B. Winter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1152, *dwinter@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of the Vascular and Hematological Systems Special Emphasis Panel.

Date: March 27, 2020.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Katherine M. Malinda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0912, *Katherine_Malinda@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Human-Animal Interaction (HAI) Research.

Date: March 27, 2020.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Center for Scientific Review, Special Emphasis Panel; Member Conflict: Sleep, Stress, Motion, and Taste.

Date: March 27, 2020.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Janita N. Turchi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–4005, *turchij@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Nephrology.

Date: March 27, 2020.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jianxin Hu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2156, Bethesda, MD 20892, 301–827–4417, *jianxinh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Imaging Guided Interventions and Surgery.

Date: March 27, 2020.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ileana Hancu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, Bethesda, MD 20817, 301–402–3911, *ileana.hancu@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 27, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–04374 Filed 3–3–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Revision From OMB of One Current Public Collection of Information: Security Appointment Center (SAC) Visitor Request Form and Foreign National Vetting Request

AGENCY: Transportation Security Administration, DHS.

ACTION: 60–Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR) Office of Management and Budget (OMB) control number 1652–0068, abstracted below that we will submit to OMB for a revision in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves gathering information from individuals who plan to visit all TSA facilities in the National Capital Region (NCR). In addition, TSA is revising the collection to transition TSA Forms 2802, 2816A, and 2816B into Common Forms to streamline the information collection process.

DATES: Send your comments by May 4, 2020.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control

number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Consistent with the requirements of Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, and E.O. 13777, Enforcing the Regulatory Reform Agenda, TSA is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

Information Collection Requirement

OMB Control Number 1652–0068; Security Appointment Center (SAC) Visitor Request Form and Foreign National Vetting Request. The Secretary of the Department of Homeland Security (DHS) is required to protect property owned, occupied, or secured by the Federal Government. *See* 40 U.S.C. 1315; *see also* 41 CFR 102–81.15 (requires Federal agencies to be responsible for maintaining security at their own or leased facilities). To implement this requirement, DHS policy requires all visitors to DHS facilities in the NCR [1] to have a criminal history records check through the National Crime Information Center (NCIC) system before accessing the facility.

TSA has established a visitor management process that meets DHS requirements. This process allows TSA to conduct business with visitors, including other federal employees and contract employees, while managing risks posed by individuals entering the building who have not been subject to a full employee security background check. Once an individual's access is approved, TSA's Visitor Management System (VMS) generates temporary paper badges with photographs that visitors must wear when entering TSA facilities in the NCR. This badge must be clearly visible for the duration of the individual's visit.

Visitors seeking to enter TSA facilities must also have a TSA-Federal employee as their host, and the host must complete the electronic TSA Form 2802, *Security Appointment Center (SAC) Visitor Request Form.* TSA Form 2802 requires that the Federal host employee provide the visitor's first and last name, date of birth, date and time of visit, visitor type (*e.g.,* DHS or other government visitor, non-government individual), and whether the visitor is a foreign national visitor.[2] TSA requests the visitor's social security number (SSN), but providing one's SSN is not required. TSA uses the SSN to ensure accuracy in the identification of the visitor and to expedite vetting. TSA Form 2816A, *Foreign National Visitor Request—Individual* must be completed for foreign national visitors and for groups consisting of two or more foreign nationals, TSA Form 2816B, *Foreign National Visitor Request—Group* must be completed. Hard copies of these forms are available at the TSA Visitors' Center. TSA uses the vetting results to determine the suitability of an individual requesting access to the TSA NCR, including whether the individual has a criminal history that would warrant further investigation and review before TSA grants access to the facility. In reviewing the NCIC vetting results, TSA will consider whether an individual could potentially pose a threat to the safety of TSA employees, contractors, visitors, or the facility. TSA also uses the information to maintain records of access to TSA facilities.

TSA is revising the collection to transition TSA Forms 2802, 2816A, and 2816B into Common Forms. Common Forms permit Federal agency users beyond the agency that created the form (*e.g.,* Department of Homeland Security or U.S. Office of Personnel Management) to streamline the information collection process in coordination with OMB.

TSA estimates the average annual number of visitors to be 29,595, with an annual time burden to the public of 226 hours.

[1] TSA facilities in the NCR include TSA Headquarters, the Freedom Center, the Transportation Security Integration Facility (TSIF), the Metro Park office complex (Metro Park), and the Annapolis Junction facility (AJ).

[2] A person who is not a citizen of the United States.

Dated: February 28, 2020.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2020–04438 Filed 3–3–20; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Number FR–6203–N–01]

Privacy Act of 1974; Matching Program

AGENCY: Office of Administration, Housing and Urban Development (HUD).

ACTION: Notice of a New Matching Program.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act (CMPPA) of 1988, HUD is providing notice of its intent to execute a new computer matching agreement with the U.S. Department of Education (ED). The matching agreement covers the exchange of data obtained by ED pertaining to delinquent debt. The purpose of the match is to update the Credit Alert Verification Reporting System (CAIVRS), which is maintained by HUD.

DATES: The period of this matching program is estimated to cover the 18-month period from March 23, 2020 through September 23, 2021. However, the computer matching agreement (CMA) will become applicable at the later of the following two dates: March 23, 2020 or 30 days after the publication of this notice, unless comments have been received from interested members of the public requiring modification and republication of the notice.

ADDRESSES: Interested persons are invited to submit comments regarding this notice at *www.regulations.gov* or to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, Room 10110, SW, Washington, DC 20410. Communications should refer to the above docket number. A copy of each communication submitted will be available for public inspection and copying between 8:00 a.m. and 5:00 p.m. weekdays at the above address. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Contact the ''Recipient Agency'' John Bravacos, Departmental Privacy Officer, Department of Housing and Urban

Development, 451 Seventh Street SW, Room 10139, Washington, DC 20410, telephone number (202) 708–3054.

SUPPLEMENTARY INFORMATION: This notice supersedes a similar notice published in the **Federal Register** on July 21, 2016, at 81 FR 47403. The Computer Matching program seeks to set forth the terms and conditions governing disclosures of records, information, or data (collectively referred to herein as ''data'') made by ED to HUD. This data is obtained by ED and pertains to delinquent debt that individuals owe to ED. The purpose of its transmittal is to update the Credit Alert Verification Reporting System (CAIVRS), which is a computer information system maintained by HUD. The data match will allow for the prescreening of applicants for Federal direct loans or federally guaranteed loans, for the purpose of determining the applicant's credit worthiness, by ascertaining whether the applicant is delinquent or in default on a loan owed directly to or guaranteed by the Federal Government. The terms and conditions of this Agreement ensure that ED makes such disclosures of data, and that HUD uses such disclosed data, in accordance with the requirements of the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act (CMPPA) of 1988, 5 U.S.C. 552a.

Participating Agencies: The U.S. Small Business Administration is the source agency and the Department of Housing and Urban Development is the recipient agency.

Authority for Conducting the Matching Program: HUD and ED are authorized to participate in the matching program under Title 31, United States Code, Section 3720B. Office of Management and Budget (OMB) Circulars A–129 (Managing Federal Credit Programs) and A–70 (Policies and Guidelines for Federal Credit Programs); the Budget and Accounting Acts of 1921 and 1950, as amended; the Debt Collection Act of 1982, as amended; the Deficit Reduction Act of 1984, as amended, and the Debt Collection Improvement Act of 1996, as amended.

Purpose: The purpose of CAIVRS is to give participating federal agencies and authorized private lenders acting on the government's behalf, access to a database of delinquent federal debtors for the purpose of pre-screening the credit worthiness of applicants for direct loans and federally guaranteed loans. The use of CAIVRS will allow HUD to better monitor its credit programs and to reduce the credit extended to individuals with outstanding delinquencies on debts owed to HUD and other Federal agencies. Thus, both risk reduction and debt recovery are primary objectives of CAIVRS and this matching program.

Categories of Individuals: The matching program involves records of individuals applying for direct loans and federally guaranteed loans.

Categories of Records: The following is the category of record in this matching agreement:

- Borrower ID Number—SSN, Employer Identification Number (EIN) or Taxpayer Identification Number (TIN) of the individual debtor on a delinquent federal direct loan or federally-guaranteed loan.

Systems of Records: The HUD records used in the information comparison are retrieved from, and the results of the information comparison are maintained within, the HUD system of records from the following systems: HUD/SFH–01—Single Family Default Monitoring System, SFDMS, F42D (72 FR 65350, November 20, 2007; routine uses updated 80 FR 81837, December 31, 2015); HSNG.SF/HWAA.02—Single Family Insurance System—Claims Subsystem, CLAIMS, A43C (79 FR 10825, February 26, 2014); HUD/HS–55—Debt Collection and Asset Management System (DCAMS) (72 FR 63919, November 13, 2007), which consists of two sister systems identified as DCAMS—Title I, DCAMS–T1, F71 and DCAMS—Generic Debt, DCAMS–GD, F71A; and CFO/FY.03—Financial Data Mart, FDM A57R (79 FR 16805, March 26, 2014).

ED's records come from: 18–11–11, Customer Engagement System, CEMS, (83 FR 27587, July 13, 2018).

Dated: February 21, 2020.

John Bravacos,

Senior Agency Official for Privacy.

[FR Doc. 2020–04457 Filed 3–3–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7024–N–09]

30-Day Notice of Proposed Information Collection: HUD-Owned Real Estate Sales Contract and Addendums OMB Control #2502–0306

AGENCY: Office of the Chief Information Office.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* April 3, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice for the 60 days was published October 31, 2019 at 84 FR 58406.

A. Overview of Information Collection

Title of Information Collection: HUD-Owned Real Estate Sales Contract and Addendums.

OMB Approval Number: 2502–0306.

Type of Request: Extension of currently approved collection.

Form Number: HUD–9544, HUD–9548, HUD–9548–B, HUD–9548–C, HUD–9548–G, HUD–9548–H, HUD–9545–Y, HUD–9545–Z, SAMS–1101, SAMS–1103, SAMS–1108, SAMS–1110, SAMS–1111, SAMS–1111–A, SAMS–1117, SAMS–1120, SAMS–1204.

Description of the need for the information and proposed use: The collection of information consists of the sales contracts and addenda that will be used in binding contracts between the

purchasers of acquired and owned single-family properties and HUD. The Department must also meet the requirements of the Lead Disclosure Rule relative to the disclosure of known lead-based paint and lead-based paint hazards in HUD sales of its real estate owned (REO) properties built before 1978. Furthermore, the automated Single Family Acquired Asset Management System (SAMS) and the Asset Disposition and Management System (ADAMS–P–260) tracks the activity of an REO property from HUD's acquisition through its final sale. The forms used are part of the collection effort.

Respondents: Individuals or households, Business or other for profit, Not-for-profit institutions, state, local or tribal government.

Estimated Number of Respondents: 7,476.

Estimated Number of Responses: 110,136.

Frequency of Response: 14.732.

Average Hours per Response: .2831590034.

Total Estimated Burdens: 31,186.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 3507.

Dated: February 18, 2020.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2020–04450 Filed 3–3–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7024–N–11]

30-Day Notice of Proposed Information Collection: Housing Counseling Federal Advisory Committee (HCFAC) OMB Control No. 2502–0606

AGENCY: Office of the Chief Information Office, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* April 3, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice for the 60 days was published January 6, 2020 at 85 FR 522.

A. Overview of Information Collection

Title of Information Collection: Housing Counseling Federal Advisory Committee (HCFAC).

OMB Approval Number: 2502–0606.

OMB Expiration Date: 4/30/2020.

Type of Request: Revision of a currently approved collection.

Form Numbers: HUD–90005, Application for Membership Housing Counseling Federal Advisory Committee (HCFAC); OGE–450, Confidential Financial Disclosure Report.

Description of the need for the information and proposed use: The Expand and Preserve Homeownership through Counseling Act, Public Law 111–203, title XIV, § 1441, July 21, 2010, 124 Stat. 2163 (Act), 42 U.S.C. 3533(g) directs the Office of Housing Counseling to form a Housing Counseling Federal Advisory Committee (HCFAC) with members representing the mortgage and real estate industries, housing consumers and housing counseling agencies. The Membership Application (HUD–90005) will collect information for individuals in those groups who want to serve on the HCFAC. The information will be used by HUD's Office of Housing Counseling to select and recommend to the Secretary for appointment the members of the Housing Counseling Federal Advisory Committee to ensure the members meet the requirements of the Expand and Preserve Homeownership through Counseling Act and of the Federal Advisory Committee Act.

Respondents: Individuals or households.

Estimated Number of Respondents: 162.

Estimated Number of Responses: 162.

Frequency of Response: Once.

Average Hours per Response: 1.61.

Total Estimated Burden: 260.82.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through

the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: February 19, 2020.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2020–04455 Filed 3–3–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7024–N–05]

30-Day Notice of Proposed Information Collection: Multifamily Mortgagee's Application for Insurance Benefits; OMB Control #2502–0419

AGENCY: Office of the Chief Information Office.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* April 3, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 9, 2019 at 84 FR 47315.

A. Overview of Information Collection

Title of Information Collection: Multifamily Mortgagee's Application for Insurance Benefits.

OMB Approval Number: 2502–0419.

Type of Request: Revision of a currently approved collection.

Form Number: Form HUD 2747, Application for Insurance Benefits, Multifamily Mortgage.

Description of the need for the information and proposed use: A lender with an insured multifamily mortgage pays an annual insurance premium to the Department. When and if the mortgage goes into default, the lender may elect to file a claim for insurance benefits with the Department. A requirement of the claims process is the submission of an application for insurance benefits. Form HUD 2747, Mortgagee's Application for Insurance Benefits (Multifamily Mortgage), satisfies this requirement.

Respondents: Not-for-profit institutions, State, local or Tribal Government.

Estimated Number of Respondents: 110.

Estimated Number of Responses: 110.

Frequency of Response: Occasion.

Average Hours per Response: 1.

Total Estimated Burden: 110.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: February 18, 2020.

Colette Pollard,

Departmental Repots Management Officer, Office of Chief Information Officer.

[FR Doc. 2020–04451 Filed 3–3–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7024–N–10]

30-Day Notice of Proposed Information Collection: Housing Counseling Training Grant Program OMB Control No.: 2502–0567

AGENCY: Office of the Chief Information Office, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days additional day of public comment.

DATES: *Comments Due Date:* April 3, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-

free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice for the 60 days was published December 2, 2019 at 84 FR 65996.

A. Overview of Information Collection

Title of Information Collection: Housing Counseling Training Grant Program.

OMB Approval Number: 2502–0567.

Type of Request: Revision of a currently approved collection.

Form Number: SF–424, Application for Federal Assistance; HUD–92910, Housing Counseling Training Charts; HUD–2880, Applicant/Recipient Disclosure/Update Report.

Description of the need for the information and proposed use: Eligible organizations submit information to HUD through *Grants.gov* when applying for grant funds to provide housing counseling training to housing counselors. HUD uses the information collected to evaluate applicants competitively and then select qualified organizations to receive funding that supplement their housing counseling training program. Post-award collection, such as quarterly reports, will allow HUD to evaluate grantees' performance.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 24.

Estimated Number of Responses: 40.

Frequency of Response: 1.66.

Average Hours per Response: 34.50.

Total Estimated Burdens: 1,380.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: February 19, 2020.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2020–04452 Filed 3–3–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6204–N–01]

Executive Order 13891 Promoting the Rule of Law Through Improved Agency Guidance Documents: Announcing the Availability of the HUD Guidance Portal

AGENCY: Office of General Counsel, HUD.

ACTION: Notice.

SUMMARY: On October 9, 2019, the President issued Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' Among other things, Section 3 of the E.O. requires agencies to provide a single online guidance portal for the public to access all effective guidance. In addition, Office of Management and Budget Memorandum M–20–02 dated October 31, 2019, advises that agencies should announce the existence of the guidance portal by **Federal Register** notice. Consistent with this guidance, today's notice advises the public that HUD has comprehensively reviewed its guidance documents, determined which have continued effect, and is making them available on *https://www.hud.gov/guidance.*

FOR FURTHER INFORMATION CONTACT: Aaron Santa Anna, Acting Associate General Counsel, Office of Legislation and Regulation, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10282, Washington, DC 20410; telephone number 202–708–1793 (not a toll-free number). Individuals with hearing or speech impediments may access this number via TTY by calling the Federal Relay Service (FedRelay) during working hours at 800–877–8339 (a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

On October 9, 2019 (84 FR 55235), the President issued Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' The E.O. reaffirms the principle that, consistent with applicable law and except as incorporated into a contract, Federal agencies treat guidance documents as non-binding both in law and practice. To further the principle that agency guidance should be transparent and made readily available to the public, section 3 of the E.O. requires that agencies make available guidance documents on a single, searchable, indexed public website. Section 3 also requires that agencies review their guidance documents and, consistent with applicable law, rescind those guidance documents that should no longer be in effect.

II. Online Guidance Portal

Consistent with E.O. 13891, HUD conducted a comprehensive review of its guidance documents to identify those that remain in effect. HUD's review also ensured that all guidance documents are linked to a single website, that the website could be searched, and that the documents linked continued to be effective. As a result of these efforts, HUD is announcing that it has launched a single searchable, indexed database containing or linking all HUD guidance documents. HUD's website is: *http://www.hud.gov/guidance.* HUD's website contains guidance documents issued by all of HUD's program offices and provides links that will allow members of the public to access all HUD's guidance documents in effect. In furtherance of E.O. 13891's goal of increasing transparency and availability of guidance documents, HUD will continue to work to refine this site in order to archive documents as they are found to be no longer in effect.

HUD's website states that the contents of HUD's guidance documents, except when based on statutory or regulatory authority or law, do not have the force and effect of law and are not meant to bind the public in any way.

Dated: February 28, 2020.

J. Paul Compton, Jr.,

General Counsel.

[FR Doc. 2020–04458 Filed 3–3–20; 8:45 am]

BILLING CODE 4210–67–P

NATIONAL INDIAN GAMING COMMISSION

Notice of Approved Class III Tribal Gaming Ordinance

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of the approval of Ione Band of Miwok Indians' Class III gaming ordinance by the Chairman of the National Indian Gaming Commission.

DATES: This ordinance was approved and went into effect on March 6, 2018.

FOR FURTHER INFORMATION CONTACT: Frances Fragua, Office of General Counsel at the National Indian Gaming Commission, 202–632–7003, or by facsimile at 202–632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA) 25 U.S.C. 2701 *et seq.,* established the National Indian Gaming Commission (Commission). Section 2710 of IGRA authorizes the Chairman of the Commission to approve Class II and Class III tribal gaming ordinances. Section 2710(d)(2)(B) of IGRA, as implemented by NIGC regulations, 25 CFR 522.8, requires the Chairman to publish, in the **Federal Register**, approved Class III tribal gaming ordinances and the approvals thereof.

IGRA requires all tribal gaming ordinances to contain the same requirements concerning tribes' sole proprietary interest and responsibility for the gaming activity, use of net revenues, annual audits, health and safety, background investigations and licensing of key employees and primary management officials. The Commission, therefore, believes that publication of each ordinance in the **Federal Register** would be redundant and result in unnecessary cost to the Commission.

Thus, the Commission believes that publishing a notice of approved Class III tribal gaming ordinances in the **Federal Register**, is sufficient to meet the requirements of 25 U.S.C. 2710(d)(2)(B). Every approved tribal gaming ordinance, every approved ordinance amendment, and the approval thereof, are posted on the Commission's

On March 6, 2018, the Chairman of the National Indian Gaming Commission approved Ione Band of Miwok Indians' Class III Gaming Ordinance. A copy of the ordinance and approval letter can be found on the NIGC's website (*www.nigc.gov*) under General Counsel, Gaming Ordinances. A copy of the approved Class III ordinance will also be made available upon request. Requests can be made in writing to the Office of General Counsel, National Indian Gaming Commission, Attn: Frances Fragua, 1849 C Street NW, MS #1621, Washington, DC 20240.

National Indian Gaming Commission.

Dated: February 28, 2020.

Michael Hoenig,

General Counsel.

[FR Doc. 2020–04434 Filed 3–3–20; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–WHHO–WHHOA1–29752; PPNCWHHOA1; PPMPSPD1Z.YM0000]

Committee for the Preservation of the White House Notice of Public Meeting

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, the National Park Service (NPS) is hereby giving notice that the Committee for the Preservation of the White House will meet as indicated below.

DATES: The meeting will take place on Monday, March 23, 2020. The meeting will begin at 10:00 a.m. until 11:30 a.m. (Eastern).

ADDRESSES: The meeting will be held at the White House, 1600 Pennsylvania Avenue NW, Washington, DC 20500.

FOR FURTHER INFORMATION CONTACT: Comments may be provided to: John Stanwich, Executive Secretary, Committee for the Preservation of the White House, 1849 C Street NW, Room #1426, Washington, DC 20240, by telephone (202) 219–0322, or by email *ncr_whho_superintendent@nps.gov.*

SUPPLEMENTARY INFORMATION: The Committee has been established in accordance with Executive Order No. 11145, 3 CFR 184 (1964–1965), as amended. The Committee reports to the President of the United States and advises the Director of the NPS with respect to the discharge of responsibilities for the preservation and interpretation of the museum aspects of the White House pursuant to the Act of September 22, 1961 (Pub. L. 87–286, 75 Stat. 586).

Purpose of the Meeting: The agenda will include policies, goals, and long-range plans.

If you plan to attend this meeting, you must register by close of business on Friday, March 20, 2020. Please contact John Stanwich, Executive Secretary *ncr_whho_superintendent@nps.gov* or phone (202) 219–0322 to register. Space is limited and requests will be accommodated in the order they are received. The meeting will be open, but subject to security clearance requirements. The Executive Secretary will contact you directly with the security clearance requirements. Inquiries may be made by calling the Executive Secretary between 9:00 a.m. and 4:00 p.m. weekdays at (202) 219–0322. Written comments may be sent to the Executive Secretary, Committee for the Preservation of the White House, 1849 C Street NW, Room #1426, Washington, DC 20240. All written comments received will be provided to the Committee.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your written comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 5 U.S.C. Appendix 2)

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2020–04042 Filed 3–3–20; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1152]

Certain Vehicle Security and Remote Convenience Systems and Components Thereof; Commission Determination Not To Review an Initial Determination Terminating the Investigation in Its Entirety Based on a Settlement Agreement; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 20) of the presiding administrative law judge (''ALJ'') granting the parties' joint motion to terminate the investigation in its entirety based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3179. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 10, 2019, based on a complaint filed by DEI Holdings, Inc. and Directed, LLC, both of Vista, California, and Directed Electronics Canada Inc. of Lachine, Quebec, Canada (collectively, ''Complainants''). 84 FR 14395–96 (Apr. 10, 2019). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain vehicle security and remote convenience systems and components thereof, by reason of infringement of certain claims of U.S. Patent Nos. 7,191,053 (''the '053 patent''); 7,483,783 (''the '783 patent''); 7,646,285; 7,898,386; and 8,378,800. *Id.* at 14396. The complaint further alleged that a domestic industry exists. *Id.* The notice of investigation named as respondents Automotive Data Solutions Inc. of Montreal, Quebec, Canada; Firstech, LLC of Kent, Washington (collectively, ''Respondents''); and AAMP of Florida, Inc. (''AAMP'') of Clearwater, Florida. *Id.* The Office of Unfair Import Investigations was not named as a party. Respondent AAMP was later terminated from the investigation based on a settlement agreement. Order No. 7 (Oct. 3, 2019), *as amended by* Corrected Order No. 7 (Oct. 4, 2019), *not reviewed by* Comm'n Notice (Oct. 22, 2019).

On December 10, 2019, Respondents filed (1) a motion for partial termination of the investigation based on Complainants' lack of standing to assert the '053 and '783 patents; and (2) a motion to strike the ''Belated Production of the 2006 Astroflex Asset Purchase Agreement and Supplemental Responses to Respondents' Interrogatory No. 23.'' On December 23, 2019, Complainants filed oppositions to Respondents' motions. On December 30, 2019, Respondents filed replies in support of their motions.

On January 9, 2020, the ALJ issued an ID (Order No. 18) addressing both of Respondents' motions. That ID (1) granted Respondents' motion for partial termination as to the '053 and '783 patents for lack of standing, ID at 2, 10–11; and (2) denied as moot Respondents' motion to strike ''in light of the decision herein to terminate the investigation with respect to the '053 and '783 patents,'' *id.* at 3 n.2.

On January 15, 2020, Complainants filed a motion for reconsideration of the ID (Order No. 18) under Ground Rule 3.12. On January 17, 2020, Complainants also filed a petition for review of the ID, requesting that the Commission remand for a hearing on the '053 and '783 patents. Pet. at 4.

On January 24, 2020, the parties filed a joint motion to terminate the investigation in its entirety based on a settlement agreement.

On January 31, 2020, the ALJ issued the subject ID (Order No. 20) granting the joint motion and terminating the investigation in its entirety. The ID found that the motion complies with Commission Rules, and that ''[t]here is no evidence of any . . . adverse effects [on the public interest].'' ID at 2 (citations omitted). No petitions for review of the subject ID were filed.

On February 10, 2020, the Commission decided to extend until March 3, 2020, the date for determining whether to review the ALJ's earlier ID (Order No. 18) that terminates the investigation in part based on Complainants' lack of standing to assert certain patents. *See* Comm'n Notice (Feb. 10, 2020).

The Commission has determined not to review the subject ID. The Commission has also determined that Order No. 18 is moot. The investigation is hereby terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: February 28, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–04442 Filed 3–3–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act and the Resource Conservation and Recovery Act

On February 27, 2020, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of Missouri in the lawsuit entitled *United States* v. *Dyno Nobel, Inc.,* Case No. 3:19–CV–05031–MDH.

The United States filed this lawsuit against Dyno Nobel, Inc., (Dyno Nobel) for alleged violations of the Clean Water Act (CWA) and the Resource Conservation and Recovery Act (RCRA) at its facilities in Carthage, Missouri and Louisiana, Missouri. Specifically, the United States alleged that Dyno Nobel violated the CWA at both facilities by discharging pollutants in amounts that exceeded the facilities' permitted limits; failing to properly sample and monitor discharges; and failing to appropriately manage stormwater. The United States further alleged that Dyno violated RCRA by disposing of hazardous waste at both facilities without a permit, and at the Carthage Facility, by failing to meet requirements for the generation and transportation of hazardous waste.

Under the proposed Consent Decree Dyno Nobel will undertake injunctive measures at both its facilities. At its Carthage facility, Dyno Nobel will separate stormwater from process wastewater, ship high-strength wastewater off-site, update its stormwater program, sample and clean up discrete areas, and construct a baghouse to address dope releases. At its Louisiana facility, Dyno will perform a sewer survey and update its stormwater program. Dyno Nobel will also pay a civil penalty of $2.9 million in addition to interest. In return, the United States agrees not to sue for the claims alleged in the Complaint and for additional permit violations through, the date of lodging (February 27, 2020).

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Dyno Nobel, Inc.,* D.J. Ref. No. 90–5–1–1–11542. All comments must be submitted no later

than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $10.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2020–04393 Filed 3–3–20; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Memorandum for the Heads of Executive Departments and Agencies on the PEER Initiative: Protecting Employees, Enabling Reemployment

SUMMARY: The Office of Management and Budget has directed the Secretary of Labor to publish a memorandum on the PEER Initiative in the **Federal Register**, as part of the President's Management Agenda—Modernizing Government for the 21st Century and the President's Initiative to Stop Opioid Abuse and Reduce Drug Supply and Demand. Federal agencies and the United States Postal Service are expected to improve or maintain performance in seven areas related to work-related injuries.

SUPPLEMENTARY INFORMATION: Each year, federal civilian employees sustain work-related injuries and illnesses. In 2018, federal workers filed almost 107,000 new claims and received approximately $3 billion in workers' compensation payments. Many of these work-related injuries and illnesses are preventable, and executive departments and agencies can and should do more to improve workplace safety and health, improve efficiencies, reduce the financial burden of injury on taxpayers, and relieve unnecessary suffering by workers and their families.

Therefore, the Protecting Employees, Enabling Reemployment (PEER) Initiative is being created to set forth goals to achieve these important objectives and supports the President's Management Agenda—Modernizing Government for the 21 Century and the President's Initiative to Stop Opioid Abuse and Reduce Drug Supply and Demand. Federal agencies and the United States Postal Service are expected to improve or maintain performance in seven areas:

1. Reducing total injury and illness case rates;
2. reducing lost-time injury and illness case rates;
3. increasing the timely filing rate for workers' compensation claims;
4. increasing the timely filing rate for wage-loss claims;
5. increasing the rate of return-to-work outcomes during the initial 45 day post-injury period for traumatic injury cases;
6. improving the rate at which employees return to work in cases of moderate to severe injury or illness; and
7. implementing and fully using the Department of Labor's electronic filing system.

Goals one through six measure reductions in workplace injuries, reductions in time off work because of injuries, improvements in return-to-work, and improving the rate of timely filed claims, all of which help relieve unnecessary suffering by workers and reduce the financial burden of injury on taxpayers. The seventh goal will standardize the claims process. It will also aid in direct and immediate communication with an injured employee, facilitating prompt treatment and providing critical opioid awareness and pain education.

Executive departments and agencies shall coordinate with the Department of Labor's Occupational Safety and Health Administration and Office of Workers' Compensation Programs to develop strategies aimed at achieving performance targets in each category. The Secretary of Labor shall lead the initiative by measuring both government-wide and agency-level performance. Each executive department and agency shall bear its own costs for participating in the PEER Initiative. Nothing in this memorandum shall be construed to impair or otherwise affect the authority granted by law to an executive department or agency, or the head thereof. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable by law or in equity by any party against the United States; its departments, agencies, or entities; its officers, employees, or agents; or any other person.

Signed at Washington, DC, this 26th day of February, 2020.

Julia K. Hearthway,

Director, Office of Workers' Compensation Programs.

BILLING CODE 4510–24–P

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

January 9, 2020

M-20-08

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: RUSSELL T. VOUGHT
ACTING DIRECTOR

SUBJECT: The PEER Initiative: Protecting Employees, Enabling Reemployment

Each year, Federal civilian employees sustain work-related injuries and illnesses. In 2018, Federal workers filed almost 107,000 new claims and received approximately $3 billion in workers' compensation payments. Many of these work-related injuries and illnesses are preventable, and executive departments and agencies can and should do more to improve workplace safety and health, improve efficiencies, reduce the financial burden of injury on taxpayers, and relieve unnecessary suffering by workers and their families.

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This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable by law or in equity by any party against the United States; its departments, agencies, or entities; its officers, employees, or agents; or any other person.

The Secretary of Labor is authorized and directed to publish this memorandum in the Federal Register.

cc: Chief Human Capital Officers
Human Resource Directors

[FR Doc. 2020–04390 Filed 3–3–20; 8:45 am]
BILLING CODE 4510–24–C

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Submission for OMB Review, Comment Request, Proposed Collection Requests: Museum Capacity-Building Programs Assessment Project

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Submission for OMB review, comment request.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this Notice is to solicit comments about this assessment process, instructions and data collections.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **FOR FURTHER INFORMATION CONTACT** section below on or before April 3, 2020.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

ADDRESSES: Comments should be sent to Office of Information and Regulatory Affairs, *Attn.:* OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Reich, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Mr. Reich can be reached by Telephone: 202–653–4685, Fax: 202–653–4601, or by email at *creich@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services is the primary source of federal support for the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. Our vision is a nation where museums and libraries work together to work together to transform the lives of individuals and communities. To learn more, visit *www.imls.gov.*

Current Actions: Over its history, the Institute of Museum and Library Services (IMLS) has invested in a wide range of organizational capacity building and technical assistance for the museum sector through grant making and special initiatives. Through this project, IMLS seeks to strengthen the alignment of its investments, and other offerings in the sector, and understand the full scope of existing museum capacity building opportunities, including but not limited to organizational assessment, coaching, cohort learning, self-driven communities of practice, and self-serve resources. Through this assessment project, IMLS seeks to obtain a holistic view of the museum target audience and needs for capacity building support, identify potential gaps in the suite of current offerings, and define both

opportunities and partnerships for new and expanded offerings.

This action is to seek approval for the information collection for the Museum Capacity-Building Assessment Programs for the next three years. Agency: Institute of Museum and Library Services. Title: Museum Capacity-Building Programs Assessment Project.

The 30-day notice for the Museum Capacity-Building Programs Assessment Project, was published in the **Federal Register** on February 1, 2019 (84 FR 1239). No comments were received.

Agency: Institute of Museum and Library Services.

Title: Museum Capacity-Building Programs Assessment Project.

OMB Number: 3137–TBD.

Agency Number: 3137.

Affected Public: Federal, State and local governments, museums.

Number of Respondents: 1,084.

Frequency: Once.

Burden Hours per Respondent: 0.944.

Total Burden Hours: 391.

Total Annual Costs: $10,897.17.

Dated: February 27, 2020.

Kim Miller,

Senior Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2020–04382 Filed 3–3–20; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Implementation of Executive Order 13891: Guidance Documents

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Notice.

SUMMARY: Through this notice, the Institute of Museum and Library Services announces the existence and location of an online guidance portal. This portal is designed to enable the public and our stakeholders to easily locate the Institute's guidance documents.

DATES: The portal is online as of February 28, 2020.

ADDRESSES: The portal URL is *www.imls.gov/guidance.*

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, 4th Floor, Washington, DC 20024. Email: *nweiss@imls.gov.* Telephone: (202) 653–4657.

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and the implementing guidance from the Office of Management and Budget in memorandum M–20–02, the Institute of Museum and Library Services (IMLS) is establishing on its website a centralized guidance portal that contains or links to all IMLS guidance documents currently in effect. This guidance portal, located at *www.imls.gov/guidance,* does not replace the information contained in content-specific areas of the IMLS website. Individuals who already access IMLS guidance documents through these pages (such as our grants management pages) may continue to do so.

Dated: February 28, 2020.

Amanda Bakale,

Assistant General Counsel, Institute of Museum and Library Services.

[FR Doc. 2020–04454 Filed 3–3–20; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes Charter Renewal

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of renewal of the charter of the Advisory Committee on the Medical Uses of Isotopes.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has determined that renewal of the charter for the Advisory Committee on the Medical Uses of Isotopes (ACMUI) until February 28, 2022, is in the public interest in connection with duties imposed on the Commission by law. This action is being taken in accordance with the Federal Advisory Committee Act, after consultation with the Committee Management Secretariat, General Services Administration.

The purpose of the ACMUI is to provide advice to the NRC on policy and technical issues that arise in regulating the medical use of byproduct material for diagnosis and therapy. Responsibilities include providing guidance and comments on current and proposed NRC regulations and regulatory guidance concerning medical use; evaluating certain non-routine uses of byproduct material for medical use; and evaluating training and experience of proposed authorized users. The members are involved in preliminary discussions of major issues in determining the need for changes in NRC policy and regulation to ensure the continued safe use of byproduct material. Each member provides technical assistance in his/her specific area(s) of expertise, particularly with respect to emerging technologies. Members also provide guidance as to NRC's role in relation to the responsibilities of other Federal agencies as well as of various professional organizations and boards.

Members of this Committee have demonstrated professional qualifications and expertise in both scientific and non-scientific disciplines including nuclear medicine; nuclear cardiology; radiation therapy; medical physics; nuclear pharmacy; State medical regulation; patient's rights and care; health care administration; and Food and Drug Administration regulation.

CONTACT INFORMATION: Kellee Jamerson, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Telephone: (301) 415–7408 or at *kellee.jamerson@nrc.gov.*

Dated: February 28, 2020.

Russell E. Chazell,

Federal Advisory Committee Management Officer.

[FR Doc. 2020–04408 Filed 3–3–20; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88296; File No. SR–GEMX–2020–05]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 3, Section 7, ''Types of Orders'' To Permit the Exchange To Determine the Availability of Order Types and Time-In-Force Provisions

February 27, 2020.

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 February 14, 2020, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Options 3, Section 7, ''Types of Orders'' to permit the Exchange to determine the availability of order types and time-in-force provisions.

The Exchange requests that the Commission waive the 30-day operative delay period contained in Exchange Act Rule 19b–4(f)(6)(iii).[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Options 3, Section 7, ''Types of Orders'' to provide that the Exchange may determine which order types and times-in-force provisions are available on a class or system basis. This proposed change is based on the rules of Cboe BZX Exchange, Inc. (''BZX Options''),[4] Rule 21.1, Cboe EDGX Exchange, Inc. (''EDGX Options'') Rule 21.1,[5] Cboe Exchange, Inc. (''Cboe'') Rule 5.6[6] and Cboe C2 Exchange, Inc. (''C2'') Rule 6.10(a).[7] The Exchange proposes to also amend the title of the rule from ''Types of Orders'' to ''Types of Orders and Order and Quote Protocols'' to reflect the information in the rule.

The Exchange proposes to add rule text at the beginning of Options 3, Section 7 which states, ''The Exchange may determine to make certain order types and time-in-force, respectively, available on a class or System basis.'' The purpose of this rule change is to provide the Exchange with appropriate flexibility to address different trading characteristics, market models, and the investor base of each class, as well as to handle any System issues that may arise and require the Exchange to temporarily not accept certain order types. This rule is consistent with BZX Options Rule 21.1, EDGX Options Rules 21.1(d) and 21.1(f), Cboe Rule 5.6 and C2 Rule 6.10(a), each of which provides these exchanges with the same flexibility. The Exchange intends to file rule changes to adopt this rule across all Nasdaq affiliated markets.

This rule change will not permit the Exchange to discriminate among market participants when determining which order types and times-in-force provisions are available on a class or system basis. The Exchange's proposal allows the Exchange to make certain order types and time-in-force, respectively, available on a class or System basis uniformly for all market participants. For example, if the Exchange determined to make a certain order type unavailable, that order type would not be available for any market participant.

The Exchange would issue an Options Trader Alert to provide notification to Participants that a change is being made to the availability or unavailability of a certain order type or time-in-force. The Exchange notes that in the event of System disruption, the Exchange would notify Participants of the unavailability of any order type and would also provide notification when that order type was available once the disruption was resolved.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The proposed rule change would provide the Exchange with the flexibility to determine the availability of order types and times-in-force on a class and System basis. This flexibility would remove impediments to and perfect the mechanism of a free and open market and a national market system by allowing the Exchange to address the specific characteristics of different classes and different market conditions. The Exchange believes that this proposal serves to protect investors by ensuring that the appropriate order types and times-in-force are tailored to the different class characteristics and by mitigating risks associated with changing market conditions.[10] The Exchange would issue a notification to Participants to provide them notice that a change is being made to the availability or unavailability of a certain order type or time-in-force before implementing the change. In the event of a System issue, the Exchange believes that it is consistent with the Act to temporarily not offer a certain order type to ensure the proper executions of transactions within the System thereby protecting investors and the public interest. The Exchange anticipates that exercising its ability to temporarily not offer order types would be infrequent.

Adding this provision on all Nasdaq affiliated markets will ensure consistency between the Exchange rules and that of its affiliates and would remove impediments to and perfect the

[3] 17 CFR 240.19b–4(f)(6)(iii).

[4] BZX Options Rule 21.1(d), Definitions, provides ''The term ''Order Type'' shall mean the unique processing prescribed for designated orders, subject to the restrictions set forth in paragraph (l) below with respect to orders and bulk messages submitted through bulk ports, that are eligible for entry into the System. Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following Order Types are available on a class or system basis.''

BZX Options Rule 21.1(f), Definitions, provides ''The term ''Time in Force'' means the period of time that the System will hold an order, subject to the restrictions set forth in paragraph (j) below with respect to bulk messages submitted through bulk ports, for potential execution. Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following Times-in-Force are available on a class, system, or trading session basis. Rule 21.20 sets forth the Times-in-Force the Exchange may make available for complex orders.''

[5] EDGX Options Rule 21.1, Definitions, provides, ''The term ''Order Type'' shall mean the unique processing prescribed for designated orders, subject to the restrictions set forth in paragraph (j) below with respect to orders and bulk messages submitted through bulk ports, that are eligible for entry into the System. Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following Order Types are available on a class, system, or trading session basis. Rule 21.20 sets forth the Order Types the Exchange may make available for complex orders.''

[6] Cboe Rule 5.6, Availability of Orders, provides, ''Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following order types are available on a class-by-class and system-by-system basis.''

[7] C2 Rule 6.10(a), Availability of Orders, provides, ''*Availability.* Unless otherwise specified in the Rules or the context indicates otherwise, the Exchange determines which of the following order types, Order Instructions, and Times-in-Force are available on a class, system, or trading session basis. Rule 6.13 sets forth the order types, Order Instructions, and Times-in-Force the Exchange may make available for complex orders.''

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] The Exchange may also determine to temporarily not offer an order type or a time-in-force based on a System issue.

mechanism of a free and open market and promote just and equitable principles of trade, as well as foster cooperation and coordination with persons engaged in facilitating transactions in securities. The proposed rule change provides the Exchange with the same flexibility currently permitted on BZX Options, EDGX Options, Cboe and C2. The Exchange believes that this consistency promotes market participants' understanding of the rules across the multiple affiliated exchanges and promotes a fair and orderly national options market system. The Exchange also notes that the proposed change is reasonable and does not affect investor protection because the proposed change does not present any novel or unique issues, as it has previously been filed with the Commission.

The Exchange's proposal is not unfairly discriminatory because the Exchange will not discriminate among market participants when determining which order types and times-in-force provisions are available on a class or system basis. The Exchange's proposal allows the Exchange to make certain order types and time-in-force, respectively, available on a class or System basis uniformly for all market participants. For example, if the Exchange determined to make a certain order type unavailable, that order type would not be available for any market participant.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intra-market competition, as the proposed rule change will apply in the same manner to all order types and/or times-in-force, as the Exchange determines, for all Participants. The Exchange does not believe the proposed rule change will impose any burden on inter-market competition because the proposed change provides the Exchange with substantially the same flexibility as the rules of other exchanges.[11] Therefore, the Exchange believes that the proposed rule change will allow it to make determinations regarding the availability of orders that will enable it to remain competitive as markets and market conditions evolve.

The Exchange's proposal does not impose an undue burden on competition because the Exchange's proposal will uniformly make certain order types and time-in-force, respectively, available on a class or System basis for market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b-4(f)(6) thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6)[16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. The Exchange notes that waiver of the operative delay will allow GEMX to exercise immediately the same flexibility to make certain order types available or unavailable as BZX Options, EDGX Options, Cboe, and C2. The Exchange states that this flexibility would serve to protect investors and the public interest by mitigating risks associated with changing market conditions. Based on the foregoing, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–GEMX–2020–05 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–GEMX–2020–05. 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

[11] *See* notes 4–6 above.

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2020–05, and should be submitted on or before March 25, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–04392 Filed 3–3–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88297; File No. SR–LCH SA–2020–001]

Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to Amendments to the Wind Down Plan

February 27, 2020.

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 February 24, 2020, 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 primarily 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 adopt an updated wind down plan (the ''WDP''). The text of the proposed rule change has been annexed as Exhibit 5.

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

On September 28, 2016, the Securities and Exchange Commission (the ''Commission'') adopted amendments to Rule 17Ad–22[3] pursuant to Section 17A of the Securities Exchange Act of 1934 (the ''Act'')[4] and the Payment, Clearing and Settlement Supervision Act of 2010 (''Clearing Supervision Act'')[5] to establish enhanced standards for the operation and governance of those clearing agencies registered with the Commission that meet the definition of a ''covered clearing agency,'' as defined by Rule 17Ad–22(a)(5)[6] (collectively, the new and amended rules are herein referred to as ''CCA rules'').

LCH SA is a covered clearing agency under the CCA rules and therefore is subject to the requirements of the CCA rules, including Rule 17Ad–22(e)(3). The CCA rules require that covered clearing agencies, among other things: ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which . . . includes plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.''[7]

As a central counterparty recognized under the European Market Infrastructure Regulation (''EMIR''), LCH SA is also required to have in place relevant recovery and wind down mechanisms required under EMIR.[8]

As a credit institution based in the European Union, LCH SA is also subject to Directive 2014/59/EU, as supplemented, requiring institutions to draw up and maintain recovery plans setting forth options for measures to be taken by the institution to restore its financial position following a significant deterioration of its financial position.

The purpose of the WDP is to ensure an orderly wind down of the CCP under extreme circumstances and to limit market impact as much as possible, should the recovery plan (the ''RP'')[9] or the resolutions measures that could have been taken by the authorities have failed to allow the CCP to obtain the resources required to a return to business as usual conditions.

The WDP sets out the steps that LCH SA would follow to close its clearing services and shut down the company. The plan demonstrates how LCH SA, as it exists today, can achieve this orderly wind down within six (6) months.

In addition, in order to ensure the feasibility of the plan, LCH SA holds capital, funded by equity, equal to the operating expenses for a six (6) month period. LCH SA has estimated the amount required to wind down and ensures that it remains inferior to the level of capital set aside.

Although, it is only required to update the wind down plan when a significant change has occurred, LCH SA has decided to review its wind down plan on an annual basis or more frequently if required. The objective of this annual review is to update the overall cost to wind down in order to ensure it remains under the amount of capital held for that purpose, update the assessment of key contract termination provisions, align with the recovery plan if need be and more generally complete the plan with any areas for improvement which could have been detected during the year. In 2018, LCH SA conducted a review of the wind down and identified two areas that needed to be addressed.

The revised version of the plan clarifies the fact that, in accordance with its banking status and with its rules, LCH SA could not decide to wind down by itself but that, if the CCP is no longer deemed viable by its authorities, the ACPR could require LCH SA to start to wind down. This requirement could be made while the CCP is operating under its current governance or once it has been put under resolution by the

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.17Ad–22.

[4] 15 U.S.C. 78q–1.

[5] 12 U.S.C. 5461 *et. seq.*

[6] 17 CFR 240.17Ad–22(a)(5).

[7] 17 CFR 240.17Ad–22(e)(3)(ii).

[8] Regulation (EU) No. 152/2013 of 19 December 2012, Article 2.

[9] See LCH SA File No. SR–LCH SA–2019–008.

ACPR. Only in the case where all business lines have been previously closed and the CCP has no longer any clearing activity, could it decide to wind down alone. The corresponding paragraphs related to the triggers, discussions with the regulators, the governance process and the assumptions have also been clarified accordingly.

Wind down clauses have been added to the contract, which governs the staff redundancy processes. It now formally stipulates that the conditions of this contract would not apply in case of wind down and only legal conditions, which are less demanding for the CCP, would be applicable.

The other changes are of a secondary nature. The wind down costs have been updated. They remain significantly lower to what LCH SA holds as liquid resources corresponding to 6 months of expenses as required by regulation. The assessment of key exchange and IT contract termination provisions has also been updated. The contracts with platforms recently connected to LCH SA have been added as well as the agreement governing the staff redundancy processes.

The WDP, which was approved by the Board of Directors on May 14th 2019, has been annexed as Exhibit 5. LCH SA has requested confidential treatment of the plan as Exhibit 5, however the main changes are described above.

2. Statutory Basis

Rule 17Ad–22(e)(3)(ii) requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to ensure that it establishes plans for the orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses. The proposed revised version of the plan does not bring any material change to the currently approved plan, however the annual review ensures that it is appropriately maintained and continues to be operational should it have to be triggered.

Changing the wording in the plan with respect to the role of ACPR will clarify the responsibilities in the triggering of the plan and avoid any misunderstanding with LCH SA's governance.

Integrating the redundancy contract concluded between the management and the Unions and which governs the laying off staff in the wind down plan and adding wind down clauses to it, has reduced legal uncertainties regarding the management of staff redundancies. By adding two new contracts with recently connected platforms, LCH SA made sure that these contracts contained wind down provisions.

Rule 17Ad–22(e)(15)(i) requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to determine the amount of liquid net assets funded by equity based upon its general business risk profile and the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services if such action is taken.

LCH SA has updated the cost of wind down noted in the plan. This amount remains significantly under the amount of capital, funded by equity, equal to the six months of operating expenses that the CCP holds for that purpose. LCH SA bases its calculation on the latest audited expenses.

Rule 17Ad–22(e)(15)(ii) requires a clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for holding liquid net assets funded by equity equal to the greater of either six months of its current operating expenses or the amount determined by the board of directors to be sufficient to ensure a recovery or orderly wind-down of critical operations and services of the covered clearing agency, as contemplated by the plans established under Rule 17Ad–22(e)(3)(ii).

LCH SA believes that its proposed WDP meets this requirement given the demonstration that LCH SA can achieve an orderly wind down within six (6) months. The calculation of the overall cost of winding down has been updated. It is very substantially lower that the six (6) months of Operational expenses that the CCP holds in cash or highly liquid securities. The regular review and reassessment of the plan ensures that it remains up to date and relevant.

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.[10]

LCH SA does not believe the proposed rule change would impact or impose any burden on competition as it mainly relates to clarification and updates and no fundamental change is made to the plan. The proposed rule change would maintain LCH SA's WDP up to date in accordance with and for the purposes of the CCA rules and would continue to ensure its applicability.

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–2020–001 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–2020–001. 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

[10] 15 U.S.C. 78q–1(b)(3)(I).

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–2020–001 and should be submitted on or before March 25, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–04391 Filed 3–3–20; 8:45 am]

BILLING CODE 8011–01–P

THE TENNESSEE VALLEY AUTHORITY

Executive Order 13891 Guidance Document Website Notice of Availability

Authorities: The Administrative Procedures Act, 5 U.S.C. 553; Presidential Executive Order 13891; and the Office of Management and Budget Memorandum M–20–02, entitled *MEMORANDUM FOR REGULATORY POLICY OFFICERS AT EXECUTIVE DEPARTMENTS AND AGENCIES AND MANAGING AND EXECUTIVE DIRECTORS OF CERTAIN AGENCIES AND COMMISSIONS, regarding Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents*'' from Dominic J. Mancini, Acting Administrator, Office of Information and Regulatory Affairs.

SUMMARY: The Tennessee Valley Authority (TVA) provides notice of availability of a new guidance portal on the TVA website, in accordance with Executive Order 13891 (E.O. 13891) and corresponding guidance from the Office of Management and Budget. TVA intends to place all guidance documents, as defined by E.O. 13891 and the Administrative Procedures Act, on the guidance portal from this point forward. All existing guidance documents on the new guidance portal will remain in effect as TVA guidance documents, and all forthcoming TVA guidance documents will be placed on the new guidance portal.

DATES: February 28, 2020.

Place: The Tennessee Valley Authority website, at *www.tva.gov/guidance.*

Contact Person for More Information: For more information, please contact Hill Henry, TVA Environment and Energy Policy, at (865) 632–6362, or at *thhenry@tva.gov,* Knoxville, Tennessee.

Travis Hill Henry,

Program Manager, Environmental and Energy Policy, Tennessee Valley Authority Counsel.

[FR Doc. 2020–04426 Filed 3–3–20; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on a Land Release Request for Change in Use From Aeronautical to Non-Aeronautical at Bay Bridge Airport, Stevensville, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request for a change in use of on-airport property.

SUMMARY: The FAA proposes to rule and invites public comment on Queen Anne's County's request to change 7.663 acres of federally obligated airport property at Bay Bridge Airport, Stevensville, MD from aeronautical to non-aeronautical use. This acreage was originally purchased with federal financial assistance through the Airport Improvement Program. The proposed use of land after the sale will be compatible with the airport and will not interfere with the airport or its operation.

DATES: Comments must be received on or before April 3, 2020.

FOR FURTHER INFORMATION CONTACT: Comments on this application may be mailed or delivered to the following address:

Linda Steiner, Airport Manager, Bay Bridge Airport, 202 Airport Road, Stevensville, MD 21666, (410) 643–4364

and at the FAA Washington Airports District Office:

Matthew Thys, Manager, Washington Airports District Office, 13873 Park Center Road, Suite 490S, Herndon, VA 20171, (703) 487–3980

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 106–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by grant agreements. The following is a brief overview of the request.

Queen Anne's County has submitted a land release request seeking FAA approval for the change in use of approximately 7.663 acres of federally obligated airport property from aeronautical to non-aeronautical use. The property is situated on the north side of Pier One Road. Due to this location, the subject area is unable to be utilized for aviation purposes because the airport operations area is located to the south of Pier One Road. Thus, the subject area is inaccessible to aircraft.

The 7.663 acres of land to be released was originally purchased as part of a 24.835-acre parcel with federal financial assistance through the AIP program under Grant Agreement 3–24–0036–17–2005. As foreseen at the time of the execution of this Grant Agreement, the only portion of the 24.835-acre parcel that was required for aeronautical use is the portion of the parcel to the south of Pier One Road. Subsequent to the implementation of the proposed change in use, rents received by the airport from this property is considered airport revenue, and will be used in accordance with 49 U.S.C. 47107(b) and the FAA's Policy and Procedures Concerning the Use of Airport Revenue published in the **Federal Register** on February 16, 1999. The proposed use of the property will not interfere with the airport or its operation.

Issued in Herndon, Virginia.

Matthew Thys,

Manager, Washington Airports District Office.

[FR Doc. 2020–04413 Filed 3–3–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on a Land Release Request at Bay Bridge Airport (W29), Stevensville, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

[11] 17 CFR 200.30–3(a)(12).

ACTION: Notice of request to release airport land.

SUMMARY: The FAA proposes to rule and invites public comment on Queen Anne's County's request for a land release and sale of 8.111 acres of federally obligated airport property at Bay Bridge Airport, Stevensville, MD, to accommodate a commercial development. This acreage was originally purchased with federal financial assistance through the Airport Improvement Program. The proposed use of land after the sale will be compatible with the airport and will not interfere with the airport or its operation.

DATES: Comments must be received on or before April 3, 2020.

FOR FURTHER INFORMATION CONTACT: Comments on this application must be mailed or delivered to the following addresses:

Linda Steiner, Airport Manager, Bay Bridge Airport, 202 Airport Road, Stevensville, MD 21666, (410) 643–4364

and at the FAA Washington Airports District Office:

Matthew Thys, Manager, Washington Airports District Office, 13873 Park Center Road, Suite 490S, Herndon, VA 20171, (703) 487–3980

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 106–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by grant agreements. The following is a brief overview of the request.

Queen Anne's County has submitted a land release request seeking FAA approval for the sale and disposal of approximately 8.111 acres of federally obligated airport property to The Gardens of Queen Anne, LLC for the purpose of commercial development. The project will include an inn (hotel), clubhouse, restaurant and retail space. The property is situated on the north side of Pier One Road. Due to this location, the subject area is unable to be utilized for aviation purposes because the airport operations area is located to the south of Pier One Road. Thus, the subject area is inaccessible to aircraft.

The 8.111 acres of land to be released was originally purchased as part of a 24.835-acre parcel with federal financial assistance through the AIP program under Grant Agreement 3–24–0036–17–2005. As foreseen at the time of the execution of this Grant Agreement, the only portion of the 24.835-acre parcel that was required for aeronautical use is the portion of the parcel to the south of Pier One Road. The portion of the proceeds of the sale of this acreage, which is proportionate to the United States' share of the cost of acquisition of such land, will be used consistent with the requirements of 49 U.S.C. 47107(c). The remaining portion of the proceeds of the sale, is considered airport revenue, and will be used in accordance with 49 U.S.C. 47107(b) and the FAA's Policy and Procedures Concerning the Use of Airport Revenue published in the **Federal Register** on February 16, 1999. The proposed use of the property will not interfere with the airport or its operation.

Issued in Herndon, Virginia.

Matthew Thys,

Manager, Washington Airports District Office.

[FR Doc. 2020–04415 Filed 3–3–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2020–0228]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Pilots Convicted of Alcohol or Drug-Related Motor Vehicle Offenses Subject to State Motor Vehicle Administrative Procedure; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves receiving and maintaining correspondence required to be sent to the FAA from pilots who have been involved in a drug or alcohol related motor vehicle action. The information to be collected will be used to and/or is necessary because the FAA is concerned about those airmen abusing or dependent on drugs or alcohol in regard to the safety of the National Airspace System. Correction is being submitted to correct the docket number, Respondents, and Frequency information.

DATES: Written comments should be submitted by May 4, 2020.

ADDRESSES: Please send written comments:

By Electronic Docket: *www.regulations.gov* (Enter docket number into search field)

By mail: Christopher Marks, P.O. Box 25810, Oklahoma City, OK 73125

By fax: 405–954–4989

FOR FURTHER INFORMATION CONTACT: Christopher Marks by email at: *Christopher.Marks@faa.gov;* phone: 405–954–2789.

SUPPLEMENTARY INFORMATION: *Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0543.

Title: Pilots Convicted of Alcohol or Drug-Related Motor Vehicle Offenses Subject to State Motor Vehicle Administrative Procedure.

Form Numbers: No official form numbers used.

Type of Review: Renewal of an information collection.

Background: After a study and audit conducted from the late 1970's through the 1980's by the Department of Transportation, Office of the Inspector General, (DOT/OIG), the DOT/OIG recommended the FAA find a way to track alcohol abusers and those dependent on the substance that may pose a threat to the National Airspace (NAS). Through a Congressional act issued in November of 1990, the FAA established a Driving Under the Influence (DUI) and Driving While Intoxicated (DWI) Investigations Branch. The final rule for this program is found in Title 14 Code of Federal Regulations (CFR)—Part 61 § 61.15.

This regulation calls for pilots certificated by the FAA to send information regarding Driving Under the Influence (or similar charges) of alcohol and/or drugs to the FAA within 60 days from either an administrative action against their driver's license and/or criminal conviction. Part of the regulation also calls for the FAA to seek certificate action should an airman be involved in multiple, separate drug/alcohol related motor vehicle incidents within a three-year period. Information sent by the airmen is used to confirm or

refute any violations of these regulations, as well as by the Civil Aerospace Medical Institute (CAMI) for medical qualification purposes. Collection by CAMI is covered under a separate OMB control number 2120–0034.

An airman is required to provide a letter via mail or facsimile, with the following information: Name, address, date of birth, pilot certificate number, the type of violation which resulted in the conviction or administrative action, and the state which holds the records or action.

Respondents: 589 FAA airmen with drug and alcohol related motor vehicle actions provide approximately 862 reports per year over the last three years.

Frequency: On occasion.

Estimated Average Burden per Response: 20 Minutes.

Estimated Total Annual Burden: 20 minutes per report and 287 hours for all reports annually.

Issued in Oklahoma City, OK, on February 27, 2020.

Christopher Marks,

Security Specialist, Office of Security & Hazardous Materials Safety/Enforcement Standards & Policy Division, AXE–900.

[FR Doc. 2020–04388 Filed 3–3–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0056]

Hours of Service of Drivers: R.J. Corman Railroad Services, Cranemasters, Inc., and National Railroad Construction and Maintenance Association, Inc.

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

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant the application of R.J. Corman Railroad Services, Cranemasters, Inc., (collectively, ''the Companies'') and the National Railroad Construction and Maintenance Association, Inc. (NRC) for an exemption from the prohibition against driving a property-carrying commercial motor vehicle (CMV) after the 14th hour after coming on duty and driving after accumulating 60 hours of on-duty time in 7 consecutive days (60-hour rule), or 70 hours of on-duty time in 8 consecutive days (70-hour rule). The exemption will enable railroad employees subject to the hours-of-service (HOS) rules to respond to unplanned events that occur outside of or extend beyond the employee's normal work hours. FMCSA concluded that granting the Companies/NRC's application is likely to achieve a level of safety equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

DATES: The exemption is effective March 4, 2020 and expires March 4, 2025.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366–4325; Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (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–2019–0056 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. 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 also provide an opportunity for public comment on the request.

The Agency reviews 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 also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

The Companies and NRC requested an exemption from the HOS regulations in 49 CFR part 395 for their employees who respond to unplanned events that affect interstate commerce, service or the safety of railway operations, including passenger rail operations. These employees transport equipment used to clear derailed or disabled trains or debris blocking tacks or railroad rights-of-way.

The Companies and NRC explained that unplanned events often occur outside of normal business hours. Although in many cases the event is local in nature, allowing local government officials to declare an emergency that would exempt the company and its drivers from the HOS regulations, these officials have not done so. The Companies and NRC believe it would not be practical for them to do so in the future because (1) many unplanned events occur in remote locations where it may not be clear who is authorized to declare an emergency; (2) more than half of unplanned event call times occur between 4:00 p.m. and 7:00 a.m., including a large number between midnight and 7:00 a.m., making it virtually impossible for the railroads to obtain an emergency declaration before requesting a contractor to respond to the unplanned event; and (3) companies likely would not know if such an emergency

declaration had been issued before they respond to a call from a railroad.

The Companies/NRC compare the work of railroad employees or contractors responding to an emergency to that of utility service employees responding to an emergency. They argue that the rationale for the statutory utility service HOS exemption applies with equal force to railroad emergency response contractors responding to unplanned events.

The applicants are seeking an exemption from the HOS regulations for the time spent by their drivers driving to the site of the unplanned event. The term ''unplanned event'' includes the following: A derailment; a rail failure or other report of dangerous track condition; a disruption to the electric propulsion system; a bridge-strike; a disabled vehicle on the track; a train collision; weather- and storm-related events; a matter of national security; a matter concerning public safety; a blocked grade crossing, etc. According to the Companies the exemption would be narrower than the utility service exemption, which allows drivers to drive after they complete work restoring utility service. The Companies' application, on the other hand, would require drivers not to drive a CMV after completing work until they had obtained the required 10 hours or 34 hours of rest, depending on their cumulative hours on duty for the day and week. The applicants request the exemption be granted for five years. A copy of the application for exemption is available for review in the docket for this notice.

IV. Public Comments

On March 8, 2019, FMCSA published a notice seeking public comment on the exemption application (84 FR 8565). The Agency received 13 comments: Association of American Railroads and the American Short Line and Regional Railroad Association (*joint submission of comments*); Brotherhood of Maintenance of Way Employees and the Brotherhood of Railroad Signalmen (*joint submission of comments*); Kentuckians for Better Transportation; Keystone State Railroad Association; Mississippi Railroad Association; Ohio Railroad Association; Mr. Kevin Phillips; Railway Association of North Carolina; Mr. Bob Stanton; Mr. C. R. Stoeckmann; Tennessee Shortline Association; Utilco Railroad Services, Inc.; and, Virginia Fire Chiefs Association;

Eight organizations and one individual supported the request for an exemption. One organization and two individuals opposed the request. One company providing services like those of the applicants expressed interest in receiving similar relief but did not comment on the applicant's request.

The commenters writing in support of the exemption request emphasized the importance of responding to railroad emergencies in a timely manner. The Association of American Railroads and the American Short Line and Regional Railroad Association stated in their joint submission to the docket:

> ''There is a public interest in ensuring that railroads clear blocked tracks and rights-of-way and restore service as quickly as possible. It is essential that response contractors are able to assign the drivers closet to the incident . . . so that they can get to [the] job quickly and clear the blockage—thus enabling the railroads to remove the hazard and restore service as quickly as possible.''

The Virginia Fire Chiefs Association, Inc. explained:

> ''Derailments often involve leaks of crude oil, fuel and other hazardous materials, which can pollute water and air if not quickly remediated. There also may be risk of fire or explosions requiring evacuation of people from the area. Railroads rely on their response contractors who drive specialized equipment and clear blocked tracks and rights-of-way.''

The Brotherhood of Railroad Signalmen and Brotherhood of Maintenance of Way Employees Division and two individuals opposed the application. The groups stated:

> ''There is no logical or statistical argument from the Companies/NRC asserting that driving to an unplanned event as outlined in the application with a fatigued driver is any safer than driving from one. Furthermore, by removing the hours of service guidelines and simply stating, ''no driver is required to drive a vehicle if feeling fatigued'' puts the responsibility of not driving sole only the employed driver. Said driver is working in a historically retaliatory nonunion working environment. . . .''

The groups also argue the ''[p]etitioners have offered no data showing the frequency with which drivers run out of allowable working hours during any one of these incidents.'' The groups discussed several research studies and reports, concluding that a substantial body of evidence indicates that a chronic reduction in sleep time is associated with many long-term health problems. They also argue that ''scientific studies have established that driver fatigue and performance are dynamically influenced by the regulation of sleep need and endogenous circadian rhythms, including the need to obtain enough sleep to ensure recovery from work schedules that might induce either acute or chronic sleep deprivation.''

V. FMCSA Response to Comments and Decision

FMCSA Response

FMCSA agrees that the Companies need to respond to unplanned events in a timely manner. The Agency believes there is a public interest in ensuring that railroads clear blocked tracks and rights-of-way and restore service as quickly as possible. The exemption would provide flexibility for the Companies to address urgent situations that disrupt rail services.

The Agency acknowledges the safety concerns raised by the Brotherhood of Maintenance of Way Employees and the Brotherhood of Railroad Signalmen. However, the Agency does not believe the requested relief would compromise safety when used occasionally to respond to unplanned events. The exemption would enable the Companies to reach the site of such events within a limited distance from their drivers' normal work-reporting location. Once the crews arrive at the scene, all CMV operations would be conducted in full compliance with the applicable hours-of-service (HOS) regulations. Likewise, when normal rail operations have been restored, drivers would be required to comply with the HOS requirements during the return trip.

Because the relief is limited to the trip to the scene of the unplanned event and such events would happen only occasionally and not during a predictable number of times per week or per month, drivers would not operate CMVs after the 14th hour of coming on duty as a regular part of their schedules. Similarly, drivers would not regularly operate CMVs after accumulating 60 hours or 70 hours of on-duty time during seven or eight consecutive days. Drivers' standard schedules would include adherence to the 14-hour rule and adherence to the 60- and 70-hour rules.

Based on the information provided by the applicants, the Companies responded to more than 2,000 derailments and other unplanned events between January 2017 and October 2018 which would be an average of approximately 95 unplanned events at various locations in the country each month. R.J. Corman Railroad Services has 20 divisions. Cranemasters has 11 divisions. Therefore, this demand would be handled by more than 30 divisions between the Companies, which suggests that the need would truly be unpredictable in any given division.

The exemption request would neither increase nor decrease drivers' responsibility under 49 CFR 392.3 to

cease operations if their ability to safely operate a CMV is impaired by illness or fatigue.

FMCSA and the U.S. Department of Labor are responsible for implementing Federal statutes and regulations providing protection for drivers; any driver operating under the exemption would have the right to seek assistance, if needed.

FMCSA Decision

FMCSA grants the exemption because it would provide needed flexibility without compromising highway safety; the terms and conditions of the exemption would achieve the requisite level of safety.

VI. Terms and Conditions of the Exemption

A. This exemption is restricted to individuals employed by the Companies while driving CMVs to the site of an ''unplanned event'' which includes the following:

- A derailment;
- a rail failure or other report of a dangerous track condition;
- a track occupancy light;
- a disruption to the electric propulsion system; a bridge-strike;
- a disabled vehicle on the train tracks;
- a train collision;
- weather- and storm-related events including, fallen trees and other debris on the tracks, snow, extreme cold or heat, rock and mud slides, track washouts, and earthquakes;
- a matter concerning national security or public safety, including a blocked grade crossing.

B. When operating under this exemption, drivers and carriers:

a. May extend the 14-hour duty period in § 395.3(a)(2) to no more than 17 hours;

b. May not exceed 11 hours of driving time, following 10 consecutive hours off duty;

c. May extend the 60- and 70-hour rule in § 395.3(b) by no more than 6 hours;

d. May not travel more than 300 air miles from the normal work-reporting location or terminal.

C. Drivers must comply with the applicable HOS limits after arriving at the site—drivers must record all time working to restore rail service as on duty, not driving.

D. Drivers may take advantage of the Agency's personal conveyance regulatory guidance travelling between the unplanned event work site and nearby lodging or dining facilities (June 7, 2018; 83 FR 26377). If that guidance is not applicable to the trip, CMV drivers who have reached the HOS limits must be transported from the work site by an individual who is not subject to HOS restrictions or use a vehicle that does not meet FMCSA's definition of a CMV (49 CFR 390.5) when they leave the site.

E. Drivers must complete the Driver Education Module 3 and the Driver Sleep Disorders and Management Module 8 of the North American Fatigue Management Program (NAFMP) (*www.nafmp.org*) prior to operating under the exemption; and

F. Motor carriers and drivers must comply with all other provisions of the Federal Motor Carrier Safety Regulations.

Preemption

In accordance with 49 U.S.C. 31313(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Notification to FMCSA

Under the exemption, the Companies must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier's CMVs operating under the terms of this exemption. The notification must include the following information:

a. Identifier of the Exemption: ''The Companies and NRC,''

b. Name of operating carrier and USDOT number,

c. Date of the accident,

d. City or town, and State, in which the accident occurred, or closest to the accident scene,

e. Driver's name and license number,

f. Co-driver's name (if any) and license number

g. Vehicle number and state license number,

h. Number of individuals suffering physical injury,

i. Number of fatalities,

j. The police-reported cause of the accident, if provided by the enforcement agency,

k. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and

l. The total on-duty time accumulated during the 7 consecutive days prior to the date of the accident, and the total on-duty time and driving time in the work shift prior to the accident.

VII. Termination

The FMCSA does not believe the motor carriers and drivers covered by this exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions.

Issued on: February 27, 2020.

Jim Mullen,

Acting Administrator.

[FR Doc. 2020–04428 Filed 3–3–20; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2020–0076]

Trucking Safety Summit; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: FMCSA announces a public meeting, ''The FMCSA 2020 Trucking Safety Summit'' on March 19, 2020, to solicit information on improving safe operation of property-carrying commercial motor vehicles on our Nation's roadways. The formal conference will provide invited-stakeholders—including motor carriers, drivers, safety technology developers and users, Federal and State partners, and safety advocacy groups—as well as members of the public an opportunity to share their ideas on improving trucking safety. The event will be held at the U.S. Department of Transportation headquarters building in Washington, DC. A full agenda of the meeting is available on line at *http://www.fmcsa.dot.gov.*

DATES: The conference will be held Thursday, March 19, 2020, from 9:00 a.m. to 4:30 p.m., EDT, with registration from 8:00 a.m. to 8:50 a.m.

Public Comment: The formal conference will include a brief public comment period in the mid to late afternoon. All persons wishing to speak must register in advance at the email address in the **FOR FURTHER INFORMATION CONTACT** section below and note that they wish to provide oral comments. Please limit oral public comments to 2 to 3 minutes. If all interested participants have had an opportunity to comment, the public comment period

may conclude early. Due to seating limitations, advanced registration by March 10 is required; FMCSA will cap registration at 200 persons. Persons wishing to propose questions for panelists may do so by emailing the address in the **FOR FURTHER INFORMATION CONTACT** section below. Those wishing to submit written comments, data or analysis on trucking safety may do so here: FMCSA–2020–0076.

ADDRESSES: The public meeting will be held in the U.S. Department of Transportation headquarters building at 1200 New Jersey Avenue SE, Washington, DC 20590. Participation in the public meeting is free, but advanced registration is required. You may register at the email address in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Ms. Janettarose L. Greene, (202) 366–1927, *FMCSA-PIO@dot.gov,* Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Services for Individuals with Disabilities: FMCSA is committed to providing equal access to this meeting for all participants. For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, please contact Ms. Greene at the number or email address above by March 6, 2020.

SUPPLEMENTARY INFORMATION:

Background

Data and analysis released by the National Highway Traffic Safety Administration shows that over the last several years there has been an increase in fatalities occurring as a result of crashes involving large trucks. See, for example, Large Truck Traffic Safety Fact Sheet (DOT HS # 812–663, available at *https://crashstats.nhtsa.dot.gov/#/*). To respond to this trend, FMCSA continues to work with State entities, industry and others to identify new approaches to safety. These approaches can involve technology, company management practices, enforcement, outreach and education, and other techniques—encompassing a holistic approach to truck safety.

FMCSA plans to convene a formal conference, ''The FMCSA 2020 Trucking Safety Summit,'' on March 19, 2020, to solicit information on improving safe operation of property-carrying commercial motor vehicles on our Nation's roadways. This event will provide diverse stakeholders—including motor carriers, drivers, safety technology developers and users, Federal and State partners, and safety advocacy groups—as well as members of the public an opportunity to share their ideas on improving trucking safety. The sessions are intentionally structured to facilitate an exchange between experienced players in the trucking space, people who might not otherwise meet face-to-face to collaborate. Senior FMCSA personnel will facilitate every session, selecting and posing questions to promote a productive discussion. FMCSA intends to record the session and will follow up with a record of proceedings or Safety Action Plan in the weeks following the event.

The program will include panel presentations from industry, technology innovators, State and FMCSA enforcement personnel and others. Participants in the panels will be announced later. In addition, during and after the panel presentations, conference attendees will have an opportunity to provide oral and written comments.

Meeting Participation

FMCSA will present and solicit information during five panel discussions. FMCSA will provide a live streaming video of the Trucking Safety Summit for interested part to share in the information being presented. Additionally, the Agency will provide an opportunity for the public to participate remotely in the public comment session. The Agency will provide the public with all relevant details for participating in this meeting in advance at: *http://www.fmcsa.dot.gov.*

Meeting participants will need to register to participate and to gain access to the headquarters building at 1200 New Jersey Avenue SE, in Washington, DC.

Oral comments from the public will be heard during the meeting. Members of the public may also submit written comments to public docket referenced at the beginning of this notice using any of the following methods:

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

Issued on: February 27, 2020.

Jim Mullen,

Acting Administrator.

[FR Doc. 2020–04427 Filed 3–3–20; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0104]

Denial of Motor Vehicle Defect Petition

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted on May 9, 2018, by Mr. J. Kevin Byrne (the petitioner) to NHTSA's Office of Defects Investigation (ODI). The petition requests that the Agency ''undertake a defects investigation'' into ''rust-related fuel tank detachment of Isuzu Rodeo fuel tanks.'' The petitioner bases his request upon a partial fuel tank detachment he experienced on his vehicle, a model year (MY) 2004 Isuzu Rodeo, and another complaint he found in NHTSA's online complaint database involving a MY 2001 Isuzu Rodeo. The petitioner also asserts that the partial fuel tank detachment is covered by NHTSA Recall Number 13V–547.

On May 23, 2018, ODI opened Defect Petition (DP) 18–001 to evaluate the petitioner's concerns. After reviewing the information provided by the petitioner and field data regarding fuel tank detachment in MY 2001 through 2004 Isuzu Rodeos and similarly equipped vehicles, NHTSA has concluded that the issues raised by the petition do not warrant a defect investigation. Accordingly, the Agency has denied the petition.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Martens, Vehicle Defects Division–D, Office of Defects Investigation, NHTSA, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Introduction

Pursuant to 49 CFR 552.1, interested persons may petition NHTSA requesting that the Agency initiate an investigation to determine whether a motor vehicle or an item of replacement motor vehicle equipment fails to comply with applicable motor vehicle safety standards or contains a defect that relates to motor vehicle safety. Upon receipt of a properly filed petition, the

Agency conducts a technical review (§ 552.6) of the petition, material submitted with the petition, and any appropriate additional information. After considering the technical review and taking into account appropriate factors, the Agency will grant or deny the petition (§ 552.8).

Overview of the Petition

On April 10, 2018, the petitioner submitted a petition to NHTSA requesting that the Agency ''undertake a defects investigation'' of ''rust-related detachment of Isuzu Rodeo fuel tanks'' (NHTSA ID 11091788). The petitioner alleged that the fuel tank on his MY 2004 Isuzu Rodeo partially detached from his vehicle due to corrosion of the parts that attached the fuel tank to his vehicle, namely the metal bracket-straps, bolts, and a horizontal jacket. Furthermore, the petitioner asserted that the partial fuel tank detachment on his vehicle should be covered by NHTSA Recall Number 13V–547. Finally, the petitioner cited a complaint about a MY 2001 Isuzu Rodeo found in NHTSA's complaint database under NHTSA ID 10992150, which the petitioner asserted ''points to a history of rust-related detachment of Isuzu Rodeo fuel tanks.'' The petition followed a letter that the petitioner had previously sent to the Agency on April 10, 2018, which expressed concern about repairs that the petitioner had to complete on his vehicle and the cost of those repairs.

ODI's Analysis of the Defect Petition

On May 23, 2018, ODI opened DP18–001 to evaluate the petitioner's request for a defect investigation. ODI considers vehicle age, environment, detectability, and severity when assessing whether complaints alleging corrosion-related failures indicate a potential defect trend. Failures that occur later in a vehicle's life, or display evidence of severe general corrosion to underbody components, are usually indicative of expected wear-and-tear from exposure to highly corrosive environments for an extended period, or may result from improper care and maintenance. While every vehicle has the potential to experience corrosion in its lifetime, failures that develop earlier in a vehicle's life or vehicles that display evidence of localized corrosion damage to specific safety-critical components are more likely to indicate potential defects related to corrosion protection or moisture retention, which may indicate that further investigation is appropriate. However, although a manufacturing or design defect may contribute to premature corrosion-related failures to vehicle underbody components, a severe operating environment or improper care and maintenance can also cause such failures. Annual inspections, monthly cleaning, and detecting and repairing problems early can help to prevent such problems or lessen their impact.

The petitioner purchased the subject 2004 Isuzu Rodeo, as a used vehicle, in August 2013. At that time, the vehicle had been in service for approximately nine years and had been driven approximately 122,000 miles. The vehicle has been registered in the Saint Paul, Minnesota, metropolitan area, a region with high winter road salt use, for almost all its service life. When the petitioner's mechanic completed the fuel tank retention repairs on the petitioner's vehicle in July 2017, the vehicle had been in service for approximately 13 years and driven roughly 155,000 miles.

While the petitioner noted that his vehicle is covered by NHTSA Recall Number 13V–547, that recall, which was initiated by Isuzu in October 2013, is distinct from the partial fuel tank detachment that the petitioner's vehicle experienced. Recall Number 13V–547 addresses a rear suspension link bracket defect in certain MY 2003 and 2004 Isuzu Rodeo and Axiom vehicles, and MY 2003 Isuzu Rodeo Sport vehicles, which were originally sold or registered in certain states, including Minnesota, that have high winter road salt usage. While Recall Number 13V–547 addresses a defect of the rear suspension link bracket, which can affect the vehicle's handling and control, the petitioner's partial fuel tank detachment, according to the available information, appears to have been caused by corrosion of parts that attach the fuel tank to the vehicle. In any event, those parts that attach the petitioner's fuel tank to his vehicle are not covered by Recall Number 13V–547.

After reviewing the concerns raised in the petition, ODI did not find evidence of a defect trend during its evaluation of DP18–001. ODI's evaluation included all MY 2001 through 2004 Isuzu Rodeo, MY 2002 through 2004 Isuzu Axiom, and MY 2001 through 2002 Honda Passport vehicles (hereinafter ''the subject vehicles'') equipped with the same fuel tank and tank retention shield part numbers as the petitioner's vehicle. Design change information provided by Isuzu indicates that the fuel tank retention shield used to secure the tank to the vehicle was modified in 2001 to improve the corrosion resistance of the part. The modification was implemented as a running change in early MY 2002 production. Aside from the petitioner's vehicle, ODI has not identified any other incidents of complete or partial fuel tank detachment in the subject vehicles equipped with the modified retention shield.

Similarly, ODI did not find evidence of a defect trend in vehicles that are not equipped with the modified retention shield. ODI identified eighteen (18) complaints alleging complete or partial detachment in the subject vehicles produced before the tank shield modification. Analysis of these complaints found that they occurred in older vehicles that were driven in states with high winter road salt usage (*i.e.,* roads with a corrosive environment). ODI also noted evidence of severe general underbody corrosion in complaints that included photographs of the fuel tank detachment. Five (5) of the detachment complaints included narratives indicating that the detachment was severe enough that tank contact with the ground may have occurred. None of the incidents resulted in any reported fuel leakage or fire in any of the subject vehicles analyzed as part of this petition evaluation.

Conclusion

After a review of the available data, ODI has not identified evidence of a defect trend for corrosion-related fuel tank detachments in the MY 2004 Isuzu Rodeo or similarly equipped vehicles. The damage that may result in tank retention concerns appears to occur progressively over many years with ample opportunity for detection and repair. Furthermore, ODI has not identified any crashes, fires, injuries, or fuel leaks associated with fuel tank retention failures in a population of vehicles that currently ranges from 16 to 19 years old. In addition, the partial fuel tank detachment that the petitioner experienced is not within the scope of NHTSA Recall Number 13V–547.

Accordingly, the Agency is denying the petition. A summary of ODI's analysis of this petition will be published in the **Federal Register** and is also available in the investigative file for this action.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Jeffrey Mark Giuseppe,

Associate Administrator for Enforcement.

[FR Doc. 2020–04384 Filed 3–3–20; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0252]

Agency Information Collection Activity: Application for Authority To Close Loans on an Automatic Basis Nonsupervised Lenders (VA Form 26–8736)

AGENCY: Loan Guaranty Service, Veterans Benefits Administration

ACTION: Notice.

SUMMARY: Loan Guaranty Service, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 4, 2020.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0252'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, (202) 421–1354 or email *Danny.Green2@va.gov.* Please refer to ''OMB Control No. 2900–0252'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Application for Authority to Close Loans on an Automatic Basis Nonsupervised Lenders (VA Form 26–8736).

OMB Control Number: 2900–0252.

Type of Review: Extension of an approved collection.

Abstract: VA Form 26–8736 is used by non-supervised lenders requesting approval to close loans on an automatic basis. The form contains information and data considered crucial for making acceptability determinations as to lenders who shall be approved for this privilege. Upon receipt of the form, the VA Regional Loan Centers will process and evaluate the information. They will then advise the lender-applicant of their decision. Without this information, VA would not be able to determine if lender-applicants meet the qualifications for processing loans on an automatic basis.

Affected Public: Individuals or households.

Estimated Annual Burden: 50 hours.

Estimated Average Burden per Respondent: 25 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 120.

By direction of the Secretary.

Danny S. Green,

VA PRA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–04406 Filed 3–3–20; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 85 Wednesday,
No. 43 March 4, 2020

Part II

Department of Transportation

Federal Railroad Administration

49 CFR Parts 270 and 271
System Safety Program and Risk Reduction Program; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 270 and 271

[Docket No. FRA–2011–0060, Notice No. 12 and FRA–2009–0038, Notice No. 8]

RIN 2130–AC73

System Safety Program and Risk Reduction Program

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: In this final rule, FRA is amending its regulations requiring commuter and intercity passenger rail (IPR) operations to develop and implement a system safety program (SSP) to improve the safety of their operations. The rule clarifies that each passenger rail operation has responsibility for ensuring compliance with the SSP final rule. FRA also adjusts the SSP rule's compliance dates to account for FRA's prior stay of the rule's effect and amends the rule to apply its information protections to the Confidential Close Call Reporting System (C^3RS) program included in a passenger rail operation's SSP. FRA is making conforming amendments to the Risk Reduction Program (RRP) final rule to ensure that the RRP and SSP rules have essentially identical consultation and information protection provisions.

DATES: This final rule is effective May 4, 2020.

ADDRESSES: *Docket:* For access to the docket to read background documents, petitions for reconsideration, or comments received, go to *http://www.regulations.gov* and follow the online instructions for accessing the docket or visit the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Larry Day, Passenger Rail Safety Specialist, U.S. Department of Transportation, Federal Railroad Administration, Office of Railroad Safety, Passenger Rail Division; telephone: 909–782–0613; email: *Larry.Day@dot.gov;* Elizabeth A. Gross, Attorney Adviser, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel; telephone: 202–493–1342; email: *Elizabeth.Gross@dot.gov;* or Veronica Chittim, Attorney Adviser, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel; telephone: 202–493–0273; email: *Veronica.Chittim@dot.gov.*

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I. Background

On August 12, 2016, FRA published a final rule requiring each commuter and intercity passenger railroad [1] to develop and implement an SSP. *See* 81 FR 53850 (Aug. 12, 2016). This final rule was required by section 103 of the Rail Safety Improvement Act of 2008 (RSIA) (Pub. L. 110–432, Div. A, 122 Stat. 4883 (Oct. 16, 2008), codified at 49 U.S.C. 20156). The Secretary of Transportation delegated the authority to conduct this rulemaking and implement the rule to the Federal Railroad Administrator. *See* 49 CFR 1.89(b).

On October 3, 2016, FRA received four petitions for reconsideration (Petitions) of the final rule: (1) Certain labor organizations (Labor Organizations) [2] filed a joint petition (Labor Petition); (2) certain State and local transportation departments and authorities [3] filed a joint petition (Joint Petition); (3) North Carolina Department of Transportation (NCDOT) filed a separate petition; and (4) Vermont Agency of Transportation (VTrans) filed a separate petition. The Joint, NCDOT, and VTrans petitions are hereinafter referred to as the ''State Petitions.''

Massachusetts Department of Transportation (MassDOT) filed a comment in support of the Joint Petition on November 15, 2016. Three other individual comments were filed, but related to the rule generally, not the petitions.

On February 10, 2017, FRA stayed the SSP final rule's requirements until March 21, 2017, consistent with the new Administration's guidance issued January 20, 2017, intended to provide the Administration an adequate opportunity to review new and pending regulations. *See* 82 FR 10443 (Feb. 13, 2017). FRA's review also included the Petitions. To provide additional time for that review, FRA extended the stay until May 22, 2017; June 5, 2017; December 4, 2017; December 4, 2018; and then September 4, 2019. *See* 83 FR 63106 (Dec. 7, 2018).

On October 30, 2017, FRA met with the Passenger Safety Working Group and the System Safety Task Group of the Railroad Safety Advisory Committee (RSAC) to discuss the Petitions and comments received in response to the Petitions.[4] *See* FRA–2011–0060–0046.

[1] Throughout this document, FRA uses the term ''railroad,'' as it is defined in 49 CFR 270.5.

[2] The Labor Organizations participating in the Labor Petition are the: American Train Dispatchers Association (ADTA); Brotherhood of Locomotive Engineers and Trainmen (BLET); Brotherhood of Maintenance of Way Employes Division (BMWED); Brotherhood of Railroad Signalmen (BRS); Brotherhood Railway Carmen Division; and Transport Workers Union of America.

[3] The State and local transportation departments and authorities who filed the Joint Petition are the: Capitol Corridor Joint Powers Authority (CCJPA); Indiana Department of Transportation (INDOT); Northern New England Passenger Rail Authority (NNEPRA); and San Joaquin Joint Powers Authority (SJJPA).

[4] Attendees at the October 30, 2017, meeting included representatives from the following organizations: ADS System Safety Consulting, LLC; American Association of State Highway and Transportation Officials; American Public Transportation Association (APTA); American Short Line and Regional Railroad Association; ATDA; Association of American Railroads (AAR); BLET; BMWED; BRS; CCJPA; The Fertilizer Institute; Gannett Fleming Transit and Rail Systems; International Brotherhood of Electrical Workers; Metropolitan Transportation Authority; National Railroad Passenger Corporation (Amtrak); National Transportation Safety Board (NTSB); NCDOT; NNEPRA; San Joaquin Regional Rail Commission (SJRRC)/Altamont Corridor Express; Sheet Metal, Air, Rail, and Transportation Workers

This meeting allowed FRA to receive input from industry and the public and to discuss potential paths forward to respond to the Petitions. During the meeting, FRA made an introductory presentation and invited discussion on the issues raised by the Labor Petition. FRA also presented for discussion draft rule text that would respond to the State Petitions by amending the SSP final rule to include a delegation provision that would allow a railroad that contracts all activities related to its passenger service to another person to designate that person as responsible for compliance with the SSP final rule. FRA uploaded this proposed draft rule text to the docket for this rulemaking. *See* FRA–2011–0060–0045. The draft rule text specified that any such designation did not relieve a railroad of legal responsibility for compliance with the SSP final rule. In response to the draft rule text, the State Petitioners indicated they would need an extended caucus to discuss. On March 16, 2018, the Executive Committee of the States for Passenger Rail Coalition, Inc. (SPRC) [5] provided, and FRA uploaded to the rulemaking docket, proposed revisions to the draft rule text. *See* FRA–2011–0060–0050.FRA issued a notice of proposed rulemaking (NPRM) on June 11, 2019, responding to the Petitions and proposing certain amendments to the SSP final rule. *See* 84 FR 27215. FRA further extended the stay to allow FRA time to review comments received on the NPRM and to issue this final rule. *See* 84 FR 45683 (Aug. 30, 2019). In addition to the comments received on the NPRM, FRA also reviewed and considered SPRC's March 16, 2018 suggested revisions in formulating the NPRM and this final rule.

Accordingly, this rule revises part 270 in response to the Petitions, as well as the comments received on the June 2019 NPRM, which are discussed below. FRA also adjusts the rule's compliance dates to account for FRA's stay of the rule's effect and amends the rule to specify that its information protections apply to C[3]RS programs included in a passenger rail operation's SSP. This rule also amends part 271 to ensure that the RRP and SSP rules have essentially identical consultation and information protection provisions.

(SMART–TD); and United States Department of Transportation—Transportation Safety Institute.

[5] SPRC's website indicates it is an ''alliance of State and Regional Transportation Officials,'' and each State Petitioner appears to be an SPRC member. *See https://www.s4prc.org/state-programs* (last accessed Aug. 13, 2019).

II. Discussion of Comments Received on the NPRM

The NPRM solicited written comments from the public under the Administrative Procedure Act (5 U.S.C. 553). By the close of the comment period on August 12, 2019, FRA received fourteen comments, including comments from AAR; Amtrak; APTA; CCJPA jointly with INDOT, Los Angeles-San Diego-San Luis Obispo Rail Corridor Agency, and SJJPA (CCJPA Joint Comment); Connecticut Department of Transportation (CTDOT); Massachusetts Bay Transportation Authority (MBTA); MassDOT; NCDOT; NNEPRA jointly with the State of Maine Department of Transportation (MEDOT); SPRC; VTrans; and Washington State Department of Transportation (WSDOT). FRA also received two general comments from members of the public. FRA grouped these comments into two categories: (A) States' Concerns and (B) Other Topics (Consultation Comments, Information Protections, Submission Time, and RRP Rule).

A. States' Concerns

The CCJPA Joint Comment and SPRC's submission contained essentially identical comments (hereinafter, State Comments). *See* FRA–2011–0060–0031 and FRA–2009–0038–0106. These State Comments reiterated many arguments the States have raised with FRA previously on this topic. Generally, MassDOT, NCDOT, NNEPRA/MEDOT, VTrans, and WSDOT concurred with the State Comments. These individual State comments included context for the particular rail services provided (for example, NNEPRA/MEDOT explained its ''Downeaster'' service) and emphasized the apparent lack of control and operational role of the State in the IPR service.

Specifically, the State Comments argued that: (1) FRA would exceed its statutory authority to impose SSP requirements on States; (2) the SSP rule would impose substantial burdens on States without improving safety; and (3) States should not be required to consult with their IPR operators' employees. Therefore, the State Comments requested that FRA modify the SSP rule to exclude a State that provides financial support for, but does not operate, IPR service; to exclude a State that owns a railroad or railroad equipment, but does not operate a railroad or railroad equipment; and to remove from the definition in § 270.5, ''Railroad,'' the words ''whether directly or by contracting out operation of the railroad to another person.'' *See* SPRC at 15; CCJPA at 17; VTrans at 6. The State Comments also contended that FRA's proposed delegation provision in § 270.7(c) was insufficient relief because the State would retain the burden of compliance.

1. FRA's Statutory Authority

The State Comments alleged FRA lacks statutory authority to require States that provide funding for IPR service to comply with the SSP rule requirements. *See* SPRC at 3; CCJPA at 5. Further, the State Comments argued that neither the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) (Pub. L. 110–432, Div. B (Oct. 16, 2008)) nor the RSIA reflected a Congressional ''intent to include States as IPR providers with responsibility for anything more than service funding.'' *See* SPRC at 3, 4; CCJPA at 3; VTrans at 11. Instead, the State Comments suggested any safety responsibility belongs only to the IPR operator. *See* SPRC at 3; CCJPA at 3. Moreover, the State Comments urged FRA to ''remove from State financial sponsors the responsibility for compliance with FRA's safety regulations unless a State elects to assume that responsibility on its own.'' SPRC at 5; CCJPA at 5.

Specifically, the State Comments contended that a ''State'' cannot be a ''railroad carrier'' under 49 U.S.C. 20102(3). *See* SPRC at 5; CCJPA at 6. The State Comments explained that the definition of ''person'' in 1 U.S.C. 1, includes ''corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals,'' but does not specifically include the word ''State.'' *See* SPRC at 5–6; CCJPA at 6. The State Comments argued that a ''State'' therefore cannot be a ''person,'' and by extension, a ''State'' cannot be a ''person providing railroad transportation'' under the definition of ''railroad carrier'' in 49 U.S.C. 20102(3). *See* SPRC at 5–6; CCJPA at 5–6. To support its argument, the State Comments indicated that Congress in PRIIA did not include ''States'' in the definition of ''Persons'' generally, and when Congress wanted to include ''States'' as ''persons,'' it explicitly said so, citing to 49 U.S.C. 1139(g)(1), in PRIIA, concerning accident investigations. *See* SPRC at 6; CCJPA at 6.

MassDOT, NNEPRA/MEDOT, and VTrans additionally commented that Surface Transportation Board (STB) precedent allows States to maintain an STB status as a ''non-carrier'' when a State acquires track, right-of-way, and related physical assets. MassDOT explained that ''ownership of railroad

assets does not necessarily confer upon the asset owner rail carrier status.'' *See* MassDOT at 2. NNEPRA/MEDOT stated that NNEPRA does not provide railroad transportation, but rather pays Amtrak the difference between service costs and revenues to operate the Downeaster service. *See* NNEPRA/MEDOT at 4. VTrans noted that it already delegates responsibility to railroad carriers through long-term contractual relationships. *See* VTrans at 3. VTrans contended State ownership of railroad property leased to a railroad carrier does not make the State a railroad carrier for the Interstate Commerce Act, the Federal Employers Liability Act, and the Railway Labor Act. *See* VTrans at 7–8. Further, VTrans argued that State financial support for Amtrak services, such as that required by PRIIA section 209, should not trigger the SSP rule's applicability. VTrans at 11.

The State Comments, NCDOT, and NNEPRA/MEDOT commented that some State statutes prohibit States from owning or operating a railroad. *See, e.g.,* SPRC at 9; CCJPA at 9; NCDOT at 2; NNEPRA/MEDOT at 4. As such, the States argued, requiring States to comply with the SSP rule would require States to seek statutory authority to engage in rail operations, or it would prevent them from underwriting the service at all. *See* SPRC at 9; CCJPA at 9.

Finally, the State Comments argued FRA expanded the definition of ''railroad'' in part 270 without authority to include entities that ''contract [ ] out operation of the railroad to another person.'' *See* SPRC at 7; CCJPA at 7. The State Comments asserted that FRA's regulatory definition is broader than the statutory definition, and there is no clear direction from Congress to extend the definition as FRA proposed. *See* SPRC at 7; CCJPA at 8.

2. State Comments Alleged the SSP Rule Imposes Burdens Without Improving Safety

The State Comments continued to argue the SSP rule would impose substantial burdens on States. *See* SPRC at 9; CCJPA at 10. The State Comments explained State sponsors [6] ''do not employ qualified railroad personnel with the detailed technical knowledge to develop, implement, and oversee compliance with an SSP.'' *See* SPRC at 10; CCJPA at 11. They also claimed FRA's regulatory impact statement ''underestimates the costs to States of compliance with the proposed SSP requirements'' and ''did not consider'' the costs of ''developing, implementing, and monitoring compliance with an SSP'' and the ''negative impacts on the overall insurance market.'' *See* SPRC at 11; CCJPA at 13. Further, the State Comments alleged the rule would require States to renegotiate operating agreements which would increase costs. *See* SPRC at 12; CCJPA at 13. In sum, the State Comments indicated the SSP rule's financial burdens could cause States to discontinue IPR service entirely, and may therefore necessitate repaying Federal grants or loans for early termination of service. *See* SPRC at 13; CCJPA at 14. Moreover, the State Comments argued that including State sponsors in the rule could subject sponsors to other statutory obligations, such as railway labor and retirement requirements, and would increase costs and discourage IPR service. *See* SPRC at 14; CCJPA at 16.

The State Comments asserted that ''FRA has not demonstrated that requiring States, as well as IPR operators, to be responsible for full SSP compliance would improve safety.'' SPRC at 3; CCJPA at 3. The State Comments theorized that requiring both the IPR operator and State sponsor to develop an SSP would be duplicative and could create ''contradictory and possibly conflicting measures.'' *See* SPRC at 3, 10, 13; CCJPA at 3; WSDOT at 1. To support this claim, the State Comments pointed to the NTSB's report in the Dupont, Washington 501 accident to suggest that because the NTSB issued a recommendation to Amtrak to include the various responsible parties in a comprehensive safety management system (SMS), and NTSB did *not* issue a recommendation to WSDOT to develop such an independent safety program, which implies that requiring States to prepare and implement an SSP plan would not improve safety. *See* SPRC at 13–14; CCJPA at 15.

Finally, the States indicated that State sponsors of IPR service lack control over the operator (typically, Amtrak), and although they pay Amtrak to keep the service running (as required by PRIIA), the only remedy they have for oversight is to cancel the contract (*i.e.,* terminate the IPR service entirely). *See, e.g.,* NCDOT at 3; CCJPA at 12, 14. WSDOT noted that non-operating State sponsors ''do not control operations nor have access to critical safety reports or other information'' and lack the required ''appropriate expertise, authority, and ability to receive timely critical information to make decisions or take appropriate actions.'' WSDOT at 1–2. WSDOT reiterated that contractor operators have the appropriate personnel to meet safety requirements and provide oversight, and having States duplicate that effort would potentially create conflicting, redundant, and deflective measures. *See* WSDOT at 3. MassDOT agreed that the SSP rule ''imputes to the States a non-existent degree of State control over Amtrak's day-to-day operations.'' *See* MassDOT at 2. MassDOT distinguished the service and contract provided by MBTA (contracting out commuter rail operations to a third-party operator) from itself, where MassDOT funds (as required by PRIIA) certain IPR multi-state (Massachusetts, New Hampshire, Vermont) routes without an operational role for MassDOT. *See* MassDOT at 2. MassDOT posited that including a State sponsor as a regulated entity ''adds confusion as to responsibility, threatens clear and timely communications between appropriate parties and misdirects regulatory attention.'' *See* MassDOT at 4. VTrans, like NNEPRA, MassDOT, and NCDOT, explained that it has no authority to govern or enforce any safety rules, even when it is the owner of the property, and all responsibilities lie with the actual rail operators. *See* VTrans at 11.

3. State Comments Alleged Requirements To Consult With Its IPR Operators' Employees Would Interfere With State-IPR Operator Contracts

Finally, the State Comments argued States should not be required to consult with their IPR operators' employees because it ''introduces substantial barriers to efficient procurement practices.'' *See* SPRC at 16; CCJPA at 18. WSDOT and MassDOT shared the concern that direct contact with an IPR service operator's employees could create labor and operator issues. *See* WSDOT at 3; MassDOT at 4. NCDOT emphasized it is not a party to, nor is it privy to, Amtrak's agreements with its host railroads and the SSP rule would purportedly insert States into that relationship. *See* NCDOT at 3.

[6] There is currently no statutory or regulatory definition of the term ''sponsor'' in relation to IPR service. The Joint Petition appears to understand ''sponsor'' in this context as being a State that ''provide[s] financial support'' for IPR routes and ''contract[s] for the operation of IPR.'' *See* Joint Pet. at 2, fn. 2. The NCDOT petition defines ''sponsors'' as ''State or other public entities that own railroads, equipment or that financially sponsor intercity passenger rail service.'' NCDOT Pet. at 3. In its proposed revisions to the strawman text FRA presented during the October 2017 RSAC meeting, SPRC suggested defining ''State sponsor'' as ''a State, regional or local authority, that contracts with a railroad to provide intercity passenger railroad transportation pursuant to Section 209 of the Passenger Rail Investment and Improvement Act of 2008, as amended.'' *See* Comments of the SPRC at 2. For purposes of discussion in this rule, FRA understands ''State sponsor'' as being a State, regional, or local authority, or other public entity, that provides financial (and potentially other) support for IPR routes.

With the above arguments, the State Comments, MassDOT, NCDOT, NNEPRA/MEDOT, VTrans, and WSDOT, urged FRA to amend the SSP rule to exempt State sponsors from part 270.

4. Other Comments Related to States' Concerns

In contrast to the above arguments, APTA commented that it supports the part 270 definition of ''railroad,'' supports FRA's statement that ''each entity involved in providing passenger rail service—including ''State sponsors''—is responsible for complying with Federal rail safety requirements,'' and believes ''[S]tates must be solely responsible for [their] employees and contractor's compliance.'' *See* APTA at 2. CTDOT supported FRA's proposal to allow for designation of another entity to ensure compliance with the SSP, and explained the entities it would so designate for its three passenger services (New Haven Line, Hartford Line, and Shore Line East). *See* CTDOT at 1.[7]

Amtrak agreed with FRA's statement that ''the vast majority of State providers of [IPR] service would fall under Amtrak's [SSP plan].'' *See* Amtrak at 2. Amtrak asserted that ''uniformity in the management of system safety program elements is critical to the successful implementation of risk reduction efforts.'' *See id.* Amtrak stated that it supplemented its Amtrak-wide SSP plan with separate agreements with host railroads, tenant railroads, and States, detailing specific aspects of the service and infrastructure, along with the responsibilities of each party, and incorporated these agreements by reference into its SSP plan.[8] *See id.* Amtrak explained these supplemental, collaborative, written agreements can prevent variation in programs that could lead to duplication of efforts or issues where entities think they may be obligated to provide oversight of Amtrak beyond their skills or resources. *See id.* Amtrak requested that FRA clarify that these agreements align with FRA's intent to sufficiently detail the requirements and obligations of each party. *See id.*

Finally, a member of the public, Mr. Quinton Simpson stated ''even if the State contracts'' an IPR service provider, the State has responsibility and ''needs to ensure that the company is operating safely.'' Similarly, Dr. Edwin ''Chip'' Kraft commented to FRA that the ''type of communications disconnect resulting in avoidance of responsibility'' is what the SSP rule is trying to prevent.

B. Other Topics

1. Consultation Comments

FRA received two comments regarding FRA's proposed changes to the consultation provision in § 270.107. Amtrak commented that it ''concurs with the [NPRM's] proposed clarifications'' to require serving ''notice on the general chairpersons of labor organizations representing directly affected railroad employees.'' *See* Amtrak at 1. Further, Amtrak detailed its own experience on the labor consultation process in developing its SSP plan, and indicated that without such ''continuous communication and collaboration between labor organizations and Amtrak management, its [SSP plan] to implement the [Safety Management System] would not be as successful nor sustainable.'' *See id.* at 1–2. Additionally, Mr. Simpson commented that he agrees that the contact of the General Chairperson makes sense because ''the local chairperson was the liaison between the worker and the company.''

2. Information Protections

Amtrak commented that it agrees with the NPRM's proposal to extend the SSP information protections to a C[3]RS program included as part of an SSP, even if the railroad joined C[3]RS on or before August 14, 2017. *See* Amtrak at 2. Further, Amtrak requested ''that any information resulting from its [SSP plan] processes prior to the effective date of the rule's protection provisions be afforded like protections from discovery or use in civil litigation.'' *See id.* Amtrak also requested the ''protections include information developed in [S]tate sponsored routes, including in circumstances where [S]tate entities may be subject to disclosure requirements.'' *See id.* at 3.

APTA supported the proposed protection for C[3]RS outlined in § 270.105(a)(3), but requested it be expanded from Federal or State court proceedings to also protect from other requests to release the data, like requests under the Freedom of Information Act (FOIA) or Freedom of Information Law. *See* APTA at 1. Further, APTA stated the ''protection should also apply to any Federal program utilized by the railroads, such as [the Rail Information Sharing Environment (RISE)] or Clear Signal for Action [(CSA)].'' *See id.* at 2. MBTA supported the C[3]RS program and, like APTA, commented that FRA ''should expand the privacy protections . . . to FOIA requests, as long as the information being requested supports the SSP.'' *See* MBTA at 1. Similarly, AAR supported the proposed inclusion of FRA's C[3]RS program in the information protections, but stated the provision should go further to include railroads' ''in-house close call confidential reporting systems.'' *See* AAR at 2.

3. Submission Time

FRA requested comments on whether a one-year period after publication of the final rule was appropriate for submission of SSP plans for FRA review. APTA requested that FRA provide two years, to mirror what the Federal Transit Administration (FTA) provided in implementing the SMS program. *See* APTA at 2. MBTA supported extending compliance dates and providing one year for submission of SSP plans to allow sufficient time for railroads to reengage labor representatives. *See* MBTA at 1. Amtrak asked FRA to implement the rule as soon as possible. *See* Amtrak at 3.

4. RRP Rule

Finally, AAR commented that the NPRM ''ignores AAR's supplemental comments to the RRP rule, filed October 31, 2018.'' AAR's comment also stated ''[b]y adopting [AAR's] proposed changes to the RRP regulatory text, FRA can dramatically speed up the enhancement of safety on the nation's railroads, at no risk.'' *See* AAR at 1.

III. FRA's Response to Comments and Amendments to Parts 270 and 271

After thoroughly considering the comments received on the NPRM, FRA is amending part 270 to clarify the application of the rule's requirements to each ''passenger rail operation,'' as opposed to each ''railroad.'' FRA believes that this approach addresses the concerns raised by the States; effectuates FRA's intent for system safety; provides for a more natural understanding of how system safety works on a practical level; and will ensure each passenger rail operation develops and implements a compliant SSP.[9] Specific rule text changes to carry out this approach are discussed further below in the section-by-section analysis.

A. FRA's Modified Approach

As FRA has consistently explained, FRA recognizes that there are often

[7] *See* FRA–2011–0060–0068 (received Aug. 12, 2019). CTDOT provided clarifying comments dated November 20, 2019, after the comment period closed, which FRA added to the docket. *See* FRA–2011–0060–0074.

[8] FRA notes that because of the stay of the SSP rule, FRA has neither approved nor disapproved Amtrak's SSP plan under the rule.

[9] FRA's treatment of passenger rail service in this rule is only intended to affect the application of Federal safety requirements FRA administers and enforces.

multiple entities involved in each passenger rail service, with each entity having varying safety responsibilities.[10] For purposes of part 270, FRA expects each *passenger rail operation* to have a single SSP and written SSP plan. FRA agrees with the State Comments that each passenger rail operation should have a single SSP governing the entire service, with each entity that may be involved in the service playing a role in the SSP commensurate with any of its activities affecting railroad safety. FRA similarly agrees that if each entity involved in a passenger rail operation filed its own SSP plan, this could lead to confusion and duplicated actions, contrary to promoting a systemic approach to safety. Therefore, FRA is clarifying the rule to place the central responsibilities of developing, filing, and implementing an SSP plan on the passenger rail operation. For most passenger rail operations, FRA expects the entity conducting the railroad operations will develop, submit, and implement the required SSP plan for that passenger rail operation. The entity submitting the plan for a passenger rail operation will typically be the railroad providing the engineers and crews and physically operating the trains on that passenger rail operation's routes. Of course, if the entities involved in a passenger rail operation determine that an entity other than the railroad operating the service should develop and file that operation's SSP plan, that different entity may be designated with such responsibility for the passenger rail operation, provided the required elements of the SSP plan are met with a single plan covering that system. In this manner, FRA is adopting the designation provision proposed in § 270.7(c), but with adjustments to reflect that the responsibility falls on each passenger rail operation and to remove the language that a designator is not relieved of responsibility for compliance.

The passenger rail operation for all current State-sponsored IPR services could be considered part of one, multifaceted system that is organized, managed, performed, and operated by a single railroad. As captured in the amendments to the rule text in this rulemaking, the requirements of part 270 may apply to those national and State-supported IPR services operated by Amtrak as a single passenger rail operation. FRA anticipates Amtrak would develop and implement an SSP that addresses the varying components of its network. Within that rail system, other entities involved (*e.g.,* host railroads) must participate in the SSP process to ensure those entities' roles are performed safely when they may affect the safe operation of that system's rail service. With the amendments to the rule, FRA clarifies that it does not require such other entities to develop, submit, and implement an independent SSP plan to FRA. For example, a non-operating entity must participate in (and be identified in) the SSP process to the extent that entity owns infrastructure or equipment that will be utilized by the passenger rail operation. But that non-operating entity will not file the SSP plan for the passenger rail operation unless otherwise agreed amongst the entities involved in the passenger rail operation.

Indeed, as stated above, Amtrak agreed with FRA's statement that ''the vast majority of State providers of [IPR] service would fall under Amtrak's [SSP plan].'' *See* Amtrak at 2. Amtrak asserted that ''uniformity in the management of system safety program elements is critical to the successful implementation of risk reduction efforts.'' *See id.* Amtrak explained that it supplemented its Amtrak-wide SSP plan with separate agreements with host railroads, tenant railroads, and States, detailing specific aspects of each service and infrastructure, along with the responsibilities of each party. *See id.* Amtrak stated these supplemental, collaborative written agreements can prevent variation in programs that could lead to duplication of efforts or issues where entities think they may be obligated to provide oversight of Amtrak beyond their skills or resources. *See id.*

FRA finds that these types of agreements will likely align with the rule's requirements to explain the roles and obligations of each party involved in a passenger rail operation. As stated above, Amtrak's national IPR network currently includes many State-supported routes that compose its system. As Amtrak's comment recognized, if Amtrak files an SSP plan for its passenger rail network incorporating State-sponsored IPR services, Amtrak's network SSP plan must also include details about each route, including State-supported routes, within the Amtrak network, especially to the extent aspects of those routes vary from those common to Amtrak's intercity passenger rail network. In this manner, an SSP plan for Amtrak's system would likely include details from the long-term agreements Amtrak has with individual States regarding funding, equipment, track, and/or other items specific to those State-supported routes. FRA believes this form of centralized SSP plan addressing various components of the system will conform to the statutory mandate and benefit rail safety.

1. IPR Examples

By way of example, if an entity (State A) merely provides financial support to Amtrak per its obligations under PRIIA Sec. 209[11] for a State-supported intercity passenger route under 750 miles, part 270 does not require State A to submit an SSP plan for that State-supported route. Amtrak, as the operator of that State-supported IPR service, likely will file its national Amtrak SSP plan to include that State-supported route for the passenger rail operation's (Amtrak's) SSP. (Amtrak, or any other entity involved in the passenger rail operation, will retain the option of submitting a separate SSP plan for each IPR route, but Amtrak will not be required to subdivide its national network into separate plans.) As required by the rule, Amtrak's SSP plan must describe State A's role in the SSP (*i.e.,* Amtrak's SSP must explain that State A funds those specific operations on that route). *See, e.g.,* § 270.103(d), *System description,* and § 270.103(e), *Management and organizational structure.* In this manner, passenger rail service stakeholders must be included in the description of the rail system in the SSP plan, but are not otherwise responsible for submitting an independent SSP plan for that passenger rail operation.

For purposes of part 270, to the extent an entity (such as a State) does more than just provide financial assistance to a passenger rail operation, the relative responsibilities for that entity in the SSP context will increase. With respect to some operations, States may have a role in making substantive operational and safety-related decisions, including selecting contractors to perform services implementing those decisions. For example, if an entity (State B) is involved in a passenger rail operation

[10] For example, an entity, such as a State agency or rail authority, may organize and finance the rail service; a primary contractor may oversee the day-to-day operation of the rail service; one subcontractor may operate the trains along the route; another subcontractor may maintain the train equipment; and another entity may own the track.

[11] Section 209 of PRIIA requires that the Amtrak Board of Directors, in consultation with the Secretary of Transportation, the governors of each relevant State, and the Mayor of the District of Columbia, or entities representing those officials, develop and implement a single, nationwide standardized methodology for establishing and allocating the operating and capital costs of providing IPR service among the States and Amtrak for the trains operated on designated high-speed rail corridors (outside the Northeast Corridor), short-distance corridors, or routes of not more than 750 miles, and services operated at the request of a State, a regional or local authority, or another person.

by funding a State-supported route on Amtrak's national system pursuant to PRIIA Sec. 209, *and* by procuring rolling stock for use only on that State-supported IPR route, State B will not be responsible for submitting an independent SSP plan for that route. Instead, for purposes of part 270, Amtrak will likely incorporate that State-supported route on its national system into an SSP plan. This understanding reflects current practical circumstances and how such services are organized. However, State B will be required by part 270 to participate in the development of the SSP, to the extent that State B's involvement (here, the procurement of the rail equipment) affects railroad safety. Thus, the entity preparing the SSP plan (here, Amtrak) must coordinate with State B on the equipment's safety to file a compliant SSP plan to include that State-supported route. In this way, FRA requires State B to be involved in the SSP plan in more ways than in the example of State A above. Specifically, the SSP plan requirement regarding equipment procurement is an area where State B must be involved. *See* § 270.103(o), *Contract procurement requirements.* For example, if State B performs an analysis for determining safety characteristics or features of equipment it is considering purchasing for use in its State-supported route, that role should be described in the passenger rail operation's SSP plan—even if that plan is submitted by the operator of the system (*e.g.,* Amtrak for all current State-sponsored IPR services).[12] Similarly, § 270.103(f)(1)(i) outlines that the passenger rail operation's SSP plan must detail the roles and responsibilities of each position that has significant responsibility for implementing the SSP, including those held by employees and other persons utilizing or providing significant safety-related services as identified pursuant to § 270.103(d)(2). In this example, aspects of the SSP plan benefit from State participation and the identification of the State's role in the passenger rail operation. For purposes of part 270, however, only one entity involved in each passenger rail operation need bear the full responsibility for developing, submitting, and implementing an SSP plan for the passenger rail operation.

[12] For example, the role of the California Department of Transportation's (Caltrans') Rolling Stock Procurement Branch would be described in Amtrak's SSP covering that operation for equipment Caltrans procures. *See https://dot.ca.gov/programs/rail-and-mass-transportation/rolling-stock-procurement-branch.*

2. Commuter (or Other Short-Haul) Examples

In the context of commuter (or other short-haul) passenger rail operations, FRA similarly requires each operation to develop and submit a single SSP plan to FRA for review and approval. FRA's amendments to part 270 make clear that each commuter (or other short-haul) passenger rail operation must file an SSP plan that covers all components of that commuter (or other short-haul) operation. For example, for a commuter passenger rail operation, FRA expects the SSP plan will detail the operation to include any public authority that sponsors or organizes the service, describe the track ownership on the system, identify the contractor operator(s), and explain dispatching responsibilities. If a commuter operation has more than one contractor operator (for example, the operation has distinct operators on specific routes in the commuter system), FRA expects that passenger rail operation will establish and file a single SSP plan to address its entire rail system. The SSP plan could be prepared, filed, and implemented for the passenger rail operation by the commuter rail system's owners, a contractor operator, or some other entity involved in the rail system, provided the SSP plan meets the requirements in the rule and the passenger rail operation works with the relevant stakeholders that compose that commuter rail system to ensure the system is viewed holistically. Of course, FRA is available to assist all passenger rail operations regarding the requirements of part 270.

3. Summary of Amendments and Response to States' Comments

FRA is adding a definition in § 270.5, for ''passenger rail operation'' to clarify which entity will need an SSP plan. The definition retains the flexibility that entity has in preparing and implementing the plan. FRA is also amending other sections of part 270 to include the term ''passenger rail operation.'' FRA is reframing these regulatory sections as a responsibility for each passenger rail operation to develop and submit an SSP plan to FRA. These amendments are intended to clarify that an SSP plan must be submitted for each passenger rail operation, and FRA does not expect each specific entity involved in a passenger rail service, whether a railroad or not, to establish, submit, and implement its own SSP plan. Rather, each passenger rail operation will have one SSP plan. FRA believes that for purposes of part 270, these changes effectively and practically implement the rule: (1) Consistent with the statutory mandate; (2) considering the comments received; and (3) considering the regulatory landscape in which the SSP rule overlays and supplements a body of existing rail safety regulations and requires centralized analyses. To be consistent with this approach, FRA is changing ''railroad'' to ''passenger rail operation,'' as appropriate, throughout part 270.

Additionally, FRA is finalizing proposed amendments to the rule that clarify that while all persons providing IPR or commuter (or other short-haul) rail passenger transportation share responsibility for ensuring compliance with the SSP final rule, the rule does not restrict a passenger rail operation's ability to provide for an appropriate designation of responsibility amongst the entities involved in the service. As discussed in the NPRM, any such designation must be described in the SSP plan, although a passenger rail operation may also notify FRA of a designation by submitting a notice of such designation before submitting the SSP plan. The section-by-section analysis discusses these proposed amendments in detail below. FRA believes these amendments clarify the ability to specify which entity will fulfill the responsibilities of this part for each passenger rail operation, so that work and effort is not duplicated. FRA will look to the designated entity when reviewing and approving a submitted SSP plan, auditing the implementation of that plan, and deciding whether to take action to enforce the SSP rule requirements.

B. How FRA's Approach Responds to the States' Concerns

As discussed above, FRA has modified its approach to address the concerns raised by the State commenters, and to clarify which entity will need an SSP plan. The comments received in response to the NPRM raised varying concerns, as described above, from FRA's statutory authority over State sponsors, to alleged substantial burdens of the rule, and logistical concerns about labor consultation requirements. FRA believes that the modified, practical approach this rule requires, stressing that there must be a single SSP plan for each passenger rail operation, addresses these concerns.

For example, the State Comments argued that State sponsors are not structured to handle the SSP process or they lack sufficient capacity to handle the requirements of the SSP process. Simply stated, FRA's approach to focus on the passenger rail operation allows for an entity that is equipped to manage

and implement such requirements to be responsible for the operation's SSP.

1. Statutory Authority Concerns

The State Comments asserted that FRA lacks authority to apply the SSP rule to State sponsors. As FRA noted in the NPRM, FRA disagrees that applying the SSP rule to State sponsors of IPR service goes beyond FRA's statutory authority. *See* 84 FR 27220–21. FRA has a long history of applying its safety regulations to State entities involved in passenger rail operations. *See generally* 49 CFR parts 213, 238 and 239. However, FRA's modified approach in this rule recognizes that each passenger rail operation must have a compliant SSP and SSP plan, but does not specifically require State sponsors to develop and implement SSPs or SSP plans. This SSP plan must describe each entity involved in that passenger rail operation, including State sponsors, and that passenger rail operation must ensure all entities involved in the rail service work together as a system. Overall, for purposes of part 270, FRA focuses on the passenger rail operation, and emphasizes that State sponsors of IPR service are only responsible to the extent and degree their roles and responsibilities are described in the operation's SSP plan. Because this modified approach does not hold a State sponsor responsible for specifically submitting an SSP plan or for being ultimately responsible under the regulation for the passenger rail operation the State sponsors, FRA does not find the States' statutory authority concerns to be implicated.

Although FRA's modified approach in this rule renders the State's statutory authority concerns moot, FRA notes that it does not concur with the States' comments concerning FRA's jurisdiction over States. The State Comments asserted that States are not ''persons'' under the definition of ''person'' in 1 U.S.C. 1. *See generally* SPRC at 5–6. Specifically, the State Comments argued that the definition of ''person'' in 1 U.S.C. 1, includes ''corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals,'' but does not specifically include the word ''State.'' *See id.* The State Comments, by extension, contended that a State cannot be a ''railroad carrier'' under 49 U.S.C. 20102(3) or under the SSP rule, because those definitions refer to a ''*person* providing railroad transportation.''

While FRA acknowledges that ''States'' are not explicitly included in the general 1 U.S.C. 1 definition and the presumption that ''persons'' does not include sovereigns, that presumption is not a ''hard and fast rule of exclusion.'' *Vermont Agency of Natural Resources* v. *United States,* 529 U.S. 765, 780–82 (2000). FRA's general jurisdictional statute, 49 U.S.C. 20103, provides the Secretary of Transportation authority to ''prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970.'' This authority is generally delegated to FRA in 49 CFR 1.89.[13] Additionally, the statutory scheme provides that the FRA Administrator shall carry out the duties and powers related to railroad safety vested in the Secretary by section 20134(c) and chapters 203 through 211 of this title, and by chapter 213 of this title for carrying out chapters 203 through 211. *See* 49 U.S.C. 103(g). The penalty provision for general violations relating to railroad safety provides that a ''*person* may not fail to comply with section 20160 or with a regulation prescribed or order issued by the Secretary of Transportation under chapter 201 of this title.'' 49 U.S.C. 21301 (emphasis added). Additionally, other sections in the penalty provisions in 49 U.S.C. ch. 213 apply to a *person* violating other specific railroad safety requirements, such as those relating to violations of 49 U.S.C. ch. 203–209 (Safety Appliances, Signal Systems, Locomotives, Accidents and Incidents), and 211 (Hours of Service). *See* 49 U.S.C. 21302 and 21303.

The statutory mandate in 49 U.S.C. 20156(h) states that FRA (as delegated by the Secretary) ''shall have the authority to assess civil penalties pursuant to chapter 213 for a violation of this section, including the failure to submit, certify, or comply with a safety risk reduction program, risk mitigation plan, technology implementation plan, or fatigue management plan.''

The use of the term ''person'' in 49 U.S.C. ch. 213, and 49 U.S.C. 20156(h)'s reference to chapter 213 demonstrates that *persons* used in Subtitle V-Rail Programs, Part A-Safety, of the U.S. Code should include States or political subdivisions of States. To read the statutory scheme otherwise would seemingly mean FRA would not be permitted even to issue civil penalties against commuter rail authorities (often instrumentalities of a State or locality) for violations of Federal rail safety requirements because they would not be considered ''persons'' under 49 U.S.C. 21301. This result would be incongruous. Additionally, whether or not a State entity may be considered a railroad carrier under 49 U.S.C. 20102(3), FRA has authority over a person, including a State entity, whose actions, roles, or functions affect railroad safety. *See* 49 U.S.C. 20103. Under the modified approach to part 270 explained here, State sponsors of IPR service are not required to establish and implement an SSP as railroad carriers, but they do have responsibility to the extent they affect railroad safety, under FRA's general jurisdiction. *See* 49 U.S.C. 20103; 49 CFR part 270.

2. Burden

The State Comments echoed their previous arguments that the SSP rule would impose burdens on State sponsors without improving safety. As FRA noted in the NPRM, FRA disagrees and believes that it properly considered the costs and burdens of the rule on States that sponsor IPR service. *See* 84 FR 27219–20.

As explained above, all current State-sponsored IPR services could be considered part of Amtrak's SSP. This is because all State sponsors currently have agreements with Amtrak to provide IPR service on their State-supported routes. As such, the typical IPR service is an Amtrak-scheduled service using equipment Amtrak operates and maintains. In fact, for all State-sponsored IPR service FRA is aware of, Amtrak is the operator. FRA continues to attribute the costs of implementing the SSP rule for current State-sponsored IPR operations to Amtrak (consistent with FRA's past rulemaking practice),[14] on the expectation that Amtrak will prepare either one national SSP plan to include State-sponsored routes of IPR service or, if more appropriate, potentially submit separate SSPs on behalf of unique services distinct from those common to Amtrak's national system. *See* 81 FR 53892, n. 14; 84 FR 27219. In the analysis for the SSP final rule, FRA captured any costs for future State-sponsored IPR service using operators other than Amtrak by estimating there would be one new startup IPR service or commuter rail operation in Years 2 and 3 of the analysis and one new startup every other year thereafter. *See* 81 FR 53852; 84 FR 27219.

Further, while the State Comments alleged substantial and undetermined burdens, FRA maintains that these burdens were either considered by FRA

[13] *See also* 49 U.S.C. 103.

[14] *See* Passenger Equipment Safety Standards, final rule, 64 FR 25560, 25654 (May 12, 1999) (''The [regulatory] evaluation . . . takes into consideration that individual States will contract with Amtrak for the provision of rail service on their behalf. In this regard, for example, a State may utilize Amtrak's inspection forces trained under the rule, and thus not have to train inspection forces on its own.'').

in the regulatory impact analysis or are not mandated by the SSP final rule as revised. The State Comments restated previous arguments contending the rule would impose the following burdens: (1) States do not employ qualified railroad personnel with the detailed technical knowledge to develop, implement, and oversee compliance with an SSP and would have to hire such individuals; (2) States would face considerable challenges in augmenting existing human resources before the responsibilities imposed by the rule could be fulfilled; (3) implementing the rule will likely require State sponsors to renegotiate their existing operating agreements with Amtrak and other contractors to ensure the exchanges of information the rule requires and to implement required consultation procedures; (4) States may have to discontinue IPR service due to the costs imposed by the rule, and if they discontinue service, FRA may require States to repay grants/loans; and (5) the rule's definition of ''railroad'' potentially opens the door to attempts to make States that sponsor IPR service responsible for other statutory obligations, including railway labor and retirement requirements. *See generally* 84 FR 27220; Joint Pet. at 4–9; SPRC at 9–14.

The rule does not require States to hire additional technical or human resources personnel. Further, FRA clarifies that the rule does not restrict the ability to designate an entity to fulfill the responsibilities under the rule. FRA discusses designation of SSP responsibility more fully in the section-by-section analysis below. Overall, FRA believes with the changes in the rule text, these alleged burdens will fall more appropriately on each applicable passenger rail operation, and not specifically on State sponsors who merely provide funding to have Amtrak (or another contractor operator) operate additional routes as part of its network. FRA expects that the costs to such State sponsors of cooperating with Amtrak to allow Amtrak to develop and implement an SSP on these State-supported routes will be nominal.

FRA further underscores that State entities involved in providing IPR service have always had to comply with FRA safety regulations to ensure railroad safety, and they have done so successfully.[15] Because State entities have been complying with their responsibilities under these and other statutorily-based rules,[16] and given the clarified responsibility State sponsors have to cooperate with the passenger rail operation as it formulates and implements a compliant SSP, FRA does not believe that the SSP rule will somehow force States to terminate IPR service.

Regarding the States' claim that implementing the final rule will result in costs associated with renegotiating contracts, FRA notes that the rule itself does not require contract renegotiation. Rather, to the extent any such costs will be incurred, they will result from the States' own decisions on how the IPR service should be provided, and not a requirement of the rule.

Finally, FRA disagrees with the States that being subject to the SSP rule will open them up to application of other statutes. To the extent another agency might argue that labor, tax, or other statutes apply to the States based on the application of this rule, the challenge would be to that agency's statute, not the SSP rule. Further, FRA was mandated by the RSIA to issue an SSP rule that specifically applies to providers of IPR service.[17] There is no basis for disregarding a statutory mandate because another agency might use it to apply an unrelated statute. Further, the amendments in this rule addressing the part 270 requirements to each passenger rail operation, rather than to each railroad, as applicable, emphasizes that each operation must have a compliant SSP, and does not tag a State with any specific responsibility. States and, more precisely, the State entities through which they act, are ''persons'' subject to part 270 to the extent they affect railroad safety, but FRA need not categorize such State entities (*e.g.,* transportation departments, rail authorities) with a term of art (*e.g.,* railroad carrier) in this context. Therefore, the simple obligation to cooperate to ensure a comprehensive SSP is developed and submitted for that passenger rail operation (typically by the operator of that service) does not suggest State entities will become subject to other statutes.

3. Consultation Concerns

Finally, FRA recognizes the State Comments alleged the rule's requirements to consult with IPR operators' employees would interfere with State-IPR operator contracts. As discussed above, in formulating this final rule, FRA took a practical approach to address the varying concerns commenters raised. FRA believes this approach is an appropriate way to implement the statutory mandate and is structured to impose the requirements on each passenger rail operation without interfering with the various stakeholders' current ways of doing business. The rule focuses the responsibility on those that have the capacity to plan and implement an SSP. The rule does not directly impose requirements on State sponsors, unless those sponsors choose to adopt that responsibility. Because State sponsors are not specifically responsible for filing the plan for a passenger rail operation, FRA finds the respective consultation concerns are rendered moot. The rule does not require employees of States sponsoring IPR service to consult with a contractor operator's employees. FRA's economic analysis calculated costs and benefits in this way, and, although the requirements are now clarified in the rule text, FRA does not believe there is any meaningful change in cost or benefit calculations from those of the 2016 final rule.

C. Other Topics

FRA is addressing the comments received on other topics within the section-by-section analysis below. However, as a general matter, FRA received no adverse comments on the consultation notification amendments and, given the supporting comments received, is adopting the changes essentially as proposed. Similarly, FRA is adopting the changes in the information protections section generally as proposed, given the support for including C^{3}RS in the rule's protections.

Several commenters who supported extending this rule's information protections to the C^{3}RS program also urged FRA to further extend the application of the information protections. For context, the information protections generally apply to certain information a railroad compiles or collects after August 14, 2017, solely for SSP purposes. *See* 49 CFR 270.105(a). The rule also specifies certain categories of information that are not protected, including information a railroad compiled or collected on or before August 14, 2017, and that the railroad continues to compile and collect, even if the railroad uses that for its SSP. *See*

[15] *See* 63 FR 24630 (May 4, 1998) and 64 FR 25560 (May 12, 1999).

[16] FRA's Passenger Train Emergency Preparedness regulations are generally satisfied by having Amtrak prepare and implement the required emergency preparedness plans for the State-supported routes. FRA does not require the States to duplicate the efforts of the entities that prepare and implement SSP plans for each passenger rail operation.

[17] *See* 49 U.S.C. 20156(a)(1)(A); 49 CFR 1.89(b).

49 CFR 270.105(b)(2).[18] This final rule amends the protections to clarify that they apply to information a passenger rail operation compiles or collects as part of a C[3]RS program included in its SSP, even if the information was compiled or collected on or before August 14, 2017, for non-SSP purposes.

Two of the comments urging further expansion of the information protections were closely related to FRA's C[3]RS proposal. Specifically, APTA suggested FRA expand the information protections to cover any Federal program, such as the RISE pilot program or the former CSA program, and AAR suggested FRA expand the protections to a railroad's in-house confidential close call reporting program. FRA understands APTA and AAR are asking FRA to extend the information protections to all information a railroad compiles or collects as part of these programs, even if the information was compiled or collected on or before August 14, 2017, for non-SSP purposes. FRA notes that if a railroad compiles or collects information as part of a voluntary Federal data program that has solely system safety purposes, such as RISE, or a railroad reporting program that has solely system safety purposes, the compilation or collection remains solely for SSP purposes, and that information is eligible for protection under § 270.105.

The remaining comments urging expansion of the rule's information protections related not specifically to the C[3]RS proposal, but to the nature of the information protections generally. Specifically, APTA suggested FRA extend the protections to FOIA/FOIL requests; Amtrak suggested the protections should extend to any information resulting from SSP plan processes before the effective date of the rule's information protection provisions (*i.e.,* August 14, 2017) and should include information developed relating to State sponsored routes, including circumstances where State entities may be subject to disclosure requirements; and MBTA suggested FRA expand the protections to FOIA requests.[19]

For the reasons discussed below, FRA declines to adopt any of the above suggestions.

As an initial matter, FRA notes that expanding the information protections to FOIA requests, as requested by APTA and MBTA, is unnecessary because 49 U.S.C. 20118 already exempts certain railroad safety risk reduction records the Secretary obtains from mandatory disclosure under FOIA. FRA has discussed this FOIA exemption in both the SSP and RRP final rules. *See* 81 FR 53855 and 53878 (Aug. 12, 2016); 85 FR 9262–63, 9266–67, 9268, and 9270 (Feb. 18, 2020).

FRA declines to apply the information protections to all information a railroad compiles or collects under other FRA programs, as requested by APTA, because no other ongoing program presents the same challenge as C[3]RS. As the NPRM explained, the information protection date of August 14, 2017, presented several problems in determining how the information protections would apply to C[3]RS programs. *See* 84 FR 27222–23 (June 12, 2019). Without the clarification that all C[3]RS information would be protected when part of an SSP, even if the information was compiled or collected on or before August 14, 2017, for non-SSP purposes, C[3]RS would have found itself in the unworkable situation where some C[3]RS information was protected and some not, based solely on when a participating railroad joined C[3]RS. *Id.* FRA is unaware of a similar situation with any other FRA program. For example, CSA was an FRA pilot project of limited duration, and RISE is an FRA program currently under development. All CSA participation and information therefore came before August 14, 2017, while all RISE participation and information will come afterwards. As a result, all CSA and RISE participants and information will effectively be treated the same when it comes to the information protections. As for other FRA programs that may engage in risk analysis activities, FRA also participates in Switching Operations Fatality Analysis (SOFA) Working Group and the Fatality Analysis of Maintenance-of-Way Employees and Signalmen (FAMES) Committee.[20] Both SOFA and FAMES are programs established well before the date of the rule's information protections and have reached a point where membership and participation are stable and fairly representative of the railroad industry at large.[21] Although SOFA and FAMES are active programs currently generating data, unlike with C[3]RS, FRA does not anticipate significant future growth. As such, neither SOFA nor FAMES is likely to present a situation where some participants receive protection because they joined after August 14, 2017, solely as part of an SSP, while participants who joined on or before August 14, 2017, do not. As an examination of these programs illustrates, FRA concludes it does not need to amend the information protections to cover all information a passenger rail operation compiles or collects under any Federal program, even if the information was compiled or collected on or before August 14, 2017, for non-SSP purposes.

Regarding railroads' own confidential close call protection programs, FRA declines to expand the protections to all information generated by such programs because they are not a single Federal program sponsored by FRA. While some railroads may have established their own reporting programs on or before August 14, 2017, for non-SSP purposes, FRA lacks the direct knowledge necessary to determine that the protections should be expanded to cover these programs. If a railroad's own program was begun after August 14, 2017, and fits entirely within the umbrella of the railroad's SSP or RRP, the existing data protections would apply. FRA therefore concludes that it would be inappropriate to amend the information protections to cover all information a railroad compiles or collects as part of its own confidential close call reporting program, even if that information was compiled or collected on or before August 14, 2017, for non-SSP purposes.

Finally, FRA declines to address the remaining comments from APTA and Amtrak that relate to the nature of the information protections generally, as FRA did not intend for this rulemaking to reopen a substantive discussion of the protections beyond the limited issue of C[3]RS. FRA presented the information protections for public notice and comment in both the SSP and RRP rulemaking processes and held public hearings on both rulemakings. Numerous parties commented on the proposed protections, and FRA

[18] For a more detailed discussion on how the information protections and their exceptions apply, please see the SSP NPRM and final rule. *See* 77 FR 55373, 55378–79, 55390–92, and 55406 (Sept. 7, 2012); 81 FR 53851, 53855–56, 53858–60, 53878–82, and 53900 (Aug. 12, 2016).

[19] FRA assumes that APTA intended ''FOIL'' (*i.e.,* ''Freedom of Information Law'') to refer to State freedom of information laws generally.

[20] The SOFA Working Group looks for commonalities among fatalities that occur during switching operations and develops findings and recommendations that will aid in preventing railroad employee deaths. *See https://www.fra.dot.gov/SOFA.* FAMES focuses on identifying risks, trends, and factors impacting roadway worker safety. *See* Introduction to the FAMES Committee, May 21, 2012, p. 1, available at *https://www.fra.dot.gov/eLib/Details/L01182.*

[21] SOFA began in 1998 and FAMES began in 2009. SOFA includes representatives from AAR, ASLRRA, BLET, FRA, and SMART–TD. FAMES includes participants and affiliates from AAR, Amtrak, APTA, ASLRRA, BMWED, BNSF Railway, BRS, CSX Transportation, Farmrail System, Inc., FRA, Norfolk Southern Railway, and Union Pacific Railroad.

responded to these comments in the SSP and RRP final rules and in the June 2019 NPRM, proposed extending the information protections to FRA-sponsored C[3]RS programs included in a passenger rail operation's SSP. As such, there has already been extensive substantive discussion of the information protections. FRA therefore believes that amending the information protections in a manner unrelated to the C[3]RS program as proposed in this proceeding would not be consistent with the rulemaking process through which the protections have already gone, especially when FRA did not invite public comment on the protections in general.

FRA is addressing the comments received on submission time in the section-by-section, as applicable.

Finally, the purpose of this rulemaking was to specifically address the petitions for reconsideration on the 2016 SSP final rule and to make other necessary clarifying adjustments. FRA was not required to address AAR's supplemental comment [22] on the RRP NPRM in either the NPRM or in this final rule. AAR has raised this point directly to FRA in the context of larger discussions on regulatory reform, and any change to the SSP rule arising from those discussions would follow in a separate rulemaking.

D. Conforming Amendments to the RRP Final Rule

The SSP rule implements the RSIA mandate for railroad safety risk reduction programs for passenger railroads. On February 18, 2020, FRA published a separate RRP final rule addressing the mandate for certain freight railroads. *See* 85 FR 9262 (Feb. 18, 2020). Throughout both the SSP and RRP rulemaking proceedings, FRA has consistently stated both an SSP and RRP final rule would contain consultation and information protection provisions that were essentially identical. *See* 81 FR 53855 (Aug. 12, 2016); 80 FR 10955 (Feb. 27, 2015); 85 FR 9262, 9266–68, 9274–75, 9279, and 9300–01 (Feb. 18, 2020). The NPRM in this proceeding stated that FRA may use this final rule to make conforming changes to the consultation and information protection provisions of an RRP final rule. As discussed further in the section-by-section analysis, FRA is therefore amending the RRP rule (49 CFR part 271) as needed to make its consultation and information protection provisions consistent with the corresponding SSP provisions (as amended by this final rule).

IV. Section-by-Section Analysis

In response to petitions for reconsideration and comments received on the NPRM, FRA is making various clarifying amendments to part 270—System Safety Program. FRA is also clarifying that the SSP rule's information protections apply to C[3]RS programs included in an SSP and extending certain compliance dates to account for the stay of the rule. FRA is also making conforming changes to 49 CFR part 271, Risk Reduction Program. Specific changes are noted for each section below.

Part 270—System Safety Program

Section 270.1—Purpose and scope

This section contains a formal statement of the rule's purpose and scope. FRA is amending paragraphs (a) and (b) to replace the word ''railroads'' with ''passenger rail operations'' to conform with FRA's approach, discussed above. In this manner, FRA makes clear that each passenger rail operation is required to improve railroad safety through structured, proactive processes and procedures in a system safety program.

Section 270.3—Application

This section sets forth the applicability of the rule. FRA is amending paragraphs (a)(1) and (2) to replace the word ''railroads'' with ''passenger rail operations'' to conform with the approach discussed above. Specifically, paragraph (a)(1) is revised to read that this part applies to ''passenger rail operations that operate intercity or commuter passenger train service on the general railroad system of transportation.'' Further, to maintain consistency and parallelism with the language in (a)(1), FRA is amending paragraph (a)(2) to refer to ''passenger rail operations that operate commuter or other short-haul rail passenger train service'' rather than ''railroads that provide'' such service.

Section 270.5—Definitions

This section contains a set of definitions that clarify the meaning of important terms as they are used in the rule.

As proposed, FRA is amending the definitions section of part 270 to add a definition for ''Confidential Close Call Reporting System (C[3]RS),'' which means an FRA-sponsored voluntary program designed to improve the safety of railroad operations by allowing railroad employees to confidentially report unsafe events that are either currently not required to be reported or are underreported. This definition closely parallels the description of C[3]RS on FRA's website. *See https://www.fra.dot.gov/c3rs.*

Additionally, as part of the changes made throughout the rule to phrase the rule's requirements as those belonging to each passenger rail operation, FRA is adding a definition for ''Passenger rail operation,'' which means an intercity, commuter, or other short-haul passenger rail service. The term passenger rail operation generally refers to the service itself, and is not limited to the nature of the railroad company that conducts the operation. In other words, the ''passenger rail operation'' is not referring to just the ''operator'' or entity that employs the crews operating the train service. *See also* 64 FR 25576 (May 12, 1999). By ''operation,'' FRA means the specific physical service. The ''passenger rail operation'' encapsulates all the pieces of the service (including, but not limited to, the right-of-way, track, equipment, crews, railroad employees), and is not limited to a specific route. In the commuter context, an example of a ''passenger rail operation'' is the Northeast Illinois Regional Commuter Railroad Corp. (Metra Rail) service, encompassing Metra Rail's various routes, contractor operators, and host railroads. At the same time, the ''passenger rail operation'' for all current State-sponsored IPR services could be considered part of Amtrak's network (including the Northeast Corridor, Amtrak's Long Distance routes, and State-supported routes). FRA recognizes multiple entities are often involved in a passenger rail operation, including contractors, but FRA believes it is nonetheless clearer to describe responsibilities with respect to the passenger rail operation as a whole, for purposes of implementing the regulation.

FRA is amending the definition of ''Person'' to remove the general reference to ''1 U.S.C. 1,'' and replace it with a more applicable and FRA-specific statutory provision, ''49 U.S.C. 21301.'' FRA is making this clarifying change to refer to FRA's general civil penalty authority in 49 U.S.C. 21301 to better align with FRA's safety jurisdiction. *See also* 49 U.S.C. 20103, 20156(h).

FRA is making small adjustments to the definitions of ''Fully implemented,'' ''Hazard,'' and ''System safety program plan,'' to conform to the ''passenger rail operation'' framework edits described above. For example, the word ''railroad'' in the definition of ''Fully

[22] AAR filed its supplemental comment on the RRP NPRM on October 31, 2018. The comment period for the RRP NPRM closed on October 21, 2015.

implemented'' is replaced with ''passenger rail operation.'' The words ''the railroad's'' are replaced with the word ''a'' in the definition of ''Hazard.'' Similarly, the definition of ''System safety program plan'' is amended to mean ''a document developed by the passenger rail operation that implements and supports the system safety program,'' rather than ''a document developed by the railroad that implements and supports the railroad's system safety program.'' These changes are intended to clarify that each passenger rail operation have an SSP under the regulation, without focusing specifically on any one entity involved in the operation.

Section 270.7—Penalties and Responsibility for Compliance

This section contains provisions relating to compliance with part 270 and penalties for violations of part 270.

DOT has issued a final rule, in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act),[23] that provides the 2019 inflation adjustment to civil penalty amounts that may be imposed for violations of certain DOT regulations. *See* 84 FR 37059 (July 31, 2019). To avoid the need to update this section every time the civil penalty amounts are adjusted for inflation, FRA has changed § 270.7(a) by replacing references to specific penalty amounts with general references to the minimum civil monetary penalty, ordinary maximum civil monetary penalty, and aggravated maximum civil monetary penalty. FRA has also added language to this section referring readers to 49 CFR part 209, appendix A, where FRA will continue to specify statutorily provided civil penalty amounts updated for inflation. These updates are also consistent with the RRP final rule.

As discussed above, to effectuate the framework change, FRA modified paragraph (b) to add the phrase ''or passenger rail operation'' after the words ''duty of a railroad'' and after the words ''whether or not a railroad'' when describing the duties of this part. Paragraph (b) now reads ''[a]lthough the requirements of this part are stated in terms of the duty of a railroad *or passenger rail operation,* when any person, including a contractor or subcontractor to a railroad, performs any function covered by this part, that person (whether or not a railroad *or passenger rail operation*) shall perform that function in accordance with this part.'' § 270.7(b) (emphasis added).

For reasons discussed in the NPRM and as discussed above, FRA is adding a new paragraph (c)(1) to this section to clarify that even though all persons providing IPR or commuter (or other short-haul) rail passenger transportation share responsibility for ensuring compliance with this part, the rule does not restrict the ability for a passenger rail operation to designate a person as responsible for compliance with this part.

However, FRA is not adopting the sentence in (c)(1) proposed in the NPRM that would have stated that a designator (designating entity) was not relieved of responsibility for compliance with this part. As the State Comments explained, this statement rendered the proposed designation provision of little comfort. As discussed in the NPRM, FRA's policy is to look to a designated entity as the person with responsibility for compliance with the SSP final rule. In this final rule, FRA emphasizes that it is still FRA's policy to hold a designated entity responsible for compliance with this part. Of course, FRA's overall approval of an SSP plan takes into account any designation of responsibility and, as a result, failure to fulfill those compliance responsibilities could lead FRA to reopen consideration of the plan under § 270.201(d).

In paragraph (c)(2)(i), a passenger rail operation may designate a person as responsible for compliance with part 270 by including a designation of responsibility in the SSP plan. This designation must be included in the SSP plan's statement describing the passenger rail operation's management and organizational structure and include the information specified by § 270.103(e)(6), the details of which are discussed below in the section-by-section analysis for that section. Any rescission or modification of a designation must be made in accordance with the requirements for amending SSP plans in § 270.201(c).

FRA notes that the use of ''may'' in paragraph (c)(2) was intentional, as this section does not require a passenger rail operation to designate a person as responsible for compliance—any person can comply with the SSP requirements on its own behalf. However, if a passenger rail operation intends to designate a person as responsible for compliance, the SSP plan must describe the passenger rail operation's management and organizational structure, including management responsibilities within the SSP and the distribution of safety responsibilities within the organization, in addition to the requirements of §§ 270.7(c)(2) and 270.103(e)(6).

Nonetheless, FRA further notes that in approving SSP plans, FRA will consider how a designation of responsibility for SSP compliance is consistent with the holistic, system-wide nature of safety management systems. FRA believes that the systemic nature of SSP requires a single entity to have overall responsibility for the entire SSP, to ensure that the SSP is properly implemented throughout the passenger rail operation's entire system by the potentially various entities responsible for separate aspects of the system's safety. FRA therefore expects that a designation will identify only a single entity with overall responsibility for SSP compliance, as opposed to designating SSP responsibility piecemeal to multiple entities.

Including a designation provision in an SSP plan will not, however, relieve the passenger rail operation of responsibility for ensuring that host railroads and other persons that provide or utilize significant safety-related services appropriately support and participate in an SSP, as required under § 270.103(e)(5). Designating a single person as responsible for SSP compliance will not mean that no other entity participates in the SSP. Rather, it means that the designated person has the primary responsibility for ensuring overall SSP compliance, which can include ensuring the participation of other persons as appropriate.

FRA acknowledges that some passenger rail operations may wish to make a designation of responsibility for SSP compliance clear before submitting an SSP plan to FRA, particularly if the designation would involve responsibility for consulting with directly affected employees on the contents of an SSP plan. Paragraph (c)(2)(ii) therefore states that a passenger rail operation may notify FRA of a designation of responsibility before submitting an SSP plan by submitting a designation notice to the Associate Administrator for Railroad Safety and Chief Safety Officer. The notice must include all information required under § 270.103(e)(6), although this information must still be included in the SSP plan. If a passenger rail operation does submit a designation notice under this proposed provision, FRA will encourage the passenger rail operation [24] to share the notice with

[23] The FCPIAA and the 2015 Act require Federal agencies to adjust minimum and maximum civil penalty amounts for inflation to preserve their deterrent impact. *See* 84 FR 37059, 37060 (July 31, 2019).

[24] The entity designated by the designation notice (the designee) will be the entity representing the

directly affected employees before and during the consultation process. Although FRA specifically requested public comment on whether such a deadline for this notification would be necessary, FRA received no comments on this issue.

Accordingly, FRA is finalizing a designation provision as proposed in the NPRM, with the modifications discussed above. This provision explicitly allows each passenger rail operation to determine what entity has responsibility for compliance and submission of the required SSP plan. FRA will not select for each passenger rail operation what entity will submit the SSP plan. As described above, any designation must be detailed in the SSP plan itself. *See also* § 270.103(e).

Section 270.101—System Safety Program; General

This section sets forth the general requirements of the rule. Each passenger rail operation subject to this part is required to establish and fully implement an SSP that systematically evaluates railroad safety hazards on its system and manages the resulting risks to reduce the number and rates of railroad accidents, incidents, injuries, and fatalities.

As discussed above, FRA is amending § 270.101 to be consistent with changes throughout part 270 that phrase the rule's requirements in terms of a ''passenger rail operation'' instead of a ''railroad.'' Specifically, FRA is amending paragraph (a) to state ''each *passenger rail operation* subject to this part . . .'' rather than ''each *railroad* subject to this part.'' § 270.101(a) (emphasis added). FRA is also reformulating paragraph (b) to state ''a system safety program shall be designed so that it promotes and supports a positive railroad safety culture.'' These changes are for clarity and are not intended to alter the substantive effect of the rule.

Section 270.103—System Safety Program Plan

This section requires a passenger rail operation to adopt and fully implement an SSP through a written SSP plan containing the information required in this section.

As discussed above, FRA is amending § 270.103 to be consistent with changes throughout part 270 by replacing the requirement in certain places for the ''railroad'' to be for the ''passenger rail operation.'' For example, in paragraph (a), FRA is modifying the language in paragraphs (a)(1) and (2) from ''each railroad subject to this part. . .'' to ''each passenger rail operation subject to this part.'' In paragraph (b), ''each railroad shall set forth in its SSP plan a policy statement that endorses the railroad's [SSP]. . .'' becomes ''each SSP plan shall contain a policy statement that endorses the passenger rail operation's [SSP]. . . .'' Similar changes are made throughout § 270.103.

In some places, such as in paragraph (d), FRA re-framed the regulatory language to be applicable to the ''rail system'' as opposed to the ''railroad.'' Additionally, throughout the part, FRA adjusted references to ''a SSP'' to ''an SSP,'' to conform with grammar conventions.

Paragraph (e) specifically states an SSP plan must include a statement describing the system's management and organizational structure, and paragraphs (e)(1) through (5) specify information this statement must contain. FRA is amending this section to add a new paragraph (e)(6), which contains the requirements for a designation included in an SSP plan and any designation submitted under § 270.7(c)(2). Under paragraph (e)(6), a designation must include the name and contact information for the designator (designating entity) and the designated entity; a statement signed by an authorized representative of the designated entity acknowledging responsibility for compliance with part 270; a statement affirming a copy of the designation has been provided to the primary contact for each non-profit employee labor organization representing directly affected employees for consultation purposes under § 270.107(a)(2); and a description of how the directly affected employees not represented by a non-profit employee labor organization will be notified of the designation for consultation purposes under § 270.107(a). The central purpose of this amendment is to ensure there is a specific entity identified as the responsible party for submitting an SSP plan for each passenger rail operation. FRA is also making minor formatting amendments to paragraphs (e)(4) and (5) to account for the additional paragraph (e)(6).

FRA is also modifying the introductory language in paragraph (h) regarding rules compliance and procedures review from ''the railroad's'' rules and procedures to ''applicable'' rules and procedures. FRA recognized the possibility that a passenger rail operation may have to comply with another railroad's rules and procedures. Similarly, FRA changed ''the railroad's'' to ''applicable'' operating and safety rules and maintenance procedures in paragraphs (h)(2) and (3). FRA believes the existing language in § 270.103(h) was too specific to account for this scenario.

Other clarifying changes to reflect that the rule's requirements are applicable to each passenger rail operation were made throughout the section.

Section 270.105—Discovery and Admission as Evidence of Certain Information

This section sets forth the discoverability and admissibility protections for certain SSP information. The SSP final rule preamble discussed these protections in depth. *See* 81 FR 53878–53882 (Aug. 12, 2016). For reasons discussed in the NPRM and after considering the comments received, FRA is adding paragraph (a)(3) to this section to clarify that for court proceedings initiated after 365 days following publication of this final rule, the protections established by this section apply to C^{3}RS information a passenger rail operation includes in its SSP, even if the passenger rail operation compiled or collected the C^{3}RS information on or before August 14, 2017, for non-SSP purposes. FRA is also adding language to the introductory text of paragraph (a) to indicate the information protections apply except as provided in paragraph (a)(3).

FRA is making minor formatting amendments to paragraphs (a)(1) and (2) to account for the additional paragraph (a)(3).

FRA is making conforming edits in paragraphs (a) and (b) to refer to the ''passenger rail operation'' rather than the ''railroad,'' to be consistent with the framework and clarifying changes to the rule discussed above.

Finally, FRA is adding new paragraph (e) to clarify that § 270.105 does not protect information during civil enforcement or criminal law enforcement proceedings. For example, § 270.105 will not apply to a civil enforcement or criminal action brought to enforce Federal railroad safety laws, or proceedings such as a civil enforcement action brought by the Department of Justice under the Clean Water Act to address a discharge of pollutants into waters of the United States following a rail accident. Because paragraph (a) of this section plainly states that the information protections apply to a ''Federal or State court proceeding for damages involving personal injury, wrongful death, or property damage,'' FRA believes a court would not find that the protections apply to a civil enforcement or criminal

passenger rail operation and therefore responsible for sharing the notice with its directly affected employees.

law enforcement case. Nevertheless, to help ensure no attempt is made to rely on the rule's information protections in a civil enforcement or criminal law enforcement proceeding, paragraph (e) explicitly states that § 270.105 does not apply to civil enforcement or criminal enforcement actions. This change is consistent with language in the RRP final rule (*see* 49 CFR 271.11).

Section 270.107—Consultation Requirements

This section requires a passenger rail operation subject to part 270 to consult with its directly affected employees on the contents of its SSP plan. *See* 49 U.S.C. 20156(g)(1). The SSP final rule preamble discussed the requirements of this section in depth. *See* 81 FR 53882–53887 (Aug. 12, 2016). As discussed in the NPRM, FRA is making several amendments to this section, including incorporating language proposed in the Labor Petitions, as modified and clarified by FRA. To account for the stay of the SSP final rule, FRA is also extending the compliance date for holding the preliminary meeting with directly affected employees. Additionally, as discussed above, FRA is amending this section to be consistent with changes throughout part 270 by replacing certain references to ''railroad'' with references to ''passenger rail operation.''

Paragraph (a)—General Duty

Paragraph (a)(2) of this section states that a passenger rail operation that consults with a non-profit employee labor organization is considered to have consulted with the directly affected employees represented by that organization. If a passenger rail operation contracts out significant portions of its operations, the contractor and the contractor's employees performing those operations are considered directly affected employees for part 270 purposes.[25]

For reasons discussed in the NPRM and as discussed above, FRA is amending paragraph (a)(2) to add that unless agreed otherwise, for consultation purposes, the primary point of contact for directly affected employees represented by a non-profit employee labor organization is the general chairperson for that non-profit employee labor organization. Alternatively, at the beginning of the consultation process, a non-profit employee labor organization and a passenger rail operation may agree upon a different point of contact. While the Labor Petition requested FRA amend paragraph (a)(3) to establish the general chairperson of a non-profit employee labor organization as a passenger rail operation's primary point of contact, FRA believes such a provision belongs more appropriately in paragraph (a)(2), which contains requirements addressing the consultation process generally. Paragraph (a)(3), in contrast, only addresses the preliminary meeting portion of the consultation process. By amending paragraph (a)(2) instead of paragraph (a)(3), FRA is clarifying that a general chairperson is the primary contact for the entire consultation process, not just the preliminary meeting. FRA specifically requested public comment on whether amending paragraph (a)(2) instead of paragraph (a)(3) would adequately address the Labor Petition's concerns. FRA received no comments on this issue.

Existing paragraph (a)(3) requires a passenger rail operation to have a preliminary meeting with its directly affected employees to discuss how the consultation process will proceed no later than April 10, 2017. To account for the stay of the SSP final rule, as discussed in the NPRM, FRA is amending paragraph (a)(3)(i) to extend the deadline for the preliminary meeting from April 10, 2017, to 120 days after the publication date of this final rule.

Paragraph (b)(3)—Consultation Statements

Paragraph (b)(3) requires a passenger rail operation consultation statement to include a service list containing the name and contact information for each international/national president of any non-profit employee labor organization representing a class or craft of the passenger rail operation's directly affected employees.[26] When a passenger rail operation submits its SSP plan and consultation statement, it must simultaneously send a copy of both to all individuals identified in the service list.

FRA is amending paragraph (b)(3) to add that the service list must also include the name and contact information for either each general chairperson of any non-profit employee labor organization representing a class or craft of the passenger rail operation's directly affected employees or the agreed-upon point of contact that the non-profit employee labor organization and the passenger rail operation agreed upon at the beginning of the consultation process.

Section 270.201—Filing and Approval

This section contains the requirements for filing an SSP plan and FRA's approval process. As discussed in the NPRM, FRA is amending paragraph (a)(1) to account for the stay of the requirements of the SSP final rule. Because FRA extended the date of the preliminary meeting under § 270.107(a)(3), it is also necessary to extend the time for a passenger rail operation to submit its SSP plan to FRA. FRA proposed providing one year after the publication date of this rule to submit SSP plans to FRA for review and approval.

FRA specifically requested public comment on whether an entire year following the publication of a final rule would be necessary for submission of SSP plans to FRA, or whether a shorter deadline, such as six months, would provide sufficient time. As mentioned above, MBTA commented that it supported FRA's proposal to allow a full year to submit SSP plans to FRA (and indicated a shorter time frame would be insufficient). APTA commented that FRA should instead provide two years from the date of the final rule, to be similar to the time frame FTA provided in implementing the SMS program. Amtrak generally commented that FRA should implement the rule immediately. Given these comments, FRA is providing each passenger rail operation with a one-year period after the publication date of this rule, as proposed, to submit SSP plans to FRA for review and approval.

Additionally, as discussed above, FRA is amending § 270.201 be consistent with changes throughout the part by replacing the requirement for the ''railroad'' to be framed as a responsibility of the ''passenger rail operation.'' For example, in paragraph (a)(1), each ''passenger rail operation'' to which this part applies shall submit one copy of its SSP plan, rather than each ''railroad.'' As noted above, FRA expects that in most instances, the entity conducting the railroad operation will

[25] As discussed in the section-by-section analysis for the new definition of ''passenger rail operation,'' FRA recognizes that a single passenger rail operation is often composed of multiple entities, including contractors. FRA believes it is nonetheless clearer, when describing the rule's requirements, to refer to the responsibilities of the ''passenger rail operation'' as a whole. In the context of the consultation requirement, this means that FRA does expect the entities involved in the passenger rail operation to be responsible for meeting the consultation requirement applicable to the operation. For example, when an entity enters into a contract on behalf of a passenger rail operation, that entity would be responsible for consulting with contractors or contractor employees to the extent required by paragraph (a)(2).

[26] Paragraph (b)(3) also requires the service list to contain the name and contact information for any directly affected employee who significantly participated in the consultation process independently of a non-profit employee labor organization.

submit the passenger rail operation's SSP plan.

Section 270.203—Retention of System Safety Program Plan

This section contains the requirements for retaining an SSP plan. As discussed above, FRA is amending § 270.203 be consistent with changes throughout part 270 by replacing the requirement for ''each railroad'' to retain a copy of the SSP plan, with a requirement that ''each passenger rail operation'' retain a copy of the SSP plan.

Section 270.301—General

This section describes the general requirement for each SSP to be assessed internally and audited externally by FRA. As discussed above, FRA is amending § 270.301 to be consistent with changes throughout the part by clarifying the responsibility for the SSP's internal assessment lies with ''the passenger rail operation.''

Section 270.303—Internal System Safety Program Assessment

This section describes the requirements for each SSP to be assessed internally. As discussed above, FRA is amending § 270.303 be consistent with changes throughout part 270 by replacing references to ''the railroad'' with ''the passenger rail operation.''

Section 270.305—External Safety Audit

This section describes the process FRA will use when it conducts audits of a passenger rail operation's SSP. As discussed above, FRA is amending § 270.305 to be consistent with changes throughout the part by clarifying the responsibility falls on ''the passenger rail operation.''

Appendix A to Part 270 [Reserved]

FRA has removed its civil penalty guidelines from the CFR to the FRA website. *See* 84 FR 23730 (May 23, 2019). FRA intends to change the wording in the guidelines on the website to be consistent with the changes made in this rule. For example, FRA intends to revise the existing reference to the failure to hold the preliminary meeting by April 10, 2017, as that date has passed, and is being adjusted in this final rule.

Appendix B to Part 270—Federal Railroad Administration Guidance on the SSP Consultation Process

Appendix B contains guidance on how each passenger rail operation could comply with the consultation requirements of § 270.107. FRA is amending appendix B as proposed to reflect the amended compliance dates in §§ 270.107(a)(3)(i) and 270.201(a)(1). FRA also made changes throughout appendix B to clarify, as discussed above, by removing the modifier ''railroad's'' from ''railroad's SSP plan,'' and, where appropriate, changing references from ''railroad'' to ''passenger rail operation.''

Additionally, FRA removed a sentence from the guidance about the passenger rail operation waiting to hold substantive consultations regarding the contents of its SSP to take advantage of the information protection provisions once they go into effect, because for purposes of 49 U.S.C. 20119(b), the information protection provisions were adopted on August 12, 2016. That adoption was unaffected by the subsequent stays, so the rule's information protections are applicable to information a passenger rail operation compiles or collects after August 14, 2017.

Appendix C to Part 270—Procedures for Submission of SSP Plans and Statements From Directly Affected Employees

Appendix C provides passenger rail operations and directly affected employees the option to file SSP plans or consultation statements electronically. FRA is amending appendix C to be consistent with the changes throughout the part. For example, FRA is removing references to ''railroad's'' from phrases like ''railroad's SSP plan.'' Additionally, certain references to ''railroad'' were changed to ''passenger rail operation,'' where appropriate, to be consistent with other edits made in this part.

Part 271—Risk Reduction Program

As discussed in Section III.D of the preamble, FRA is making conforming changes to part 271 to mirror those in part 270.

Section 271.5—Definitions

For reasons discussed in Section III.D of the preamble and in the section-by-section analysis for § 270.5, FRA is amending § 271.5 by adding a definition for ''Confidential Close Call Reporting System (C^{3}RS).'' FRA is also revising the definition of ''Person'' to remove the general reference to ''1 U.S.C. 1'' and replace it with a more applicable and FRA-specific provision, ''49 U.S.C. 21301.''

Section 271.11—Information Protections

As discussed in Sections III.C and III.D of the preamble, FRA is adding paragraph (a)(3) to § 271.11 to clarify that for court proceedings initiated after 365 days following publication of this final rule, the information protections established by this section apply to C^{3}RS information a railroad includes in its RRP, even if the railroad compiled or collected the C^{3}RS information on or before February 17, 2021, for non-RRP purposes. FRA is also adding language to the introductory text of paragraph (a) to indicate the information protections apply except as provided in paragraph (a)(3).

FRA is also making minor formatting amendments to paragraphs (a)(1) and (2) to account for the additional paragraph (a)(3).

Section 271.207—Consultation

For reasons discussed in Section III.D of the preamble and the section-by-section analysis for § 270.107, FRA is amending paragraph (a)(2) of § 271.207 to add that, unless agreed otherwise, for consultation purposes, the primary point of contact for directly affected employees represented by a non-profit employee labor organization is the general chairperson for that non-profit employee labor organization. Alternatively, at the beginning of the consultation process, a non-profit employee labor organization and a railroad may agree upon a different point of contact. Similarly, FRA is also amending paragraph (d)(3) to add that a service list must also include the name and contact information for either each general chairperson of any non-profit employee labor organization representing a class or craft of a railroad's directly affected employees or the agreed-upon point of contact that the non-profit employee labor organization and the railroad agreed upon at the beginning of the consultation process.

V. Regulatory Impact and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is a non-significant rulemaking and evaluated in accordance with existing policies and procedures under Executive Order 12866 and DOT Order 2100.6. *See* 58 FR 51735, Sep. 30, 1993 and *https://www.transportation.gov/regulations/2018-dot-rulemaking-order.* The scope of this analysis is limited to the revisions that FRA is making in this rulemaking. FRA concluded that because this final rule generally includes only voluntary actions or alternative action by designated entities that will be voluntary, or clarifying edits, this final rule does not impart

additional burdens or benefits on regulated entities.

Pursuant to petitions for reconsideration FRA received in response to the SSP final rule and comments received on the NPRM, this final rule contains six sets of substantive amendments to part 270. As discussed in Section III.D of the preamble, this rule also amends part 271 to ensure that the RRP and SSP rules have essentially identical consultation and information protection provisions. The following paragraphs describe analysis of the effects of the amendments.

First, to address the States' concerns discussed in Section III of the NPRM and as explained above, the final rule amends part 270 to clarify that a passenger rail operation subject to the part may designate an entity as responsible for SSP compliance under §§ 270.7(c) and 270.103(e)(6). As any such designation will be voluntary, such clarification adds no additional burden nor provides any additional safety benefit. In addition, the revisions to §§ 270.7(c) and 270.103(e)(6) clarify the responsibilities of the designated entity. FRA requested comment from the public on the costs and benefits described in this paragraph. Although the States commented on the purported burdens of part 270 generally, FRA did not receive specific comments on the NPRM's economic analysis.

Second, to address the Labor Petition's concerns discussed in Section II of the NPRM, FRA is amending both the SSP and RRP rules to add the general chairperson of a non-profit employee labor organization (or a non-profit employee labor organization primary point of contact agreed on at the beginning of the consultation process) as the point of contact for directly affected employees represented by that non-profit employee labor organization.

Third, FRA received a comment from AAR on the 2012 SSP NPRM voicing concern that an inadvertent failure to serve a general chairperson may result in FRA deeming a railroad as not using ''best efforts'' in the consultation process. In response to such concern, FRA is allowing a passenger rail operation and a non-profit employee labor organization to establish an alternative point of contact within the non-profit employee labor organization. This point of contact could be a person the passenger rail operation and non-profit employee labor organization agree on at the beginning of the consultation process. FRA anticipates any burden associated with requiring the inclusion of a general chairperson in the service list (see paragraph above) will be significantly alleviated, if not eliminated altogether, by the provision allowing passenger rail operations and non-profit employee labor organizations to agree on an alternative point of contact. Although FRA specifically requested comment from the public on this conclusion, it did not receive adverse comment, and generally finalized the provision as proposed.

Fourth, as discussed in Section VI of the NPRM, FRA is amending the information protections in both the SSP and RRP rules to address the C^{3}RS program. Because this amendment merely addresses the scope of the protections provided by the SSP and RRP final rules, there are no burdens associated with it.

Fifth, FRA is also adjusting the various compliance dates in part 270 to account for the stay of the SSP final rule's requirements. Because the adjustments are necessary only to conform the rule's deadlines with the stay, they have already been accounted for in the regulatory impact analysis that accompanied the final rule extending the stay. *See* 84 FR 45683 (Aug. 30, 2019).

Finally, as discussed above, FRA is amending part 270 throughout to frame the responsibilities of the rule as belonging to each passenger rail operation. This language does not affect FRA's existing economic analysis of the costs and burdens of the rule.

This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2).

B. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.,* and Executive Order 13272, 67 FR 53461 (Aug. 16, 2002), require agency review of proposed and final rules to assess their impact on small entities. An agency must prepare an Initial Regulatory Flexibility Analysis unless it determines and certifies that a rule, if promulgated, would not have a significant impact on a substantial number of small entities. The six sets of revisions within this final rule would not impart any additional burden on regulated entities. Four of the sets of revisions add clarity to the SSP final rule, and the revision requiring submission of the designation notice to FRA is voluntary and would only apply if a designation is made. Another revision allows an alternative non-profit employee labor organization primary point of contact to be agreed on at the beginning of the consultation process, thereby eliminating or significantly mitigating any burden associated with the revision requiring inclusion of a general chairperson in the service list.

''Small entity'' is defined in 5 U.S.C. 601 as including a small business concern that is independently owned and operated, and is not dominant in its field of operation. The U.S. Small Business Administration (SBA) has authority to regulate issues related to small businesses, and stipulates in its size standards that a ''small entity'' in the railroad industry is a for profit ''linehaul railroad'' that has fewer than 1,500 employees, a ''short line railroad'' with fewer than 1,500 employees, or a ''commuter rail system'' with annual receipts of less than $15.0 million dollars. *See* ''Size Eligibility Provisions and Standards,'' 13 CFR part 121, subpart A. Additionally, 5 U.S.C. 601(5) defines as ''small entities'' governments of cities, counties, towns, townships, villages, school districts, or special districts with populations less than 50,000. Federal agencies may adopt their own size standards for small entities, in consultation with SBA and in conjunction with public comment. Pursuant to that authority, FRA has published a final statement of agency policy that formally establishes ''small entities'' or ''small businesses'' as being railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR 1201.1–1, which is $20 million or less in inflation-adjusted annual revenues, and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less. *See* 68 FR 24891 (May 9, 2003), codified at appendix C to 49 CFR part 209. The $20-million limit is based on the STB's revenue threshold for a Class III railroad. Railroad revenue is adjusted for inflation by applying a revenue deflator formula in accordance with 49 CFR 1201.1–1. FRA is using this definition for this rulemaking.

For purposes of this analysis, the SSP portions of this rule will impact 33 commuter or other short-haul passenger railroads and two intercity passenger railroads, Amtrak and the ARC.[27] Neither of the intercity passenger railroads is considered a small entity. Amtrak serves populations well in excess of 50,000, and the ARC is owned

[27] This analysis considers all current State-sponsored IPR services to be part of Amtrak's SSP, which is a reasonable expectation as discussed in this final rule.

by the State of Alaska, which has a population well in excess of 50,000.

Based on the definition of ''small entity,'' only one commuter or other short-haul railroad is considered a small entity: the Hawkeye Express (operated by the Iowa Northern Railway Company). For purposes of this analysis, the RRP portions of this rule will affect 7 Class I railroads and a maximum of 50 Class III railroads. *See* 85 FR 9262, 9307–11 (Feb. 18, 2020).

Although the regulation may impact a substantial number of small entities, by virtue of its impact on the only identified small entity that is a commuter or other short-haul railroad subject to the SSP rule, and the maximum of 50 Class III railroads that could be affected by the RRP rule, it would merely provide additional clarifying information without introducing any additional burden. Further, any potential impact on small entities would be positive. The regulation would therefore not have a significant impact on a substantial number of small entities.

A substantial number of small entities may be impacted by this regulation; however, any impact would be minimal. Although FRA requested comments as to the impact that the NPRM would have on both small passenger railroads as well as all passenger railroads in general, no comments were received on this issue.

C. Paperwork Reduction Act

FRA is submitting the information collection requirements in this rule to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* The sections that contain information collection requirements are duly designated and the estimated time to fulfill each requirement is as follows:

CFR section/subject	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual dollar cost equivalent[28]
270.103—System Safety Program Plan (SSP Plan)—Comprehensive written SSP Plan that meets all of this section's requirements.	35 passenger rail operations	11.7 plans	40 hours	467	$42,777
—Copies of designations to non-profit employee labor organizations (New requirement).	35 passenger rail operations	11.7 copies	2 minutes	.4	30
—Designation notifications to employees not represented by non-profit employee labor organizations (New requirement).	35 passenger rail operations	11.7 notices	5 minutes	1	76
—Records of system safety training for employees/contractors/others.	35 passenger rail operations	495 records	15 seconds	2	157
—(q)(1) Performance of risk-based hazard analyses and furnishing of results of risk-based hazard analyses upon request of FRA/participating part 212 States.	35 passenger rail operations	35 analyses results	20 hours	700	53,200
—(q)(2) Identification and implementation of risk mitigation methods and furnishing of descriptions of specific risk mitigation methods that address hazards upon request of FRA/participating part 212 States.	35 passenger rail operations	35 mitigation methods descriptions.	10 hours	350	26,600
—(r)(1) Performance of technology analysis and furnishing of results of system's technology analysis upon request of FRA/participating part 212 States.	35 passenger rail operations	35 results of technology analysis.	10 hours	350	26,600
270.107(a)—Consultation requirements—consultation with directly affected employees on SSP Plan.	35 passenger rail operations	11.7 consults (w/labor union reps.).	1 hour	12	912
—(a)(3)(ii) Notification to directly affected employees of preliminary meeting at least 60 days before being held.	35 passenger rail operations	11.7 notices	30 minutes	6	456
—(b) Consultation statements that includes service list with name & contact information for labor organization chairpersons & non-union employees who participated in process.	35 passenger rail operations	11.7 statements	1 hour	12	912
—Copies of consultations statements to service list individuals.	35 passenger rail operations	11.7 copies	1 minute	.2	15
270.201(b)—SSP Plan found deficient by FRA and requiring amendment.	35 passenger rail operations	4 amended plans	30 hours	120	9,120
—Review of amended SSP Plan found deficient and requiring further amendment.	35 passenger rail operations	1 further amended plan	20 hours	20	1,520
—Reopened review of initial SSP Plan approval for cause stated.	35 passenger rail operations	1 amended plans	30 hours	30	2,280
270.203—Retention of SSP Plans—Retained copies of SSP Plans.	35 passenger rail operations	16 copies	10 minutes	3	228
270.303—Annual internal SSP assessments/reports conducted.	35 passenger rail operations	16 evaluations/reports	2 hours	32	2,432
—Certification of results of internal assessment by chief safety official.	35 passenger rail operations	35 certification statements	2 hours	70	8,050
270.305—External safety audit—Submission of improvement plans in response to results of FRA audit.	35 passenger rail operations	6 plans	12 hours	72	8,280
—Improvement plans found deficient by FRA and requiring amendment.	35 passenger rail operations	2 amended plans	10 hours	20	1,520
—Status report to FRA of implementation of improvements set forth in the improvement plan.	35 passenger rail operations	2 reports	4 hours	8	608
Appendix B—Additional documents provided to FRA upon request.	35 passenger rail operations	4 documents	15 minutes	1	76
Appendix C—Written requests to file required submissions electronically.	35 passenger rail operations	7 written requests	15 minutes	2	152

CFR section/subject	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual dollar cost equivalent[28]
Totals	35 passenger rail operations	776 responses	N/A	2,279	186,001

All estimates include the time for reviewing instructions, searching existing data sources, gathering or maintaining the needed data, and reviewing the information.

For information or a copy of the paperwork package submitted to OMB, contact Ms. Hodan Wells, Information Collection Clearance Officer, Office of Railroad Safety, Federal Railroad Administration, at 202–493–0440 or Ms. Kimberly Toone, Information Collection Clearance Officer, Office of Railroad Safety, Federal Railroad Administration, at 202–493–6132.

Organizations and individuals desiring to submit comments on the collection of information requirements should direct them to Ms. Hodan Wells or Ms. Kimberly Toone, Federal Railroad Administration, 1200 New Jersey Avenue SE, 3rd Floor, Washington, DC 20590. Comments may also be submitted via email to Ms. Wells at *Hodan.Wells@dot.gov* or Ms. Toone at *Kim.Toone@dot.gov.*

OMB must make a decision concerning the collection of information requirements contained in this rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. FRA did not receive any OMB or public comments on the information collection requirements contained in the NPRM.

FRA is not authorized to impose a penalty on persons for violating information collection requirements that do not display a current OMB control number, if required. The current OMB control number for part 270 is 2130–0599.[29]

D. Environmental Impact

FRA has evaluated this rule in accordance with its ''Procedures for Considering Environmental Impacts'' (FRA's Procedures) (64 FR 28545 (May 26, 1999)) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this rule is not a major Federal action, requiring the preparation of an environmental impact statement or environmental assessment, because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. *See* 64 FR 28547 (May 26, 1999).

In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this rule that might trigger the need for a more detailed environmental review. As a result, FRA finds that this rule is not a major Federal action significantly affecting the quality of the human environment.

E. Federalism Implications

Executive Order 13132, ''Federalism'' (64 FR 43255 (Aug. 10, 1999)), requires FRA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, the agency may not issue a regulation with federalism implications that imposes substantial direct compliance costs and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or the agency consults with State and local government officials early in the process of developing the regulation. Where a regulation has federalism implications and preempts State law, the agency seeks to consult with State and local officials in the process of developing the regulation.

FRA has analyzed this rule in accordance with the principles and criteria contained in Executive Order 13132. VTrans commented that the SSP rule had significant federalism implications that FRA did not consider regarding the rule's applicability to VTrans. *See* VTrans at 12. Specifically, VTrans contended the rule ''would have a chilling effect'' on States (like Vermont), that, in reliance on existing law, have ''structured their support for . . . intercity passenger rail service to avoid 'railroad carrier' status.'' *See id.* As discussed above, FRA does not believe the proposal or SSP final rule raised such implications. However, in any event, the revisions to the rule make even clearer that no such implications are intended.

This rule generally clarifies or makes technical amendments to the requirements contained in part 270, System Safety Program, and part 271, Risk Reduction Program. FRA has determined that this final rule has no federalism implications, other than the possible preemption of State laws under 49 U.S.C. 20106. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply, and preparation of a federalism summary impact statement for the rule is not required.

F. Unfunded Mandates Reform Act of 1995

Pursuant to section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law). Section 202 of the Act (2 U.S.C. 1532) further requires that before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement detailing the effect on State, local, and tribal governments and the private sector. This rule would not result in such an expenditure, and thus

[28] FRA derived the wage rates from the Surface Transportation Board website for 2018 wage data, and it uses the average annual wages for each employee group as follows: For Executives, Officials, and Staff Assistants, this cost amounts to $115 per hour. For Professional and Administrative staff, this cost amounts to $76 per hour.

[29] No changes are necessary to the RRP rule's PRA analysis to account for the conforming amendments to the consultation and information protection provisions in this rule. *See* 85 FR 9262, 9311–13 (Feb. 18, 2020).

preparation of such a statement is not required.

G. Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355 (May 22, 2001). FRA evaluated this rule in accordance with Executive Order 13211 and determined that this regulatory action is not a ''significant energy action'' within the meaning of the Executive Order.

Executive Order 13783, ''Promoting Energy Independence and Economic Growth,'' requires Federal agencies to review regulations to determine whether they potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources. *See* 82 FR 16093 (Mar. 31, 2017). FRA determined this rule would not burden the development or use of domestically produced energy resources.

List of Subjects

49 CFR Part 270

Penalties, Railroad safety, Reporting and recordkeeping requirements, System safety.

49 CFR Part 271

Penalties, Railroad safety, Reporting and recordkeeping requirements, Risk reduction.

The Rule

For the reasons discussed in the preamble, FRA amends parts 270 and 271 of chapter II, subtitle B of title 49, Code of Federal Regulations, as follows:

PART 270—SYSTEM SAFETY PROGRAM

■ 1. The authority citation for part 270 continues to read as follows:

Authority: 49 U.S.C. 20103, 20106–20107, 20118–20119, 20156, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

■ 2. In § 270.1, revise paragraphs (a) and (b) to read as follows:

§ 270.1 Purpose and scope.

(a) The purpose of this part is to improve railroad safety through structured, proactive processes and procedures developed and implemented by passenger rail operations. This part requires certain passenger rail operations to establish a system safety program that systematically evaluates railroad safety hazards and the resulting risks on their systems and manages those risks to reduce the number and rates of railroad accidents, incidents, injuries, and fatalities.

(b) This part prescribes minimum Federal safety standards for the preparation, adoption, and implementation of railroad system safety programs. This part does not restrict passenger rail operations from adopting and enforcing additional or more stringent requirements not inconsistent with this part.

* * * * *

■ 3. In § 270.3, revise paragraphs (a)(1) and (2) to read as follows:

§ 270.3 Application.

(a) * * *

(1) Passenger rail operations that operate intercity or commuter passenger train service on the general railroad system of transportation; and

(2) Passenger rail operations that operate commuter or other short-haul rail passenger train service in a metropolitan or suburban area (as described by 49 U.S.C. 20102(2)), including public authorities operating passenger train service.

* * * * *

■ 4. In § 270.5:

■ a. Add a definition in alphabetical order for ''Confidential Close Call Reporting System (C^3RS)'';

■ b. Revise the definitions of ''Fully implemented'' and ''Hazard'';

■ c. Add a definition in alphabetical order for ''Passenger rail operation''; and

■ d. Revise the definitions of ''Person'' and ''System safety program plan''.

The additions and revisions read as follows:

§ 270.5 Definitions.

* * * * *

Confidential Close Call Reporting System (C^3RS) means an FRA-sponsored voluntary program designed to improve the safety of railroad operations by allowing railroad employees to confidentially report currently unreported or underreported unsafe events.

* * * * *

Fully implemented means that all elements of a system safety program as described in the SSP plan are established and applied to the safety management of the passenger rail operation.

Hazard means any real or potential condition (as identified in a risk-based hazard analysis) that can cause injury, illness, or death; damage to or loss of a system, equipment, or property; or damage to the environment.

* * * * *

Passenger rail operation means an intercity, commuter, or other short-haul passenger rail service.

Person means an entity of any type covered under 49 U.S.C. 21301, including, but not limited to, the following: A railroad; a manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor or subcontractor providing goods or services to a railroad; any employee of such owner, manufacturer, lessor, lessee, or independent contractor or subcontractor.

* * * * *

System safety program plan means a document developed by the passenger rail operation that implements and supports the system safety program.

* * * * *

■ 5. Revise § 270.7 to read as follows:

§ 270.7 Penalties and responsibility for compliance.

(a) Any person who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least the minimum civil monetary penalty and not more than the ordinary maximum civil monetary penalty per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed the aggravated maximum civil monetary penalty per violation may be assessed. *See* 49 CFR part 209, appendix A. Each day a violation continues shall constitute a separate offense. Any person who knowingly and willfully falsifies a record or report required by this part may be subject to criminal penalties under 49 U.S.C. 21311. FRA's website at *www.fra.dot.gov* contains a schedule of civil penalty amounts used in connection with this part.

(b) Although the requirements of this part are stated in terms of the duty of a railroad or passenger rail operation, when any person, including a contractor or subcontractor to a railroad, performs any function covered by this part, that person (whether or not a railroad or passenger rail operation) shall perform that function in accordance with this part.

(c)(1) All persons providing intercity rail passenger or commuter (or other short-haul) rail passenger service share responsibility for ensuring compliance with this part. Nothing in this paragraph (c), however, shall restrict the ability to provide for an appropriate designation

of responsibility for compliance with this part.

(2)(i) Any passenger rail operation subject to this part may designate a person as responsible for compliance with this part by including a designation of responsibility in the SSP plan. This designation must be included in the SSP plan's statement describing the passenger rail operation's management and organizational structure and include the information specified by § 270.103(e)(6).

(ii) A passenger rail operation subject to this part may notify FRA of a designation of responsibility before submitting an SSP plan by first submitting a designation of responsibility notice to the Associate Administrator for Railroad Safety and Chief Safety Officer. The notice must include all information required under § 270.103(e)(6), and this information must also be included in the SSP plan.

■ 6. Revise § 270.101 to read as follows:

§ 270.101 System safety program; general.

(a) Each passenger rail operation subject to this part shall establish and fully implement a system safety program that continually and systematically evaluates railroad safety hazards on its system and manages the resulting risks to reduce the number and rates of railroad accidents, incidents, injuries, and fatalities. A system safety program shall include a risk-based hazard management program and risk-based hazard analysis designed to proactively identify hazards and mitigate or eliminate the resulting risks. The system safety program shall be fully implemented and supported by a written SSP plan described in § 270.103.

(b) A system safety program shall be designed so that it promotes and supports a positive railroad safety culture.

■ 7. Revise § 270.103 to read as follows:

§ 270.103 System safety program plan.

(a) *General.* (1) Each passenger rail operation subject to this part shall adopt and fully implement a system safety program through a written SSP plan that, at a minimum, contains the elements in this section. This SSP plan shall be approved by FRA under the process specified in § 270.201.

(2) Each passenger rail operation subject to this part shall communicate with each railroad that hosts passenger train service for that passenger rail operation and coordinate the portions of the SSP plan applicable to the railroad hosting the passenger train service.

(b) *System safety program policy statement.* Each SSP plan shall contain a policy statement that endorses the passenger rail operation's system safety program. This policy statement shall:

(1) Define the passenger rail operation's authority for the establishment and implementation of the system safety program;

(2) Describe the safety philosophy and safety culture of the passenger rail operation; and

(3) Be signed by the chief official of the passenger rail operation.

(c) *System safety program goals.* Each SSP plan shall contain a statement defining the goals for the passenger rail operation's system safety program. This statement shall describe clear strategies on how the goals will be achieved and what management's responsibilities are to achieve them. At a minimum, the goals shall be:

(1) Long-term;

(2) Meaningful;

(3) Measurable; and

(4) Focused on the identification of hazards and the mitigation or elimination of the resulting risks.

(d) *Rail system description.* (1) Each SSP plan shall include a statement describing the rail system. The description shall include: The rail operations, including any host operations; the physical characteristics of the rail system; the scope of rail service; the rail system's maintenance activities; and any other pertinent aspects of the rail system.

(2) Each SSP plan shall identify the persons that enter into a contractual relationship with the passenger rail operation to either perform significant safety-related services on the passenger rail operation's behalf or to utilize significant safety-related services provided by the passenger rail operation for purposes related to railroad operations.

(3) Each SSP plan shall describe the relationships and responsibilities between the passenger rail operation and: Host railroads, contractor operators, shared track/corridor operators, and persons providing or utilizing significant safety-related services as identified pursuant to paragraph (d)(2) of this section.

(e) *Management and organizational structure.* Each SSP plan shall contain a statement that describes the management and organizational structure of the passenger rail operation. This statement shall include the following:

(1) A chart or other visual representation of the organizational structure of the passenger rail operation;

(2) A description of the passenger rail operation's management responsibilities within the system safety program;

(3) A description of how safety responsibilities are distributed within the rail organization;

(4) Clear identification of the lines of authority used by the passenger rail operation to manage safety issues;

(5) A description of the roles and responsibilities in the passenger rail operation's system safety program for each host railroad, contractor operator, shared track/corridor operator, and any persons utilizing or providing significant safety-related services as identified pursuant to (d)(2) of this section. As part of this description, the SSP plan shall describe how each host railroad, contractor operator, shared track/corridor operator, and any persons utilizing or providing significant safety-related services as identified pursuant to paragraph (d)(2) of this section supports and participates in the passenger rail operation's system safety program, as appropriate; and

(6) If a passenger rail operation subject to this part designates a person as responsible for compliance with this part under § 270.7(c)(2), the following information must be included in the passenger rail operation's SSP plan and any notice of designation submitted under § 270.7(c)(2):

(i) The name and contact information of the designator;

(ii) The name and contact information of the designated entity and a statement signed by an authorized representative of the designated entity acknowledging responsibility for compliance with this part;

(iii) A statement affirming that a copy of the designation has been provided to the primary point of contact for each non-profit employee labor organization representing directly affected employees for consultation purposes under § 270.107(a)(2); and

(iv) A description of how directly affected employees not represented by a non-profit employee labor organization were notified of the designation for consultation purposes under § 270.107(a).

(f) *System safety program implementation process.* (1) Each SSP plan shall contain a statement that describes the process the passenger rail operation will use to implement its system safety program. As part of the implementation process, the SSP plan shall describe:

(i) Roles and responsibilities of each position that has significant responsibility for implementing the system safety program, including those held by employees and other persons utilizing or providing significant safety-related services as identified pursuant to (d)(2) of this section; and

(ii) Milestones necessary to be reached to fully implement the program.

(2) A system safety program shall be fully implemented within 36 months of FRA's approval of the SSP plan pursuant to subpart C of this part.

(g) *Maintenance, repair, and inspection program.* (1) Each SSP plan shall identify and describe the processes and procedures used for maintenance and repair of infrastructure and equipment directly affecting railroad safety. Examples of infrastructure and equipment that directly affect railroad safety include: Fixed facilities and equipment, rolling stock, signal and train control systems, track and right-of-way, passenger train/station platform interface (gaps), and traction power distribution systems.

(2) Each description of the processes and procedures used for maintenance and repair of infrastructure and equipment directly affecting safety shall include the processes and procedures used to conduct testing and inspections of the infrastructure and equipment.

(3) If a manual or manuals comply with all applicable Federal regulations and describe the processes and procedures that satisfy this section, the SSP plan may reference those manuals. FRA approval of an SSP plan that contains or references such manuals is not approval of the manuals themselves; each manual must independently comply with applicable regulations and is subject to a civil penalty if not in compliance with applicable regulations.

(4) The identification and description required by this section of the processes and procedures used for maintenance, repair, and inspection of infrastructure and equipment directly affecting railroad safety is not intended to address and should not include procedures to address employee working conditions that arise in the course of conducting such maintenance, repair, and inspection of infrastructure and equipment directly affecting railroad safety as set forth in the plan. FRA does not intend to approve any specific portion of an SSP plan that relates exclusively to employee working conditions.

(h) *Rules compliance and procedures review.* Each SSP plan shall contain a statement describing the processes and procedures used by the passenger rail operation to develop, maintain, and comply with applicable rules and procedures directly affecting railroad safety and to comply with the applicable railroad safety laws and regulations found in this chapter. The statement shall identify:

(1) The operating and safety rules and maintenance procedures that are subject to review under this chapter;

(2) Techniques used to assess the compliance of the passenger rail operation's employees with applicable operating and safety rules and maintenance procedures, and applicable railroad safety laws and regulations; and

(3) Techniques used to assess the effectiveness of the passenger rail operation's supervision relating to the compliance with the applicable operating and safety rules and maintenance procedures, and applicable railroad safety laws and regulations.

(i) *System safety program employee/contractor training.* (1) Each employee who is responsible for implementing and supporting the system safety program, and any persons utilizing or providing significant safety-related services will be trained on the passenger rail operation's system safety program.

(2) Each passenger rail operation shall establish and describe in its SSP plan a system safety program training plan. A system safety program training plan shall set forth the procedures by which employees that are responsible for implementing and supporting the system safety program, and any persons utilizing or providing significant safety-related services, will be trained on the system safety program. A system safety program training plan shall help ensure that all personnel who are responsible for implementing and supporting the system safety program understand the goals of the program, are familiar with the elements of the program, and have the requisite knowledge and skills to fulfill their responsibilities under the program.

(3) For each position identified pursuant to paragraph (f)(1)(i) of this section, the training plan shall describe the frequency and content of the system safety program training that the position receives.

(4) If a position is not identified under paragraph (f)(1)(i) of this section as having significant responsibility to implement the system safety program but the position is safety-related or has a significant impact on safety, personnel in those positions shall receive training in basic system safety concepts and the system safety implications of their position.

(5) Training under this subpart may include, but is not limited to, classroom, computer-based, or correspondence training.

(6) The passenger rail operation shall keep a record of all training conducted under this part and update that record as necessary. The system safety program training plan shall set forth the process used to maintain and update the necessary training records required by this part.

(7) The system safety program training plan shall set forth the process used by the passenger rail operation to ensure that it is complying with the training requirements set forth in the training plan.

(j) *Emergency management.* Each SSP plan shall contain a statement that describes the processes used to manage emergencies that may arise within the passenger rail operation's system including, but not limited to, the processes to comply with applicable emergency equipment standards in part 238 of this chapter and the passenger train emergency preparedness requirements in part 239 of this chapter.

(k) *Workplace safety.* Each SSP plan shall contain a statement that describes the programs established to protect the safety of the passenger rail operation's employees and contractors. The statement shall include a description of:

(1) The processes that help ensure the safety of employees and contractors while working on or in close proximity to railroad property as described in paragraph (d) of this section;

(2) The processes that help ensure that employees and contractors understand the requirements established by the passenger rail operation pursuant to paragraph (f)(1) of this section;

(3) Any fitness-for-duty programs or any medical monitoring programs; and

(4) The standards for the control of alcohol and drug use in part 219 of this chapter.

(l) *Public safety outreach program.* Each passenger rail operation shall establish and set forth a statement in its SSP plan that describes its public safety outreach program to provide safety information to railroad passengers and the general public. Each passenger rail operation's safety outreach program shall provide a means for railroad passengers and the general public to report any observed hazards.

(m) *Accident/incident reporting and investigation.* Each SSP plan shall include a statement that describes the processes that the passenger rail operation uses to receive notification of accidents/incidents, investigate and report those accidents/incidents, and develop, implement, and track any corrective actions found necessary to address an investigation's finding(s).

(n) *Safety data acquisition.* Each passenger rail operation shall establish and set forth a statement in its SSP plan that describes the processes it uses to collect, maintain, analyze, and

distribute safety data in support of the system safety program.

(o) *Contract procurement requirements.* Each SSP plan shall set forth a statement that describes the process(es) used to help ensure that safety concerns and hazards are adequately addressed during the safety-related contract procurement process.

(p) *Risk-based hazard management program.* Each passenger rail operation shall establish a risk-based hazard management program as part of the system safety program. The risk-based hazard management program shall be fully described in the SSP plan.

(1) The risk-based hazard management program shall establish:

(i) The processes or procedures used in the risk-based hazard analysis to identify hazards on the rail system;

(ii) The processes or procedures used in the risk-based hazard analysis to analyze identified hazards and support the risk-based hazard management program;

(iii) The methods used in the risk-based hazard analysis to determine the severity and frequency of hazards and to determine the corresponding risk;

(iv) The methods used in the risk-based hazard analysis to identify actions that mitigate or eliminate hazards and corresponding risks;

(v) The process for setting goals for the risk-based hazard management program and how performance against the goals will be reported;

(vi) The process to make decisions that affect the safety of the rail system relative to the risk-based hazard management program;

(vii) The methods used in the risk-based hazard management program to support continuous safety improvement throughout the life of the rail system; and

(viii) The methods used to maintain records of identified hazards and risks and the mitigation or elimination of the identified hazards and risks throughout the life of the rail system.

(2) The SSP plan's description of the risk-based hazard management program shall include:

(i) The position title of the individual(s) responsible for administering the risk-based hazard management program;

(ii) The identities of stakeholders who will participate in the risk-based hazard management program; and

(iii) The position title of the participants and structure of any hazard management teams or safety committees that may be established to support the risk-based hazard management program.

(q) *Risk-based hazard analysis.* (1) Once FRA approves a passenger rail operation's SSP plan pursuant to § 270.201(b), the risk-based hazard analysis methodology identified in paragraphs (p)(1)(i) through (iii) of this section shall be applied to identify and analyze hazards on the rail system and to determine the resulting risks. At a minimum, the aspects of the rail system that shall be analyzed include: Operating rules and practices, infrastructure, equipment, employee levels and schedules, management structure, employee training, and other aspects that have an impact on railroad safety not covered by railroad safety regulations or other Federal regulations.

(2) A risk-based hazard analysis shall identify specific actions that shall be implemented using the methods described in paragraph (p)(1)(iv) of this section that will mitigate or eliminate the hazards and resulting risks identified by paragraph (q)(1) of this section.

(3) A passenger rail operation shall also conduct a risk-based hazard analysis pursuant to paragraphs (q)(1) and (2) of this section when there are significant operational changes, system extensions, system modifications, or other circumstances that have a direct impact on railroad safety.

(r) *Technology analysis and implementation plan.* (1) A passenger rail operation shall develop, and periodically update as necessary, a technology analysis and implementation plan as described by this paragraph. The passenger rail operation shall include this technology analysis and implementation plan in its SSP plan.

(2) A passenger rail operation's technology analysis and implementation plan shall describe the process used to:

(i) Identify and analyze current, new, or novel technologies that will mitigate or eliminate the hazards and resulting risks identified by the risk-based hazard analysis pursuant to paragraph (q)(1) of this section; and

(ii) Analyze the safety impact, feasibility, and costs and benefits of implementing the technologies identified by the processes under paragraph (r)(2)(i) of this section that will mitigate or eliminate hazards and the resulting risks.

(3) Once FRA approves a passenger rail operation's SSP plan pursuant to § 270.201(b), including the technology analysis and implementation plan, the passenger rail operation shall apply:

(i) The processes described in paragraph (r)(2)(i) of this section to identify and analyze technologies that will mitigate or eliminate the hazards and resulting risks identified by the risk-based hazard analysis pursuant to paragraph (q)(1) of this section. At a minimum, the technologies a passenger rail operation shall consider as part of its technology analysis are: Processor-based technologies, positive train control systems, electronically-controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position monitors and indicators, trespasser prevention technology, and highway-rail grade crossing warning and protection technology; and

(ii) The processes described in paragraph (r)(2)(ii) of this section to the technologies identified by the analysis under paragraph (r)(3)(i) of this section.

(4) If a passenger rail operation decides to implement any of the technologies identified in paragraph (r)(3) of this section, in the technology analysis and implementation plan in the SSP plan, the passenger rail operation shall:

(i) Describe how it will develop, adopt, implement, maintain, and use the identified technologies; and

(ii) Set forth a prioritized implementation schedule for the development, adoption, implementation and maintenance of those technologies over a 10-year period.

(5) Except as required by subpart I of part 236 of this chapter, if a passenger rail operation decides to implement a positive train control system as part of its technology analysis and implementation plan, the technology implementation plan shall set forth and comply with a schedule for implementation of the positive train control system consistent with the deadlines in the Positive Train Control Enforcement and Implementation Act of 2015, Public Law 114–73, 129 Stat. 576–82 (Oct. 29, 2015), and 49 CFR 236.1005(b)(7).

(6) The passenger rail operation shall not include in its SSP plan the analysis conducted pursuant to paragraph (r)(3) of this section. A passenger rail operation shall make the results of any analysis conducted pursuant to paragraph (r)(3) of this section available upon request to representatives of FRA and States participating under part 212 of this chapter.

(s) *Safety Assurance*—(1) *Change management.* Each passenger rail operation shall establish and set forth a statement in its SSP plan describing the processes and procedures used to manage significant operational changes, system extensions, system modifications, or other significant changes that will have a direct impact on railroad safety.

(2) *Configuration management.* Each passenger rail operation shall establish a configuration management program

and describe the program in its SSP plan. The configuration management program shall:

(i) Identify who has authority to make configuration changes;

(ii) Establish processes to make configuration changes to the rail system; and

(iii) Establish processes to ensure that all departments of the system affected by the configuration changes are formally notified and approve of the change.

(3) *Safety certification.* Each passenger rail operation shall establish and set forth a statement in its SSP plan that describes the certification process used to help ensure that safety concerns and hazards are adequately addressed before the initiation of operations or major projects to extend, rehabilitate, or modify an existing system or replace vehicles and equipment.

(t) *Safety culture.* Each SSP plan shall contain a statement that describes how the passenger rail operation measures the success of its safety culture identified in paragraph (b)(2) of this section.

■ 8. In § 270.105, revise paragraphs (a) and (b)(2) and add paragraph (e) to read as follows:

§ 270.105 Discovery and admission as evidence of certain information.

(a) *Protected information.* Except as provided in paragraph (a)(3) of this section, any information compiled or collected after August 14, 2017, solely for the purpose of planning, implementing, or evaluating a system safety program under this part shall not be subject to discovery, admitted into evidence, or considered for other purposes in a Federal or State court proceeding for damages involving personal injury, wrongful death, or property damage. For purposes of this section:

(1) ''Information'' includes plans, reports, documents, surveys, schedules, lists, or data, and specifically includes a passenger rail operation's analysis of its safety risks under § 270.103(q)(1) and a passenger rail operation's statement of mitigation measures under § 270.103(q)(2);

(2) ''Solely'' means that a passenger rail operation originally compiled or collected the information for the exclusive purpose of planning, implementing, or evaluating a system safety program under this part. Information compiled or collected for any other purpose is not protected, even if the passenger rail operation also uses that information for a system safety program. ''Solely'' also means that a passenger rail operation continues to use that information only for its system safety program. If a passenger rail operation subsequently uses for any other purpose information that was initially compiled or collected for a system safety program, this section does not protect that information to the extent that it is used for the non-system safety program purpose. The use of that information within the passenger rail operation's system safety program, however, remains protected. This section does not protect information that is required to be compiled or collected pursuant to any other provision of law of regulation; and

(3) A passenger rail operation may include a Confidential Close Call Reporting System (C^3RS) program in a system safety program established under this part. For Federal or State court proceedings described by this paragraph (a) that are initiated after March 4, 2021, the information protected by this paragraph (a) includes C^3RS information a passenger rail operation includes in its system safety program, even if the passenger rail operation compiled or collected the C^3RS information on or before August 14, 2017, for purposes other than planning, implementing, or evaluating a system safety program under this part.

(b) * * *

(2) Information compiled or collected on or before August 14, 2017, and that continues to be compiled or collected, even if used to plan, implement, or evaluate a system safety program; or

* * * * *

(e) *Enforcement.* This section does not apply to civil enforcement or criminal law enforcement proceedings.

■ 9. Revise § 270.107 to read as follows:

§ 270.107 Consultation requirements.

(a) *General duty.* (1) Each passenger rail operation required to establish a system safety program under this part shall in good faith consult with, and use its best efforts to reach agreement with, all of its directly affected employees, including any non-profit labor organization representing a class or craft of directly affected employees, on the contents of the SSP plan.

(2) A passenger rail operation that consults with a non-profit employee labor organization as required by paragraph (a)(1) of this section is considered to have consulted with the directly affected employees represented by that organization. For directly affected employees represented by a non-profit employee labor organization, the primary point of contact shall be either the general chairperson of that non-profit employee labor organization or a non-profit employee labor organization primary point of contact the passenger rail operation and the non-profit employee labor organization agree on at the beginning of the consultation process. If a passenger rail operation contracts out significant portions of its operations, the contractor and the contractor's employees performing those operations shall be considered directly affected employees for the purposes of this part.

(3) A passenger rail operation shall have a preliminary meeting with its directly affected employees to discuss how the consultation process will proceed. A passenger rail operation is not required to discuss the substance of an SSP plan during this preliminary meeting. A passenger rail operation must:

(i) Hold the preliminary meeting no later than July 2, 2020;

(ii) Notify the directly affected employees of the preliminary meeting no less than 60 days before it is held.

(4) Appendix B to this part contains non-mandatory guidance on how a passenger rail operation may comply with the requirements of this section.

(b) *Consultation statements.* A passenger rail operation required to submit an SSP plan under § 270.201 must also submit, together with the plan, a consultation statement that includes the following information:

(1) A detailed description of the process utilized to consult with directly affected employees;

(2) If the passenger rail operation could not reach agreement with its directly affected employees on the contents of its SSP plan, identification of any known areas of disagreement and an explanation of why it believes agreement was not reached; and

(3) A service list containing the name and contact information for either each international/national president and general chairperson of any non-profit employee labor organization representing a class or craft of the passenger rail operation's directly affected employees, or each non-profit employee labor organization primary point of contact the passenger rail operation and the non-profit employee labor organization agree on at the beginning of the consultation process. The service list must also contain the name and contact information for any directly affected employee who significantly participated in the consultation process independently of a non-profit employee labor organization. When a passenger rail operation submits its SSP plan and consultation statement to FRA pursuant to § 270.201, it must also simultaneously send a copy of

these documents to all individuals identified in the service list.

(c) *Statements from directly affected employees.* (1) If a passenger rail operation and its directly affected employees cannot reach agreement on the proposed contents of an SSP plan, the directly affected employees may file a statement with the FRA Associate Administrator for Railroad Safety and Chief Safety Officer explaining their views on the plan on which agreement was not reached with the FRA Associate Administrator for Railroad Safety and Chief Safety Officer at Mail Stop 25, 1200 New Jersey Avenue SE, Washington, DC 20590. The FRA Associate Administrator for Railroad Safety and Chief Safety Officer shall consider any such views during the plan review and approval process.

(2) A passenger rail operation's directly affected employees have 30 days following the date of the submission of a proposed SSP plan to submit the statement described in paragraph (c)(1) of this section.

(d) *Consultation requirements for system safety program plan amendments.* A passenger rail operation's SSP plan must include a description of the process the passenger rail operation will use to consult with its directly affected employees on any subsequent substantive amendments to the system safety program. The requirements of this paragraph do not apply to non-substantive amendments (*e.g.,* amendments that update names and addresses of railroad personnel).

■ 10. Revise § 270.201 to read as follows:

§ 270.201 Filing and approval.

(a) *Filing.* (1) Each passenger rail operation to which this part applies shall submit one copy of its SSP plan to the FRA Associate Administrator for Railroad Safety and Chief Safety Officer, 1200 New Jersey Avenue SE, Washington, DC 20590, no later than March 4, 2021, or not less than 90 days before commencing passenger operations, whichever is later.

(2) The passenger rail operation shall not include in its SSP plan the risk-based hazard analysis conducted pursuant to § 270.103(q). A passenger rail operation shall make the results of any risk-based hazard analysis available upon request to representatives of FRA and States participating under part 212 of this chapter.

(3) The SSP plan shall include:

(i) The signature, name, title, address, and telephone number of the chief safety officer who bears primary managerial authority for implementing the program for the submitting passenger rail operation. By signing, this chief official is certifying that the contents of the SSP plan are accurate and that the passenger rail operation will implement the contents of the program as approved by FRA;

(ii) The contact information for the primary person responsible for managing the system safety program; and

(iii) The contact information for the senior representatives of any host railroad, contractor operator, shared track/corridor operator, or persons utilizing or providing significant safety-related services.

(4) As required by § 270.107(b), each passenger rail operation must submit with its SSP plan a consultation statement describing how it consulted with its directly affected employees on the contents of its SSP plan. Directly affected employees may also file a statement in accordance with § 270.107(c).

(b) *Approval.* (1) Within 90 days of receipt of an SSP plan, FRA will review the SSP plan to determine if the elements prescribed in this part are sufficiently addressed. This review will also consider any statement submitted by directly affected employees pursuant to § 270.107(c).

(2) FRA will notify each person identified in the SSP plan under § 270.201(a)(3) in writing whether the proposed plan has been approved by FRA, and, if not approved, the specific points in which the SSP plan is deficient. FRA will also provide this notification to each individual identified in the service list accompanying the consultation statement required under § 270.107(b).

(3) If FRA does not approve an SSP plan, the affected passenger rail operation shall amend the proposed plan to correct all deficiencies identified by FRA and provide FRA with a corrected copy of the SSP plan not later than 90 days following receipt of FRA's written notice that the proposed SSP plan was not approved.

(4) Approval of an SSP plan under this part does not constitute approval of the specific actions a passenger rail operation will implement under an SSP plan pursuant to § 270.103(q)(2) and shall not be construed as establishing a Federal standard regarding those specific actions.

(c) *Review of amendments.* (1)(i) A passenger rail operation shall submit any amendment(s) to the SSP plan to FRA not less than 60 days before the proposed effective date of the amendment(s). The passenger rail operation shall file the amended SSP plan with a cover letter outlining the changes made to the original approved SSP plan by the proposed amendment(s). The cover letter shall also describe the process the passenger rail operation used pursuant to § 270.107(d) to consult with its directly affected employees on the amendment(s).

(ii) If an amendment is safety-critical and the passenger rail operation is unable to submit the amended SSP plan to FRA 60 days before the proposed effective date of the amendment, the passenger rail operation shall submit the amended SSP plan with a cover letter outlining the changes made to the original approved SSP plan by the proposed amendment(s) and why the amendment is safety-critical to FRA as near as possible to 60 days before the proposed effective date of the amendment(s).

(iii) If the proposed amendment is limited to adding or changing a name, title, address, or telephone number of a person, FRA approval is not required under the process in paragraphs (c)(1)(i) and (ii) of this section, although the passenger rail operation shall still file the proposed amendment with FRA's Associate Administrator for Railroad Safety and Chief Safety Officer. These proposed amendments may be implemented upon filing with FRA. All other proposed amendments must comply with the formal approval process in paragraph (c) of this section.

(2)(i) Except as provided in paragraph (c)(1)(iii) of this section, FRA will review the proposed amended SSP plan within 45 days of receipt. FRA will then notify the primary contact person of each affected passenger rail operation whether the proposed amended plan has been approved by FRA, and if not approved, the specific points in which each proposed amendment to the SSP plan is deficient.

(ii) If FRA has not notified the passenger rail operation by the proposed effective date of the amendment(s) whether the proposed amended plan has been approved or not, the passenger rail operation may implement the amendment(s) pending FRA's decision.

(iii) If a proposed SSP plan amendment is not approved by FRA, no later than 60 days following the receipt of FRA's written notice, the passenger rail operation shall provide FRA either a corrected copy of the amendment that addresses all deficiencies noted by FRA or written notice that the passenger rail operation is retracting the amendment.

(d) *Reopened review.* Following initial approval of a plan, or amendment, FRA may reopen consideration of the plan or amendment for cause stated.

(e) *Electronic submission.* All documents required to be submitted to FRA under this part may be submitted electronically. Appendix C to this part provides instructions on electronic submission of documents.

■ 11. Revise § 270.203 to read as follows:

§ 270.203 Retention of system safety program plan.

Each passenger rail operation to which this part applies shall retain at its system headquarters, and at any division headquarters, one copy of the SSP plan required by this part and one copy of each subsequent amendment to that plan. These records shall be made available to representatives of FRA and States participating under part 212 of this chapter for inspection and copying during normal business hours.

■ 12. Revise § 270.301 to read as follows:

§ 270.301 General.

The system safety program and its implementation shall be assessed internally by the passenger rail operation and audited externally by FRA or FRA's designee.

■ 13. Revise § 270.303 to read as follows:

§ 270.303 Internal system safety program assessment.

(a) Following FRA's initial approval of the passenger rail operation's SSP plan pursuant to § 270.201, the passenger rail operation shall annually conduct an assessment of the extent to which:

(1) The system safety program is fully implemented;

(2) The passenger rail operation is in compliance with the implemented elements of the approved system safety program; and

(3) The passenger rail operation has achieved the goals set forth in § 270.103(c).

(b) As part of its SSP plan, the passenger rail operation shall set forth a statement describing the processes used to:

(1) Conduct internal system safety program assessments;

(2) Internally report the findings of the internal system safety program assessments;

(3) Develop, track, and review recommendations as a result of the internal system safety program assessments;

(4) Develop improvement plans based on the internal system safety program assessments. Improvement plans shall, at a minimum, identify who is responsible for carrying out the necessary tasks to address assessment findings and specify a schedule of target dates with milestones to implement the improvements that address the assessment findings; and

(5) Manage revisions and updates to the SSP plan based on the internal system safety program assessments.

(c)(1) Within 60 days of completing its internal SSP plan assessment pursuant to paragraph (a) of this section, the passenger rail operation shall:

(i) Submit to FRA a copy of the passenger rail operation's internal assessment report that includes a system safety program assessment and the status of internal assessment findings and improvement plans to the FRA Associate Administrator for Railroad Safety and Chief Safety Officer, Mail Stop 25, 1200 New Jersey Avenue SE, Washington, DC 20590; and

(ii) Outline the specific improvement plans for achieving full implementation of the SSP plan, as well as achieving the goals of the plan.

(2) The passenger rail operation's chief official responsible for safety shall certify the results of the internal SSP plan assessment.

■ 14. Revise § 270.305 to read as follows:

§ 270.305 External safety audit.

(a) FRA may conduct, or cause to be conducted, external audits of a system safety program. Each audit will evaluate compliance with the elements required by this part in an approved SSP plan. FRA shall provide the passenger rail operation written notification of the results of any audit.

(b)(1) Within 60 days of FRA's written notification of the results of the audit, the passenger rail operation shall submit to FRA for approval an improvement plan to address the audit findings that require corrective action. At a minimum, the improvement plan shall identify who is responsible for carrying out the necessary tasks to address audit findings and specify target dates and milestones to implement the improvements that address the audit findings.

(2) If FRA does not approve the passenger rail operation's improvement plan, FRA will notify the passenger rail operation of the specific deficiencies in the improvement plan. The affected passenger rail operation shall amend the proposed plan to correct the deficiencies identified by FRA and provide FRA with a corrected copy of the improvement plan no later than 30 days following its receipt of FRA's written notice that the proposed plan was not approved.

(3) Upon request, the passenger rail operation shall provide to FRA and States participating under part 212 of this chapter for review a report upon request regarding the status of the implementation of the improvements set forth in the improvement plan established pursuant to paragraph (b)(1) of this section.

■ 15. Revise appendix B to part 270 to read as follows:

Appendix B to Part 270—Federal Railroad Administration Guidance on the System Safety Program Consultation Process

A passenger rail operation required to develop a system safety program under this part must in good faith consult with and use its best efforts to reach agreement with its directly affected employees on the contents of the SSP plan. *See* § 270.107(a). This appendix discusses the meaning of the terms ''good faith'' and ''best efforts,'' and provides non-mandatory guidance on how to comply with the requirement to consult with directly affected employees on the contents of the SSP plan.

The guidance is provided for employees who are represented by a non-profit employee labor organization and employees who are not represented by any such organization. The guidance is not legally binding in its own right and will not be relied upon by the U.S. Department of Transportation as a separate basis for affirmative enforcement action or other administrative penalty. Conformity with this guidance (as distinct from existing statutes and regulations) is voluntary only, and nonconformity will not affect rights and obligations under existing statutes and regulations.

The Meaning of ''Good Faith'' and ''Best Efforts''

''Good faith'' and ''best efforts'' are not interchangeable terms representing a vague standard for the § 270.107 consultation process. Rather, each term has a specific and distinct meaning. When consulting with directly affected employees, therefore, a passenger rail operation must independently meet the standards for both the good faith and best efforts obligations. A passenger rail operation that does not meet the standard for one or the other will not be in compliance with the consultation requirements of § 270.107.

The good faith obligation requires a passenger rail operation to consult with employees in a manner that is honest, fair, and reasonable, and to genuinely pursue agreement on the contents of an SSP plan. If a passenger rail operation consults with its employees merely in a

perfunctory manner, without genuinely pursuing agreement, it will not have met the good faith requirement. For example, a lack of good faith may be found if a passenger rail operation's directly affected employees express concerns with certain parts of the SSP plan, and the passenger rail operation neither addresses those concerns in further consultation nor attempts to address those concerns by making changes to the SSP plan.

On the other hand, ''best efforts'' establishes a higher standard than that imposed by the good faith obligation, and describes the diligent attempts that a passenger rail operation must pursue to reach agreement with its employees on the contents of its system safety program. While the good faith obligation is concerned with the passenger rail operation's state of mind during the consultation process, the best efforts obligation is concerned with the specific efforts made by the passenger rail operation in an attempt to reach agreement. This would include considerations such as whether a passenger rail operation had held sufficient meetings with its employees to address or make an attempt to address any concerns raised by the employees, or whether the passenger rail operation had made an effort to respond to feedback provided by employees during the consultation process. For example, a passenger rail operation would not meet the best efforts obligation if it did not initiate the consultation process in a timely manner, and thereby failed to provide employees sufficient time to engage in the consultation process. Generally, best efforts are measured by the measures that a reasonable person in the same circumstances and of the same nature as the acting party would take. Therefore, the standard imposed by the best efforts obligation may vary with different railroads, depending on a railroad's size, resources, and number of employees.

When reviewing SSP plans, FRA will determine on a case-by-case basis whether a passenger rail operation has met its § 270.107 good faith and best efforts obligations. This determination will be based upon the consultation statement submitted by the passenger rail operation pursuant to § 270.107(b) and any statements submitted by employees pursuant to § 270.107(c). If FRA finds that these statements do not provide sufficient information to determine whether a passenger rail operation used good faith and best efforts to reach agreement, FRA may investigate further and contact the passenger rail operation or its employees to request additional information. If FRA determines that a passenger rail operation did not use good faith and best efforts, FRA may disapprove the SSP plan submitted by the passenger rail operation and direct the passenger rail operation to comply with the consultation requirements of § 270.107. Pursuant to § 270.201(b)(3), if FRA does not approve the SSP plan, the passenger rail operation will have 90 days, following receipt of FRA's written notice that the plan was not approved, to correct any deficiency identified. In such cases, the identified deficiency would be that the passenger rail operation did not use good faith and best efforts to consult and reach agreement with its directly affected employees. If a passenger rail operation then does not submit to FRA within 90 days an SSP plan meeting the consultation requirements of § 270.107, FRA could impose penalties for failure to comply with § 270.201(b)(3).

Guidance on How a Passenger Rail Operation May Consult With Directly Affected Employees

Because the standard imposed by the best efforts obligation will vary depending upon the passenger rail operation, there may be countless ways to comply with the consultation requirements of § 270.107. Therefore, FRA believes it is important to maintain a flexible approach to the § 270.107 consultation requirements, to give a passenger rail operation and its directly affected employees the freedom to consult in a manner best suited to their specific circumstances.

FRA is nevertheless providing guidance in this appendix as to how a passenger rail operation may proceed when consulting (utilizing good faith and best efforts) with employees in an attempt to reach agreement on the contents of an SSP plan. FRA believes this guidance may be useful as a starting point for those that are uncertain about how to comply with the § 270.107 consultation requirements. This guidance distinguishes between employees who are represented by a non-profit employee labor organization and employees who are not, as the processes a passenger rail operation may use to consult with represented and non-represented employees could differ significantly.

This guidance does not establish prescriptive requirements but merely outlines a consultation process a passenger rail operation may choose to follow. A passenger rail operation's consultation statement could indicate that it followed the guidance in this appendix as evidence that it utilized good faith and best efforts to reach agreement with its employees on the contents of an SSP plan.

Employees Represented by a Non-Profit Employee Labor Organization

As provided in § 270.107(a)(2), a passenger rail operation consulting with the representatives of a non-profit employee labor organization on the contents of an SSP plan will be considered to have consulted with the directly affected employees represented by that organization.

A passenger rail operation may utilize the following process as a roadmap for using good faith and best efforts when consulting with represented employees in an attempt to reach agreement on the contents of an SSP plan.

- Pursuant to § 270.107(a)(3)(i), a passenger rail operation must meet with representatives from a non-profit employee labor organization (representing a class or craft of the passenger rail operation's directly affected employees) no later than July 2, 2020, to begin the process of consulting on the contents of the SSP plan. A passenger rail operation must provide notice at least 60 days before the scheduled meeting.
- During the time between the initial meeting and the applicability date of § 270.105 the parties may meet to discuss administrative details of the consultation process as necessary.
- Within 60 days after the applicability date of § 270.105 a passenger rail operation should have a meeting with the directed affected railroad employees to discuss substantive issues with the SSP.
- Pursuant to § 270.201(a)(1), a passenger rail operation would file its SSP plan with FRA no later than March 4, 2021, or not less than 90 days before commencement of new passenger service, whichever is later.
- As provided by § 270.107(c), if agreement on the contents of an SSP plan could not be reached, a labor organization (representing a class or craft of the passenger rail operation's directly affected employees) may file a statement with the FRA Associate Administrator for Railroad Safety and Chief Safety Officer explaining its views on the plan on which agreement was not reached.

Employees Who Are Not Represented by a Non-Profit Employee Labor Organization

FRA recognizes that some (or all) of a passenger rail operation's directly affected employees may not be represented by a non-profit employee labor organization. For such non-represented employees, the consultation

process described for represented employees may not be appropriate or sufficient. For example, FRA believes that a passenger rail operation with non-represented employees should make a concerted effort to ensure that its non-represented employees are aware that they are able to participate in the development of the SSP plan. FRA therefore is providing the following guidance regarding how a passenger rail operation may utilize good faith and best efforts when consulting with non-represented employees on the contents of its SSP plan.

• By April 20, 2020, a passenger rail operation should notify non-represented employees that—

(1) The passenger rail operation is required to consult in good faith with, and use its best efforts to reach agreement with, all directly affected employees on the proposed contents of its SSP plan;

(2) The passenger rail operation is required to meet with its directly affected employees by July 2, 2020, to address the consultation process;

(3) Non-represented employees are invited to participate in the consultation process (and include instructions on how to engage in this process); and

(4) If a passenger rail operation is unable to reach agreement with its directly affected employees on the contents of the proposed SSP plan, an employee may file a statement with the FRA Associate Administrator for Railroad Safety and Chief Safety Officer explaining the employee's views on the plan on which agreement was not reached.

• This initial notification (and all subsequent communications, as necessary or appropriate) could be provided to non-represented employees in the following ways:

(1) Electronically, such as by email or an announcement on the passenger rail operation's website;

(2) By posting the notification in a location easily accessible and visible to non-represented employees; or

(3) By providing all non-represented employees a hard copy of the notification. A passenger rail operation could use any or all of these methods of communication, so long as the notification complies with the passenger rail operation's obligation to utilize best efforts in the consultation process.

• Following the initial notification and initial meeting to discuss the consultation process (and before the passenger rail operation submits its SSP plan to FRA), a passenger rail operation should provide non-represented employees a draft proposal of its SSP plan. This draft proposal should solicit additional input from non-represented employees, and the passenger rail operation should provide non-represented employees 60 days to submit comments to the passenger rail operation on the draft.

• Following this 60-day comment period and any changes to the draft SSP plan made as a result, the passenger rail operation should submit the proposed SSP plan to FRA, as required by this part.

• As provided by § 270.107(c), if agreement on the contents of an SSP plan cannot be reached, then a non-represented employee may file a statement with the FRA Associate Administrator for Railroad Safety and Chief Safety Officer explaining employee's views on the plan on which agreement was not reached.

■ 16. Revise appendix C to part 270 to read as follows:

Appendix C to Part 270—Procedures for Submission of SSP Plans and Statements From Directly Affected Employees

This appendix summarizes procedures for the submission of an SSP plan and statements by directly affected employees consistent with the requirements of this part.

Submission by a Passenger Rail Operation and Directly Affected Employees

As provided for in § 270.101, a system safety program shall be fully implemented and supported by a written SSP plan. Each passenger rail operation must submit its SSP plan to FRA for approval as provided for in § 270.201.

As provided for in § 270.107(c), if a passenger rail operation and its directly affected employees cannot come to agreement on the proposed contents of the SSP plan, the directly affected employees have 30 days following the submission of the proposed SSP plan to submit a statement to the FRA Associate Administrator for Railroad Safety and Chief Safety Officer explaining the directly affected employees' views on the plan on which agreement was not reached.

The passenger rail operation's and directly affected employees' submissions shall be sent to the FRA Associate Administrator for Railroad Safety and Chief Safety Officer, Mail Stop 25, 1200 New Jersey Avenue SE, Washington, DC 20590. When a passenger rail operation submits its SSP plan and consultation statement to FRA pursuant to § 270.201, it must also simultaneously send a copy of these documents to all individuals identified in the service list pursuant to § 270.107(b)(3).

Each passenger rail operation and directly affected employee is authorized to file by electronic means any submissions required under this part. Before any person submits anything electronically, the person shall provide the FRA Associate Administrator for Railroad Safety and Chief Safety Officer with the following information in writing:

(1) The name of the passenger rail operation or directly affected employee(s);

(2) The names of two individuals, including job titles, who will be the passenger rail operation's or directly affected employees' points of contact and will be the only individuals allowed access to FRA's secure document submission site;

(3) The mailing addresses for the passenger rail operation's or directly affected employees' points of contact;

(4) The system or main headquarters address located in the United States;

(5) The email addresses for the passenger rail operation's or directly affected employees' points of contact; and

(6) The daytime telephone numbers for the passenger rail operation's or directly affected employees' points of contact.

A request for electronic submission or FRA review of written materials shall be addressed to the FRA Associate Administrator for Railroad Safety and Chief Safety Officer, Mail Stop 25, 1200 New Jersey Avenue SE, Washington, DC 20590. Upon receipt of a request for electronic submission that contains the information listed above, FRA will then contact the requestor with instructions for electronically submitting its program or statement. A passenger rail operation that electronically submits an initial SSP plan or new portions or revisions to an approved program required by this part shall be considered to have provided its consent to receive approval or disapproval notices from FRA by email. FRA may electronically store any materials required by this part regardless of whether the passenger rail operation that submits the materials does so by delivering the written materials to the Associate Administrator and opts not to submit the materials electronically. A passenger rail operation that opts not to submit the materials required by this part electronically, but provides one or more email addresses in its submission, shall be considered to have provided its consent to receive approval or disapproval notices from FRA by email or mail.

PART 271—RISK REDUCTION PROGRAM

■ 17. The authority citation for part 271 continues to read as follows:

Authority: 49 U.S.C. 20103, 20106–20107, 20118–20119, 20156, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

■ 18. In § 271.5, add a definition in alphabetical order for ''Confidential Close Call Reporting System (C^{3}RS)'' and revise the definition of ''Person'' to read as follows:

§ 271.5 Definitions.

* * * * *

Confidential Close Call Reporting System (C^{3}RS) means an FRA-sponsored voluntary program designed to improve the safety of railroad operations by allowing railroad employees to confidentially report currently unreported or underreported unsafe events.

* * * * *

Person means an entity of any type covered under 49 U.S.C. 21301, including, but not limited to, the following: A railroad; a manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor or subcontractor providing goods or services to a railroad; any employee of such owner, manufacturer, lessor, lessee, or independent contractor or subcontractor.

* * * * *

■ 19. In § 271.11, revise paragraphs (a) introductory text and (a)(1), the final sentence of paragraph (a)(2), and add paragraph (a)(3) to read as follows:

§ 271.11 Discovery and admission as evidence of certain information.

(a) *Protected information.* Except as provided in paragraph (a)(3) of this section, any information compiled or collected after February 17, 2021 solely for the purpose of planning, implementing, or evaluating a risk reduction program under this part shall not be subject to discovery, admitted into evidence, or considered for other purposes in a Federal or State court proceeding for damages involving personal injury, wrongful death, or property damage. For purposes of this section:

(1) ''Information'' includes plans, reports, documents, surveys, schedules, lists, or data, and specifically includes a railroad's analysis of its safety risks under § 271.103(b) and a railroad's statement of mitigation measures under § 271.103(c);

(2) * * * This section does not protect information that is required to be compiled or collected pursuant to any other provision of law or regulation; and

(3) A railroad may include a Confidential Close Call Reporting System (C^{3}RS) program in a risk reduction program established under this part. For Federal or State court proceedings described by this paragraph (a) that are initiated after March 4, 2021, the information protected by this paragraph (a) includes C^{3}RS information a railroad includes in its risk reduction program, even if the railroad compiled or collected the C^{3}RS information on or before February 17, 2021, for purposes other than planning, implementing, or evaluating a risk reduction program under this part.

* * * * *

■ 20. In § 271.207, add a second sentence to paragraph (a)(2) and revise paragraph (d)(3) to read as follows:

§ 271.207 Consultation requirements.

(a) * * *

(2) * * * For directly affected employees represented by a non-profit employee labor organization, the primary point of contact shall be either the general chairperson of the non-profit employee labor organization or a non-profit employee labor organization primary point of contact the railroad and the non-profit employee labor organization agree on at the beginning of the consultation process.

* * * * *

(d) * * *

(3) A service list containing the names and contact information for each international/national president of any non-profit employee labor organization representing a class or craft of the railroad's directly affected employees, or each non-profit employee labor organization primary point of contact the railroad and the non-profit employee labor organization agree on at the beginning of the process. The service list must also contain the name and contact information for any directly affected employee who significantly participated in the consultation process independently of a non-profit employee labor organization. When a railroad submits its RRP plan and consultation statement to FRA under § 271.301, it shall also simultaneously send a copy of these documents to all individuals identified in the service list. A railroad may send the documents to the identified individuals via electronic means or other service means reasonably calculated to succeed.

* * * * *

Issued in Washington, DC, on February 28, 2020.

Ronald L. Batory,

Administrator, Federal Railroad Administration.

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Part III

The President

Proclamation 9992—Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus

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Presidential Documents

Title 3—

The President

Proclamation 9992 of February 29, 2020

Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus

By the President of the United States of America

A Proclamation

On January 31, 2020, I issued Proclamation 9984 (Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Pose a Risk of Transmitting 2019 Novel Coronavirus and Other Appropriate Measures To Address This Risk). I found that the potential for widespread transmission of a novel (new) coronavirus (which has since been renamed ''SARS–CoV–2'' and causes the disease COVID–19) (''SARS–CoV–2'' or ''the virus'') by infected individuals seeking to enter the United States threatens the security of our transportation system and infrastructure and the national security. Because the outbreak of the virus was (and is) centered in the People's Republic of China, I suspended and limited the entry of all aliens who were physically present within the People's Republic of China, excluding the Special Administrative Regions of Hong Kong and Macau, during the 14-day period preceding their entry or attempted entry into the United States, subject to certain exceptions.

The Centers for Disease Control and Prevention (CDC), a component of the Department of Health and Human Services, has determined that the virus presents a serious public health threat and continues to take steps to prevent its spread. But CDC, along with State and local health departments, has limited resources, and the public health system could be overwhelmed if sustained human-to-human transmission of the virus occurred in the United States. Sustained human-to-human transmission has the potential to have cascading public health, economic, national security, and societal consequences.

CDC has determined that the Islamic Republic of Iran (Iran) is experiencing sustained person-to-person transmission of SARS–CoV–2. As of February 28, 2020, Iran had 388 cases of COVID–19, a significant increase from prior days. In response to that increase, on February 28, 2020, CDC raised its infectious disease alert to level 3, its highest level, which recommends that travelers avoid all nonessential travel to Iran. According to the World Health Organization, as of February 28, 2020, 97 COVID–19 cases have been exported from Iran to 11 other countries.

Iran is not a trustworthy state actor, as it has repeatedly demonstrated through its history of engaging in malign activity, and confirmed most recently by its repeated denials of responsibility for shooting down an international airliner. The United States Government is therefore unable to rely on official information disseminated by Iran, undermining the effective evaluation and monitoring of travelers continuing to arrive from that country.

The potential for undetected transmission of the virus by infected individuals seeking to enter the United States from Iran threatens the security of our transportation system and infrastructure and the national security. Given the importance of protecting persons within the United States from the threat of this harmful communicable disease, I have determined that it is in the interests of the United States to take action to restrict and suspend

the entry into the United States, as immigrants or nonimmigrants, of all aliens who were physically present within Iran during the 14-day period preceding their entry or attempted entry into the United States.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(f) and 1185(a), and section 301 of title 3, United States Code, hereby find that the unrestricted entry into the United States of persons described in section 1 of this proclamation would, except as provided for in section 2 of this proclamation, be detrimental to the interests of the United States, and that their entry should be subject to certain restrictions, limitations, and exceptions. I therefore hereby proclaim the following:

Section 1. *Suspension and Limitation on Entry*. The entry into the United States, as immigrants or nonimmigrants, of all aliens who were physically present within the Islamic Republic of Iran during the 14-day period preceding their entry or attempted entry into the United States is hereby suspended and limited subject to section 2 of this proclamation.

Sec. 2. *Scope of Suspension and Limitation on Entry.* (a) Section 1 of this proclamation shall not apply to:

(i) any lawful permanent resident of the United States;

(ii) any alien who is the spouse of a U.S. citizen or lawful permanent resident;

(iii) any alien who is the parent or legal guardian of a U.S. citizen or lawful permanent resident, provided that the U.S. citizen or lawful permanent resident is unmarried and under the age of 21;

(iv) any alien who is the sibling of a U.S. citizen or lawful permanent resident, provided that both are unmarried and under the age of 21;

(v) any alien who is the child, foster child, or ward of a U.S. citizen or lawful permanent resident, or who is a prospective adoptee seeking to enter the United States pursuant to the IR–4 or IH–4 visa classifications;

(vi) any alien traveling at the invitation of the United States Government for a purpose related to containment or mitigation of the virus;

(vii) any alien traveling as a nonimmigrant pursuant to a C–1, D, or C–1/D nonimmigrant visa as a crewmember or any alien otherwise traveling to the United States as air or sea crew;

(viii) any alien

(A) seeking entry into or transiting the United States pursuant to one of the following visas: A–1, A–2, C–2, C–3 (as a foreign government official or immediate family member of an official), E–1 (as an employee of TECRO or TECO or the employee's immediate family members), G–1, G–2, G–3, G–4, NATO–1 through NATO–4, or NATO–6 (or seeking to enter as a nonimmigrant in one of those NATO categories); or

(B) whose travel falls within the scope of section 11 of the United Nations Headquarters Agreement;

(ix) any alien whose entry would not pose a significant risk of introducing, transmitting, or spreading the virus, as determined by the Secretary of Health and Human Services, through the CDC Director or his designee;

(x) any alien whose entry would further important United States law enforcement objectives, as determined by the Secretary of State, the Secretary of Homeland Security, or their respective designees, based on a recommendation of the Attorney General or his designee;

(xi) any alien whose entry would be in the national interest, as determined by the Secretary of State, the Secretary of Homeland Security, or their designees; or

(xii) members of the U.S. Armed Forces and spouses and children of members of the U.S. Armed Forces.

(b) Nothing in this proclamation shall be construed to affect any individual's eligibility for asylum, withholding of removal, or protection under the regulations issued pursuant to the legislation implementing the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, consistent with the laws and regulations of the United States.

Sec. 3. *Implementation and Enforcement.* (a) The Secretary of State shall implement this proclamation as it applies to visas pursuant to such procedures as the Secretary of State, in consultation with the Secretary of Homeland Security, may establish. The Secretary of Homeland Security shall implement this proclamation as it applies to the entry of aliens pursuant to such procedures as the Secretary of Homeland Security, in consultation with the Secretary of State, may establish.

(b) Consistent with applicable law, the Secretary of State, the Secretary of Transportation, and the Secretary of Homeland Security shall ensure that any alien subject to this proclamation does not board an aircraft traveling to the United States.

(c) The Secretary of Homeland Security may establish standards and procedures to ensure the application of this proclamation at and between all United States ports of entry.

(d) An alien who circumvents the application of this proclamation through fraud, willful misrepresentation of a material fact, or illegal entry shall be a priority for removal by the Department of Homeland Security.

Sec. 4. *Amendments to Proclamation 9984.* Proclamation 9984 is amended as follows:

(a) Section 2(a)(viii) of Proclamation 9984 is amended to read as follows: ''(viii) any alien (A) seeking entry into or transiting the United States pursuant to one of the following visas: A–1, A–2, C–2, C–3 (as a foreign government official or immediate family member of an official), E–1 (as an employee of TECRO or TECO or the employee's immediate family members), G–1, G–2, G–3, G–4, NATO–1 through NATO–4, or NATO–6 (or seeking to enter as a nonimmigrant in one of those NATO categories); or (B) whose travel falls within the scope of section 11 of the United Nations Headquarters Agreement;''

(b) Section 3(c) of Proclamation 9984 is amended to read as follows: ''(c) The Secretary of Homeland Security may establish standards and procedures to ensure the application of this proclamation at and between all United States ports of entry.''

(c) Section 5 of Proclamation 9984 is amended to read as follows:

''**Sec. 5**. *Termination.* This proclamation shall remain in effect until terminated by the President. The Secretary of Health and Human Services shall, as circumstances warrant and no more than 15 days after the date of this proclamation and thereafter on the first and fifteenth day of each calendar month, recommend that the President continue, modify, or terminate this proclamation and any other proclamation suspending or limiting the entry of foreign nationals into the United States as immigrants or nonimmigrants because of the threat posed by the virus.''

Sec. 5. *Termination.* This proclamation shall remain in effect until terminated by the President.

Sec. 6. *Effective Date.* This proclamation is effective at 5:00 p.m. eastern standard time on March 2, 2020. This proclamation does not apply to persons aboard a flight scheduled to arrive in the United States that departed prior to 5:00 p.m. eastern standard time on March 2, 2020.

Sec. 7. *Severability.* It is the policy of the United States to enforce this proclamation to the maximum extent possible to advance the national security, public safety, and foreign policy interests of the United States. Accordingly:

(a) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this proclamation and the application of its provisions to any other persons or circumstances shall not be affected thereby; and

(b) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid because of the lack of certain procedural requirements, the relevant executive branch officials shall implement those procedural requirements to conform with existing law and with any applicable court orders.

Sec. 8. *General Provisions.* (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

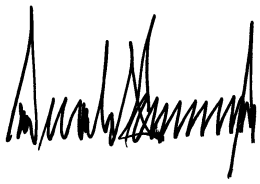
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of February, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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