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Contents

Federal Register

Vol. 86, No. 1

Monday, January 4, 2021

Agriculture Department
See Animal and Plant Health Inspection Service
See Food and Nutrition Service
See Rural Business-Cooperative Service
NOTICES
Request for Commodity Board Topics and Contribution of Funding under the Agriculture and Food Research Initiative Competitive Grants Program, 49–50

Animal and Plant Health Inspection Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
SARS-CoV-2 Testing in Animals Reporting Activities, 50–51

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 99–100

Coast Guard
PROPOSED RULES
Safety Zones:
Super Bowl LV; Hillsborough Bay and River, Tampa, FL, 32–34

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Education Department
NOTICES
Submission of Data by State Educational Agencies:
Submission Dates for State Revenue and Expenditure Reports for Fiscal Year 2020, Revisions to Those Reports, and Revisions to Prior Fiscal Year Reports, 74–75

Employee Benefits Security Administration
NOTICES
Proposed Exemption for Certain Prohibited Transaction Restrictions:
Goldman Sachs Group, Inc., New York, NY; Goldman Sachs or the Applicant, 131–144

Employment and Training Administration
RULES
Discretionary Review by the Secretary of Labor, 1–4
PROPOSED RULES
Discretionary Review by the Secretary of Labor, 29–32
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
YouthBuild Reporting System, 145
Revised Schedule of Remuneration for the Unemployment Compensation for Ex-Servicemembers Program Reflecting Military Pay Increase Effective January 1, 2021, 144–145

Energy Department
See Federal Energy Regulatory Commission
RULES
Energy Conservation Program:
Test Procedures for Small Electric Motors and Electric Motors, 4–25
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 78–79
Energy Conservation Program:
Decision and Order Granting a Waiver to Senneca Holdings from the Walk-in Cooler and Walk-in Freezer Test Procedure, 75–78

Environmental Protection Agency
NOTICES
Asbestos (Part 1: Chrysotile Asbestos); Final Toxic Substances Control Act Risk Evaluation, 89–91
Proposed Consent Decree:
Clean Air Act Citizen Suit, 88–89
Proposed Settlement Agreement:
Challenge to Clean Air Act, 87–88

Export-Import Bank
NOTICES
Meetings; Sunshine Act, 91–92

Federal Aviation Administration
RULES
Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures:
Miscellaneous Amendments, 25–28

Federal Communications Commission
PROPOSED RULES
Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, 44–47

Federal Emergency Management Agency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Rated Orders, Adjustments, Exceptions, or Appeals under the Emergency Management Priorities and Allocations System, 113–114

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 80–82
Environmental Assessments; Availability, etc.:
Southern Star Central Gas Pipeline, Inc., 86–87
Filing:
Hoosier Energy Rural Electric Cooperative, Inc., 86
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
RE Slate 1, LLC, 85
Petition for Declaratory Order:
Hollow Road Solar, LLC, 85–86
Request under Blanket Authorization and Establishing Intervention and Protest Deadline:
Algonquin Gas Transmission, LLC, 79–80
Colorado Interstate Gas Co., LLC, 82–83

Request under Blanket Authorization:
Texas Gas Transmission, LLC, 83–85

Federal Motor Carrier Safety Administration
NOTICES
Hours of Service of Drivers:
Proposed Regulatory Guidance Concerning the Use of a Commercial Motor Vehicle for Yard Moves, 179–181

Federal Reserve System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 92–97
Change in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 92
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 98
Proposals to Engage in or to Acquire Companies Engaged in Permissible Nonbanking Activities, 98

Fish and Wildlife Service
RULES
Endangered and Threatened Species:
Reclassification of the Endangered June Sucker to Threatened, 192–212
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Concessions, 123–126
Online Eastern Population Sandhill Crane Survey Data Entry Portal, 116–118
Draft Revised Boundaries:
John H. Chafee Coastal Barrier Resources System; Okaloosa and Walton Counties, FL; Beaufort and Charleston Counties, SC, 118–123

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Class II Special Controls Guidance Document: Labeling Natural Rubber Latex Condoms, 109–111
National Agriculture and Food Defense Strategy Survey, 104–106
Final Debarment Order:
Alec Burlakoff, 102–103
Jerrod Nichols Smith, 101–102
Joseph A. Rowan, 103–104
Sunrise Lee, 100–101
Guidance:
Coronavirus Disease 2019, 106–109

Food and Nutrition Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Supplemental Nutrition Assistance Program Quality Control Regulations, 51–52
Supplemental Nutrition Assistance Program Requirement for National Directory of New Hires Employment Verification, 52–54
Privacy Act; Matching Program, 54–55

Foreign Assets Control Office
NOTICES
Blocking or Unblocking of Persons and Properties, 186–189

Foreign-Trade Zones Board
NOTICES
Approval of Expansion of Subzone 18F:
Lam Research Corp., Fremont, CA, 55–56

Government Accountability Office
NOTICES
Requests for Nominations:
Medicaid and Children's Health Insurance Program Payment and Access Commission, 98

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
RULES
Discretionary Review by the Secretary of Labor, 1–4
PROPOSED RULES
Discretionary Review by the Secretary of Labor, 29–32
NOTICES
Determination Pursuant to the Illegal Immigration Reform and Immigrant Responsibility Act, 114–115

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Transfer and Consolidation of Public Housing Programs, 115–116

Interior Department
See Fish and Wildlife Service

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China, 58–60
Certain Chassis and Subassemblies Thereof from the People's Republic of China, 56–58
Citric Acid and Certain Citrate Salts from the People's Republic of China, 72–73
Initiation of Five-Year (Sunset) Reviews, 60–61
Uncovered Innerspring Units from the Socialist Republic of Vietnam, 61–63
Wood Mouldings and Millwork Products from the People's Republic of China, 67–70
Determination of Sales At Less Than Fair Value:
Wood Mouldings and Millwork Products from Brazil, 70–72
Wood Mouldings and Millwork Products from the People's Republic of China, 63–67

International Trade Commission
NOTICES
Complaint:
Certain Active Matrix Organic Light-emitting Diode Display Devices and Components Thereof, 128–129
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Cloud-Connected Wood-Pellet Grills and Components Thereof, 129–130

Magnesia Carbon Bricks from China and Mexico; Institution of Five-Year Reviews, 126–128

Justice Department
NOTICES
Proposed Consent Decree:
United States v. Russell Kirk, et al., 130

Labor Department
See Employee Benefits Security Administration
See Employment and Training Administration
See Wage and Hour Division
RULES
Discretionary Review by the Secretary of Labor, 1–4
PROPOSED RULES
Discretionary Review by the Secretary of Labor, 29–32

National Highway Traffic Safety Administration
PROPOSED RULES
Federal Motor Vehicle Safety Standards:
Child Restraint Systems, Incorporation by Reference, 47–48
NOTICES
Petition for Decision of Inconsequential Noncompliance:
Goodyear Tire and Rubber Co., 181–182
Porsche Cars North America, Inc., 184–186
Petition for Decision:
Nonconforming Model Year 1997 Jeep Wrangler Multipurpose Vehicles are Eligible for Importation, 183–184

National Institute of Standards and Technology
PROPOSED RULES
Rights to Federally Funded Inventions and Licensing of Government Owned Inventions, 35–44

National Institutes of Health
NOTICES
Meetings:
National Toxicology Program Board of Scientific Counselors, 111–112

National Oceanic and Atmospheric Administration
NOTICES
Requests for Nominations:
Western and Central Pacific Fisheries Commission Permanent Advisory Committee, 73–74

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 146

Postal Regulatory Commission
NOTICES
New Postal Products, 146–147

Postal Service
NOTICES
International Product Change:
International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International and First-Class Package International Service Agreement, 147–148
International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International and First-Class Package International Service Agreement, 148

Presidential Documents
PROCLAMATIONS
Special Observances:
Martyrdom of Saint Thomas Becket; 850th Anniversary (Proc. 10129), 213–217
EXECUTIVE ORDERS
Educational Opportunity; Effort to Expand Through School Choice (EO 13969), 219–221

Rural Business-Cooperative Service
NOTICES
Inviting applications for Value-Added Producer Grants and Solicitation of Grant Reviewers; Correction, 55

Securities and Exchange Commission
NOTICES
Application:
Deregistration under the Investment Company Act of 1940, 157
Meetings; Sunshine Act, 157
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe BYX Exchange, Inc., 158–159
Cboe BYX Exchange, Inc.; Cboe BZX Exchange, Inc.; Cboe EDGA Exchange, Inc.; Cboe EDGX Exchange, Inc., 163–164
ICE Clear Europe, Ltd., 169–172
Long-Term Stock Exchange, Inc., 164–168
MEMX, LLC, 152–157
New York Stock Exchange, LLC, 148–152
NYSE Arca, Inc., 159–161
The Depository Trust Co., 162–163

Small Business Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Paycheck Protection Program, 172–173

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Career Connections Evaluation, 174
TechGirls Evaluation, 178–179
Global Magnitsky Human Rights Accountability Act Annual Report, 174–178

Substance Abuse and Mental Health Services Administration
NOTICES
Certified Laboratories and Instrumented Initial Testing Facilities:
List of Facilities which Meet Minimum Standards to Engage in Urine and Oral Fluid Drug Testing for Federal Agencies, 112–113

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See National Highway Traffic Safety Administration

Treasury Department
See Foreign Assets Control Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Internal Revenue Service Request for Section 754 Revocation, 189

Veterans Affairs Department
NOTICES
Meetings:
Veterans and Community Oversight and Engagement Board, 189–190

Wage and Hour Division
RULES
Discretionary Review by the Secretary of Labor, 1–4
PROPOSED RULES
Discretionary Review by the Secretary of Labor, 29–32

Separate Parts In This Issue

Part II
Interior Department, Fish and Wildlife Service, 192–212

Part III
Presidential Documents, 213–217, 219–221

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations:
10129.....215
Executive Orders:
13969.....219
10 CFR
431.....4
14 CFR
97 (2 documents) 27, 7
20 CFR
655.....1
Proposed Rules:
655.....29
29 CFR
18.....1
503.....1
Proposed Rules:
18.....29
503.....29
33 CFR
Proposed Rules:
165.....32
37 CFR
Proposed Rules:
401.....35
404.....35
47 CFR
0.....44
64.....44
49 CFR
Proposed Rules:
571.....47
50 CFR
17.....192

Rules and Regulations

Federal Register

Vol. 86, No. 1

Monday, January 4, 2021

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.

DEPARTMENT OF HOMELAND SECURITY

RIN 1615–AC63

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Office of the Secretary

29 CFR Part 18

Wage and Hour Division

29 CFR Part 503

[DOL Docket No. DOL–2020–0019]

RIN 1290–AA43

Discretionary Review by the Secretary of Labor

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security; and Office of the Secretary, Employment and Training Administration, and Wage and Hour Division, Department of Labor.

ACTION: Direct final rule.

SUMMARY: The Department of Homeland Security and the Department of Labor (DOL) are jointly issuing this direct final rule to extend DOL's recently established system of discretionary Secretary of Labor review to H–2B temporary labor certification cases (H–2B cases) pending before or decided by the Department of Labor's Board of Alien Labor Certification Appeals and to make technical, conforming changes to regulations governing the timing and finality of those decisions and of decisions from the Department of Labor's Administrative Review Board in H–2B cases.

DATES: This direct final rule (DFR) is effective February 3, 2021 unless significant adverse comment is submitted by January 19, 2021. If the Departments receive significant adverse comment, the Departments will publish a timely withdrawal in the **Federal Register** informing the public that this DFR will not take effect (see Section I, Direct Final Rule Published Concurrently With Companion Proposed Rule, for more details on this process). To ensure consideration, comments must be in writing and must be received by January 19, 2021.

ADDRESSES: You may send comments, identified by Regulatory Identification Number (RIN) 1290–AA43, electronically only, consistent with the following instructions. Submit comments, read background documents, and read comments received through the Federal eRulemaking Portal at *http://www.regulations.gov.* To locate this rulemaking, use docket number DOL–2020–0019 key words such as ''Office of Administrative Law Judges'' or ''Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges.'' Instructions for submitting comments are found on the *www.regulations.gov* website. All comments must be received by 11:59 p.m. on the date indicated for consideration in this rulemaking. Please be advised that comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Therefore, the Departments recommend that commenters safeguard their personal information by not including Social Security numbers, personal addresses, telephone numbers, and email addresses in comments. It is the responsibility of the commenters to safeguard their information.

If you need assistance to review the comments of the rulemaking, the Department will consider providing the comments and the proposed rule in other formats upon request. For assistance to review the comments or obtain the direct final rule in an alternate format, contact Mr. Todd Smyth, General Counsel, U.S. Department of Labor, at (513) 684–3252.

FOR FURTHER INFORMATION CONTACT: Todd Smyth, General Counsel, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street NW, Washington, DC 20001–8002; telephone (513) 684–3252. Individuals with hearing or speech impairments may access the telephone number above by TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: This preamble is divided into five sections: Section I describes the process of rulemaking using a direct final rule with a companion proposed rule; Section II provides general background information on the rulemaking; Section III summarizes the regulatory text; Section IV covers the administrative requirements for this rulemaking; and Section V provides additional information and instructions to those wishing to comment on the rule.

This final rule is not an Executive Order 13771 regulatory action because it 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 as not a major rule as defined by 5 U.S.C. 804(2).

I. Direct Final Rule Published Concurrently With Companion Proposed Rule

The Department of Homeland Security (DHS) and Department of Labor (DOL) (collectively, the Departments) are simultaneously publishing with this ''direct final'' rule an identical proposed rule elsewhere in this issue of the **Federal Register**, with an identical change to the regulatory text. In direct final rulemaking, an agency publishes a final rule with a statement that the rule will go into effect unless the agency receives significant adverse comments within a specified period. If the agency receives no significant adverse comments in response to the direct final rule, the DFR goes into effect. If the agency receives significant adverse comments, the agency withdraws the direct final rule and treats such comments as submissions in response to the proposed rule. The proposed rule provides the procedural framework to finalize the proposed regulatory changes through a final rule. Agencies typically use direct final rulemaking when they anticipate a rule will be non-controversial.

The Departments have determined that this rule is suitable for direct final rulemaking. The revision to DOL's internal adjudicatory processes would implement the mechanism by which the Secretary of Labor (Secretary) can review H–2B cases pending before or decided by the Board of Alien Labor

Certification Appeals (BALCA) and decisions of the Administrative Review Board (ARB)—a power the Secretary already possesses with respect to other cases pending before or decided by BALCA under DOL's recent final rule, *Rules Concerning Discretionary Review by the Secretary,* 85 FR 30608 (May 20, 2020), and, with respect to ARB decisions in H–2B cases, reflects a power he already possesses pursuant to the Secretary's Order 01–2020, *Delegation of Authority and Assignment of Responsibility to the Administrative Review Board,* 85 FR 13186 (Mar. 6, 2020). This is a rule of agency management and personnel and is entirely a procedural change to how officers within DOL exercise delegated authority on behalf of the Secretary; therefore, the Departments are not required to engage in a notice-and-comment process to issue this rule. *See* 5 U.S.C. 553(a)(2), (b)(A). Further, discretionary review by an agency head over adjudicatory decisions exists in many other executive branch agencies, including the Department of Justice, the Department of the Interior, and the Department of Education. The rule is thus consistent with well-known and well-established models of internal agency review both at DOL and at other agencies.

The comment period for the proposed rule runs concurrently with the comment period for this DFR. Any comments received in response to the proposed rule will also be considered comments regarding the direct final rule and vice versa. For purposes of this rulemaking, a significant adverse comment is one that addresses (1) why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the rule will be ineffective or unacceptable without a change. In determining whether a significant adverse comment counsels in favor of withdrawal of the direct final rule, the Departments will consider whether the comment raises an issue serious enough to warrant a substantive response. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how the direct final rule would be ineffective or unacceptable without the addition.

The Departments request comments on all issues related to this rule, including economic or other regulatory impacts of this rule on the public.

II. Background and Joint Issuance for This Rulemaking

BALCA has authority over appeals from the decisions of the Employment and Training Administration's adjudication of foreign labor certification applications. It was created by regulation to exercise delegated authority on behalf of the Secretary of Labor. Its existence is neither compelled nor governed by statute, and it is entrusted with the power to issue final agency decisions in the name of the Secretary of Labor. Earlier this year, DOL issued regulations establishing a mechanism by which the Secretary can exercise review of decisions issued by BALCA on his behalf in the H–2A, CW–1, and PERM programs. This rule will apply the same mechanism for review over decisions issued by BALCA in the H–2B program.

To ensure that the Secretary has the ability to properly supervise and direct the actions of the Department he supervises, earlier this year the Secretary of Labor also established a system of discretionary secretarial review over the decisions of the ARB. *See* Secretary of Labor's Order No. 01–2020. DOL's authority to effect this reform, as well as the related rulemaking undertaken earlier this year to establish discretionary review over decisions of and appeals before BALCA, derives from 5 U.S.C. 301, which authorizes the heads of agencies to regulate the internal operations of their departments; 5 U.S.C. 305, which provides for continuing review of agency operations; and the Secretary's authority to administer the statutes and programs at issue in ARB and BALCA proceedings, including the H–2B temporary-labor-certification and enforcement programs provided for in DHS and DOL's 2015 joint rules. In combination, these authorities establish many of the powers of DOL within the Office of the Secretary, and give the Secretary of Labor wide latitude to delegate those powers to his subordinates on the terms he deems appropriate. Thus, the Secretary of Labor has the power to delegate his authority to appropriately supervise the adjudicatory process within DOL, and has similarly exercised that same authority to assert his decision-making prerogatives by modifying the terms on which the members of the ARB and BALCA exercise his delegated authority. The Departments do so through this rulemaking with respect to H–2B cases pending before or decided by BALCA.

This rule, like those actions undertaken earlier this year, preserves the existing structures by which DOL processes adjudications while giving the Secretary the option, in his sole discretion, to initiate review directly. As with DOL's existing mechanisms of secretarial review, under this reform the Secretary of Labor will rely on BALCA to assist him in identifying cases where secretarial review may be warranted. Also consistent with current practices at DOL and other agencies, the Departments do not anticipate that the power of secretarial review over H–2B cases will be used often. The Departments similarly anticipate that secretarial review—while completely within the Secretary's discretion as the principal officer accountable for DOL's activities—will typically be reserved for matters of significant importance. Finally, DOL will ensure that the secretarial review process will continue to be accomplished in a manner that complies with any applicable legal requirements.

The Departments appreciate the expeditious nature of BALCA proceedings involving temporary labor certifications and, as with the existing system of review, do not anticipate that secretarial review over H–2B cases will significantly disrupt or otherwise impede the way such cases are currently processed. As noted above, the Departments expect that secretarial review over BALCA's H–2B decisions will likely not be exercised often. Further, BALCA decisions will remain the Secretary of Labor's final administrative decision unless the Secretary himself assumes jurisdiction over the case. For example, once BALCA issues a decision that grants a labor certification or remands for further processing, the private party in the case will be able to proceed immediately to the next step of the application process. The private party will be delayed in doing so only if the Secretary later decides to undertake review. Moreover, as it does now, 29 CFR 18.95 will continue to limit any potential uncertainty that may exist because of the possibility of secretarial review by placing strict time limits on when the Secretary of Labor will have the option of assuming jurisdiction over a case.

As noted in the DOL's prior rulemaking establishing secretarial review over other BALCA cases, 85 FR 30608, the Departments have determined that it is appropriate to issue jointly this rule regarding the Secretary of Labor's review authority over H–2B cases under 29 CFR 18.95. This determination follows conflicting court decisions concerning DOL's authority to issue legislative rules on its own to carry out its duties in the H–2B program. Although the Departments each have authority to issue rules implementing their respective duties in the H–2B program, including rules providing for secretarial review, the Departments determined to make the

amendments to the applicable regulations jointly to ensure that there can be no question about the authority underlying such amendments. This approach is consistent with the joint rulemaking governing the Temporary Non-Agricultural Employment of H–2B Aliens in the United States, 80 FR 24042 (Apr. 29, 2015) (codified at 8 CFR part 214, 20 CFR part 655, and 29 CFR part 503).

III. Discussion of Changes

Through this rule, the Departments revise 29 CFR part 18 by modifying the conditions under which an H–2B decision of BALCA becomes the final decision of DOL and by extending to H–2B cases the process by which the Secretary of Labor may exercise discretionary review over cases pending before or decided by the BALCA. Technical amendments are also made to 20 CFR part 655, subpart A, to harmonize the manner in which BALCA issues decisions on behalf of the Secretary with the system of discretionary review established in 29 CFR part 18. Additionally, this rule modifies or removes the reference to ''final'' decisions of the ARB in 20 CFR 655.73(g)(6) and 29 CFR 503.55 to reflect that the finality of ARB decisions is governed by Secretary's Order 01–2020.

IV. Administrative Requirements

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

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

This rule has been drafted and reviewed in accordance with Executive Order 12866. The Departments, in coordination with the Office of Management and Budget (OMB), determined that this rule is not a significant regulatory action under section 3(f) of Executive Order 12866 because the rule will not have an annual effect on the economy of $100 million or more; will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; and will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Furthermore, the rule does not raise a novel legal or policy issue arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

Accordingly, OMB has waived review.

Regulatory Flexibility Act of 1980

Because no notice of proposed rulemaking is required for this rule under section 553 of the Administrative Procedure Act, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act, 5 U.S.C. 603, 604, do not apply to this rule. *See* 5 U.S.C. 603(a), 604(a).

Paperwork Reduction Act

The Departments have determined that this rule is not subject to the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* as this rulemaking does not involve any collections of information. *See* 5 CFR 1320.3(c).

Unfunded Mandates Reform Act of 1995 and Executive Order 13132, Federalism

The Departments have reviewed this rule in accordance with the requirements of Executive Order 13132 and the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.,* and have found no potential or substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. As there is no Federal mandate contained herein that could result in increased expenditures by state, local, and tribal governments, or by the private sector, the Departments have not prepared a budgetary impact statement.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

The Departments have reviewed this rule in accordance with Executive Order 13175 and has determined that it does not have ''tribal implications.'' The rule does not ''have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

Signature

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, has delegated the authority to electronically sign this document to Chad R. Mizelle, who is the Senior Official Performing the Duties of the General Counsel for DHS, for purposes of publication in the **Federal Register**.

V. Notice and Comment

A. APA Requirements for Notice and Comment

This rule addresses matters of internal agency management and personnel, as well as matters of agency organization, practice and procedure, and consequently are exempt from the notice and public comments requirements of the Administrative Procedure Act. *See* 5 U.S.C. 553(a)(2), (b)(A). Nevertheless, the Departments wish to provide the public an opportunity to submit comments.

B. Publication of Comments

Please be advised that the Departments will generally post all comments without making any change to the comments, including any personal information provided. The *www.regulations.gov* website is the Federal e-rulemaking portal, and all comments received will be available and accessible to the public on this website. Therefore, the Departments recommend that commenters safeguard their personal information by not including social security numbers, personal addresses, telephone numbers, or email addresses in comments. It is the responsibility of the commenter to safeguard his or her information.

C. Access to Docket

In addition to all comments received by the Departments being accessible on *www.regulations.gov,* the Departments will make all the comments available for public inspection during normal business hours at the office listed in the **ADDRESSES** section above. If you need assistance to review the comments, the Departments will provide you with appropriate aids such as readers or print magnifiers. The Departments will make copies of the rule available, upon request, in large print or electronic file on portable digital media. The Departments will consider providing the rule in other formats upon request. To schedule an appointment to review the comments or obtain the rule in an alternate format, contact Todd Smyth, General Counsel, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street NW, Washington, DC 20001–8002; telephone (513) 684–3252.

Individuals with hearing or speech impairments may access the telephone number above by TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

List of Subjects

20 CFR Part 655

Administrative practice and procedure, Labor certification processes for temporary employment.

29 CFR Part 18

Administrative practice and procedure, Labor.

29 CFR Part 503

Administrative practice and procedure, Obligations, Enforcement, Immigration and Nationality Act, Temporary alien non-agricultural workers.

For the reasons discussed in the joint preamble, part 655 of title 20 of the Code of Federal Regulations and parts 18 and 503 of title 29 of the Code of Federal Regulations are amended as follows:

DEPARTMENT OF LABOR

Title 20: Employees' Benefits

Employment and Training Administration

PART 655—TEMPORARY EMPLOYMENT OF FOREIGN WORKERS IN THE UNITED STATES

■ 1. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i) and (ii), 8 U.S.C. 1103(a)(6), 1182(m), (n), (p), and (t), 1184(c), (g), and (j), 1188, and 1288(c) and (d); sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; sec. 412(e), Pub. L. 105–277, 112 Stat. 2681 (8 U.S.C. 1182 note); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); 29 U.S.C. 49k; Pub. L. 107–296, 116 Stat. 2135, as amended; Pub. L. 109–423, 120 Stat. 2900; 8 CFR 214.2(h)(4)(i); 8 CFR 214.2(h)(6)(iii); and sec. 6, Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1806).

Subpart A issued under 8 CFR 214.2(h).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188; and 8 CFR 214.2(h).

Subpart E issued under 48 U.S.C. 1806.

Subparts F and G issued under 8 U.S.C. 1288(c) and (d); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b) and (b)(1), 1182(n), (p), and (t), and 1184(g) and (j); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 412(e), Pub. L. 105–277, 112 Stat. 2681; 8 CFR 214.2(h); and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts L and M issued under 8 U.S.C. 1101(a)(15)(H)(i)(c) and 1182(m); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); Pub. L. 109–423, 120 Stat. 2900; and 8 CFR 214.2(h).

■ 2. In § 655.61, revise paragraph (e) to read as follows:

§ 655.61 Administrative review.

* * * * *

(e) *Review.* The BALCA must review the CO's determination only on the basis of the Appeal File, the request for review, and any legal briefs submitted and must, except in cases over which the Secretary has assumed jurisdiction pursuant to 29 CFR 18.95:

(1) Affirm the CO's determination; or

(2) Reverse or modify the CO's determination; or

(3) Remand to the CO for further action.

* * * * *

■ 3. In § 655.72, revise paragraph (b)(3) to read as follows:

§ 655.72 Revocation.

* * * * *

(b) * * *

(3) *Appeal.* An employer may appeal a Notice of Revocation, or a final determination of the Administrator, OFLC after the review of rebuttal evidence, according to the appeal procedures of § 655.61.

* * * * *

■ 4. In § 655.73, revise paragraph (g)(6) to read as follows:

§ 655.73 Debarment.

* * * * *

(g) * * *

(6) *ARB decision.* The ARB's decision must be issued within 90 calendar days from the notice granting the petition and served upon all parties and the ALJ.

* * * * *

Title 29: Labor

Office of the Secretary of Labor

PART 18—RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES

■ 5. The authority citation for part 18 continues to read as follows:

Authority: 5 U.S.C. 301; 5 U.S.C. 551–553; 5 U.S.C. 571 note; E.O. 12778; 57 FR 7292.

■ 6. In § 18.95, revise paragraph (b)(1) to read as follows:

§ 18.95 Review of decision and review by the Secretary.

* * * * *

(b) * * *

(1) In any case for which administrative review is sought or handled in accordance with 20 CFR 655.61, 655.171(a), or 655.461, at any point from when the BALCA receives a request for review until the passage of 10 business days after the date on which BALCA has issued its decision.

* * * * *

Title 29: Labor

Wage and Hour Division

PART 503—ENFORCEMENT OF OBLIGATIONS FOR TEMPORARY NONIMMIGRANT NON-AGRICULTURAL WORKERS DESCRIBED IN THE IMMIGRATION AND NATIONALITY ACT

■ 7. The authority citation for part 503 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(H)(ii)(b); 8 U.S.C. 1184; 8 CFR 214.2(h); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701.

■ 8. Revise § 503.55 to read as follows:

§ 503.55 Decision of the Administrative Review Board.

The ARB's decision will be issued within 90 days from the notice granting the petition and served upon all parties and the ALJ.

Eugene Scalia,

Secretary of Labor.

Chad R. Mizelle,

Senior Official Performing the Duties of the General Counsel, U.S. Department of Homeland Security.

[FR Doc. 2020–28951 Filed 12–30–20; 4:15 pm]

BILLING CODE 4510–HL–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2017–BT–TP–0047]

RIN 1904–AE18

Energy Conservation Program: Test Procedures for Small Electric Motors and Electric Motors

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: In this final rule, the Department of Energy (''DOE'') is further harmonizing its test procedures with industry practice by updating a currently incorporated testing standard to reference that standard's latest version, incorporating a new industry

testing standard that manufacturers would be permitted to use in addition to those industry standards currently incorporated by reference, and harmonizing certain test conditions with current industry standards to improve the comparability of test results for small electric motors. None of these changes would affect the measured average full-load efficiency of small electric motors or the measured nominal full-load efficiency of electric motors when compared to the current test procedures.

DATES: The effective date of this rule is February 3, 2021. The final rule changes will be mandatory for product testing starting July 6, 2021. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on February 3, 2021. The incorporation by reference of certain other publications listed in this rulemaking was approved by the Director of the Federal Register on June 4, 2012.

ADDRESSES: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket web page can be found at *https://www.regulations.gov/docket?D=EERE-2017-BT-TP-0047.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9870. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE maintains or updates previously approved incorporations by reference and newly incorporates by reference the following industry standards into 10 CFR part 431:

Canadian Standards Association (''CSA'') C390–10, ''Test methods, marking requirements, and energy efficiency levels for three-phase induction motors,'' March 2010.

CSA C747–09, ''Energy efficiency test methods for small motors,'' October 2009.

Copies of CSA C390–10 and CSA C747–09 can be obtained from Canadian Standards Association, Sales Department, 5060 Spectrum Way, Suite 100, Mississauga, Ontario, L4W 5N6, Canada, 1–800–463–6727, or by visiting *http://www.shopcsa.ca/onlinestore/welcome.asp.*

Institute of Electrical and Electronics Engineers (''IEEE'') 112–2017, ''IEEE Standard Test Procedure for Polyphase Induction Motors and Generators,'' approved December 6, 2017.

IEEE 114–2010, ''Test Procedure for Single-Phase Induction Motors,'' approved September 30, 2010.

Copies of IEEE 112–2017 and IEEE 114–2010 can be obtained from Institute of Electrical and Electronics Engineers, 445 Hoes Lane, P.O. Box 1331, Piscataway, NJ 08855–1331, (732) 981–0060, or by visiting *http://www.ieee.org.*

International Electrotechnical Commission (''IEC'') 60034–1:2010, Edition 12.0 2010–02, ''Rotating electric machines—Part 1: Rating and performance.''

IEC 60034–2–1:2014, Edition 2.0 2014–06, ''Rotating electrical machines—Part 2–1: Standard methods for determining losses and their efficiency from tests (excluding machines for traction vehicles).''

IEC 60051–1:2016, Edition 6.0 2016–02, ''Direct acting indicating analogue electrical measuring instruments and their accessories—Part 1: Definitions and general requirements common to all parts.''

Copies of IEC 60034–2–1:2014, IEC 60034–1:2010, and IEC 60051–1:2016 may be purchased from International Electrotechnical Commission, 3 rue de Varembé, 1st Floor, P.O. Box 131, CH—1211 Geneva 20—Switzerland, +41 22 919 02 11, or by visiting *https://webstore.iec.ch/home.*

National Electrical Manufacturers Association (''NEMA'') MG 1–2016, ''American National Standard for Motors and Generators (''NEMA MG 1–2016''), ANSI approved June 1, 2018.

Copies of NEMA MG 1–2016 may be purchases from National Electrical Manufacturers Association, 1300 North 17th Street, Suite 900, Arlington, Virginia 22209, +1 703 841 3200, or by visiting *https://www.nema.org.*

For a further discussion of these standards, see section IV.O.

Table of Contents

I. Authority and Background
A. Authority
B. Background
II. Synopsis of the Final Rule
III. Discussion
A. Scope of the Test Procedures for Currently Regulated Small Electric Motors and Electric Motors
1. Definition of ''Small Electric Motor''
2. Scope of the Small Electric Motor Test Procedure
3. Scope of the Electric Motor Test Procedure
B. Industry Standards
1. IEEE 112–2017
2. IEC 60034–2–1:2014
C. Rated Output Power and Breakdown Torque of Small Electric Motors
D. Rated Values Specified for Testing Small Electric Motors
1. Rated Frequency
2. Rated Load
3. Rated Voltage
E. Effective and Compliance Date
F. Test Procedure Costs and Impacts
1. Cost Impacts for Small Electric Motors
2. Cost Impacts for Electric Motors
3. Additional Amendments
IV. Procedural Issues and Regulatory Review
A. Review Under Executive Order 12866
B. Review Under Executive Orders 13771 and 13777
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act of 1995
E. Review Under the National Environmental Policy Act of 1969
F. Review Under Executive Order 13132
G. Review Under Executive Order 12988
H. Review Under the Unfunded Mandates Reform Act of 1995
I. Review Under the Treasury and General Government Appropriations Act, 1999
J. Review Under Executive Order 12630
K. Review Under Treasury and General Government Appropriations Act, 2001
L. Review Under Executive Order 13211
M. Review Under Section 32 of the Federal Energy Administration Act of 1974
N. Congressional Notification
O. Description of Materials Incorporated by Reference
IV. Approval of the Office of the Secretary

I. Authority and Background

The Department of Energy (''DOE'') is authorized to establish and amend energy conservation standards and test procedures for small electric motors and electric motors.[1] (42 U.S.C. 6311(1)(A); 42 U.S.C. 6317(b)) The current DOE test procedures for small electric motors appear at subpart X, part 431 of Title 10 of the Code of Federal Regulations (''CFR''). See 10 CFR 431.444. The current DOE test procedures for electric motors appear in appendix B to subpart

[1] EPCA authorized DOE to prescribe test procedures and energy conservation standards for small electric motors pending a determination of feasibility and justification (42 U.S.C. 6317(b)), completed on July 10, 2006. 71 FR 38799. DOE is obligated to review (and amend as needed) its test procedures and standards under 42 U.S.C. 6314(a) and 6316(a).

B of 10 CFR part 431 (''Appendix B''). The following sections discuss DOE's authority to amend test procedures for small electric motors and electric motors, as well as relevant background information regarding DOE's consideration of test procedures for these motors.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA'')[2] (42 U.S.C. 6291–6317), among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and industrial equipment. Title III, Part C[3] of EPCA, added by Title IV, section 441(a) of the National Energy Conservation Policy Act (Pub. L. 95–619 (Nov. 9, 1978)), established the Energy Conservation Program for Certain Industrial Equipment, which set forth a variety of provisions designed to improve the energy efficiency of certain industrial equipment. Later, the Energy Policy Act of 1992, Public Law 102–486 (October 24, 1992), further amended EPCA by adding, among other things, provisions governing the regulation of small electric motors. EPCA was further amended by the American Energy Manufacturing Technical Corrections Act, Public Law 112–210 (December 18, 2012), which explicitly permitted DOE to examine the possibility of regulating ''other motors'' in addition to those electric and small electric motors that Congress had already otherwise defined and required DOE to regulate. (42 U.S.C. 6311(1)(A), 42 U.S.C. 6311(2)(B)(xiii); 42 U.S.C. 6317(b))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316). EPCA includes specific authority for DOE to establish test procedures and standards for small electric motors. (42 U.S.C. 6317(b))

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297)

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that equipment. (42 U.S.C. 6314(d)) Similarly, DOE uses these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s))

Under 42 U.S.C. 6314, EPCA sets forth criteria and procedures for prescribing and amending test procedures for covered equipment. EPCA provides in relevant part that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect the energy efficiency, energy use, or estimated annual operating cost of covered equipment during a representative average use cycle and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6314(b))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered equipment including small electric motors to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect the energy efficiency, energy use, and estimated operating costs during a representative average use cycle. (42 U.S.C. 6314(a)(1)) If the Secretary determines that a test procedure amendment is warranted, the Secretary must publish test procedures in the **Federal Register** and afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the test procedures. (42 U.S.C. 6314(b)) DOE is publishing this final rule to satisfy the 7-year review requirement for small electric motors specified in EPCA, which requires that DOE publish either a final rule amending the test procedures or a determination that amended test procedures are not required. (42 U.S.C. 6314(a)(1)(A)) This final rule also responds to petitions for rulemaking received from the National Electrical Manufacturers Association (''NEMA'') and Underwriters Laboratory (''UL'') pertaining to small electric motors and electric motors. (See section I.B)

B. Background

EPCA defines ''small electric motor,'' as ''a NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG 1–1987.'' (42 U.S.C. 6311(13)(G)) EPCA directed DOE to establish a test procedure for those small electric motors for which DOE makes a determination that energy conservation standards would be technologically feasible and economically justified and would result in significant energy savings. (42 U.S.C. 6317(b)(1)) On July 10, 2006, DOE published its determination that energy conservation standards for certain polyphase and certain single-phase, capacitor-start, induction-run, small electric motors are technologically feasible and economically justified, and would result in significant energy savings. 71 FR 38799. DOE later adopted test procedures for small electric motors. 74 FR 32059 (July 7, 2009) (''July 2009 final rule''). EPCA also required that following establishment of the required test procedures, DOE establish energy conservation standards for those small electric motors for which test procedures were prescribed. (42 U.S.C. 6317(b)(2)) DOE complied with this requirement when it established energy conservation standards for small electric motors. 75 FR 10874 (March 9, 2010) (''March 2010 final rule'').[4]

Subsequently, DOE published an update to the test procedures for small electric motors on May 4, 2012. 77 FR 26608. The test procedures for small electric motors appear at 10 CFR 431.444, and incorporate certain industry standards from the Institute of Electrical and Electronics Engineers (''IEEE'') and Canadian Standards Association (''CSA''), as listed in Table I–1.

[2] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (Oct. 23, 2018).

[3] For editorial purposes, upon codification into the U.S. Code, Part C was re-designated as Part A–1.

[4] A technical correction was published on April 5, 2010, to correct the compliance date. 75 FR 17036.

TABLE I–1—INDUSTRY STANDARDS CURRENTLY INCORPORATED BY REFERENCE FOR SMALL ELECTRIC MOTORS

Equipment description	Industry test procedure
Single-phase small electric motors	IEEE 114–2010, CSA C747–09.
Polyphase small electric motors less than or equal to 1 horsepower	IEEE 112–2004 Test Method A, CSA C747–09.
Polyphase small electric motors greater than 1 horsepower	IEEE 112–2004 Test Method B, CSA C390–10.

More recently, DOE published a request for information pertaining to the test procedures for small electric motors and electric motors in July 2017. 82 FR 35468 (July 31, 2017) (''July 2017 RFI''). In the July 2017 RFI, DOE solicited public comments, data, and information on all aspects of, and any issues or problems with, the existing DOE test procedure for small electric motors, including on any needed updates or revisions. DOE also discussed potential categories of electric motors (as defined at 10 CFR 431.12) that may be considered in future DOE test procedures. 82 FR 35470–35474. At the request of commenters, DOE extended the comment period for the July 2017 RFI in a notice published on August 30, 2017. 82 FR 41179.

Separate from the July 2017 RFI, NEMA and Underwriter Laboratories (''UL'') independently submitted written petitions requesting that certain portions of International Electrotechnical Commission (''IEC'') 60034–2–1:2014 be adopted as a permitted alternative test method for small electric motors and electric motors.[5] DOE published a notice of receipt of these petitions on November 2, 2017. 82 FR 50844 (''November 2017 notice of petition'').

On April 23, 2019, DOE published a NOPR (''April 2019 NOPR'') responding to the comments received to the July 2017 RFI and proposing to further clarify the test procedures for small electric motors and incorporate an additional industry test method, IEC 60034–2–1:2014 industry test standard, for testing small electric motors and electric motors.[6] 84 FR 17004 (April 23, 2019). The April 2019 NOPR also addressed the test procedures for electric motors in response to the November 2017 notice of petition. *Id.*

DOE received four comments in response to the April 2019 NOPR from the interested parties listed in Table I–2.

TABLE I–2—APRIL 2019 NOPR WRITTEN COMMENTS

Organization(s)	Reference in this final rule	Organization type
Appliance Standards Awareness Project, Alliance to Save Energy, California Energy Commission, Natural Resources Defense Council.	Efficiency Advocates	Efficiency Organizations.
Association of Home Appliance Manufacturers & Air-Conditioning, Heating, and Refrigeration Institute.	AHAM and AHRI	Trade Associations.
Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison.	CA IOUs	Utilities.
National Electrical Manufacturers Association	NEMA	Trade Association.

II. Synopsis of the Final Rule

In this final rule, DOE is amending 10 CFR part 431 as follows:

(1) Updating the referenced industry testing standard for measuring the energy efficiency of small electric motors and electric motors to its latest version, IEEE 112–2017, ''IEEE Standard Test Procedure for Polyphase Induction Motors and Generators;''

(2) Incorporating by reference as an alternative test procedure for the measurement of energy efficiency in small electric motors and electric motors testing standard IEC 60034–2–1:2014, ''Standard methods for determining losses and efficiency from tests (excluding machines for traction vehicles);''

(3) Adding definitions for ''rated load,'' ''rated output power,'' and ''breakdown torque'' of small electric motors based on NEMA MG 1–2016; and [7]

(4) Specifying the frequency used for testing by defining ''rated frequency,'' and specify that manufacturers select the voltage used for testing by defining ''rated voltage.''

Table II–1 summarizes the test procedure amendments compared to the current test procedure as well as the reason for each change.

TABLE II–1—SYNOPSIS OF THE NOTICE OF TEST PROCEDURE

Current test procedure	NOPR test procedure	Final rule test procedure	Reason
Incorporates by reference IEEE 112–2004 to measure full-load efficiency of polyphase small electric motors.	—Proposed adding IEEE 112–2017 as an alternative to IEEE 112–2004. The IEEE 112–2017 version includes the following updates compared to IEEE 112–2004: (1) Updates to certain requirements regarding measurement instrument selection and accuracy.	Replaces IEEE 112–2004 with IEEE 112–2017 (considered equivalent).	—Achieves consistency with industry update to IEEE 112–2017. —Addresses comments in response to the April 2019 NOPR that including both the 2004 and 2017 versions of IEEE 112 is unnecessary because they are equivalent. See section III.B.1 for further discussion.

[5] The NEMA petition and work paper are available at *https://www.regulations.gov/document?D=EERE-2017-BT-TP-0047-0028.* The UL petition and supporting documentation are available at *https://www.regulations.gov/document?D=EERE-2017-BT-TP-0047-0029.*

[6] All comments received in response to the July 2017 TP RFI are available for review at *http://www.regulations.gov* under docket number EERE–2017–BT–TP–0047.

[7] Approved by ANSI on June 1, 2018 with 2018 supplements. DOE is not incorporating by reference these supplements as part of this final rule.

TABLE II–1—SYNOPSIS OF THE NOTICE OF TEST PROCEDURE—Continued

Current test procedure	NOPR test procedure	Final rule test procedure	Reason
	(2) Alignment of core loss calculation with CSA 390–10 and Method 2–1–1B of IEC 60034–2–1:2014.		
Does not incorporate by reference IEC 60034–2–1:2014.	—Proposed adding Method 2–1–1B of IEC 60034–2–1:2014 as an alternative to IEEE 112–2004 Test Method B, IEEE 112–2017 Test Method B and CSA C390–10. —Proposed adding Method 2–1–1A of IEC 60034–2–1:2014 as an alternative to IEEE 114–2010, IEEE 112–2004, IEEE 112–2017 Test Method A and CSA C747–09.	Identical to the NOPR	Addresses suggestions offered in industry petition (EERE–2017–BT–TP–0047–0030).
For Small Electric Motors: Specifies testing at rated load but does not define that term.	—Proposed defining ''rated load'' (and ''rated output power'' and ''breakdown torque'' to support the definition of ''rated load'') of small electric motors based on NEMA MG 1–2016.	Similar to the NOPR. Clarifies that DOE will not require additional testing and measurement of breakdown torque. Also clarifies the definition of breakdown torque.	—Reflects industry practice and improves the representativeness of the test procedure. —Addresses comments to the April 2019 NOPR regarding testing and reporting. See section III.C for further discussion.
For Small Electric Motors: Specifies testing at rated voltage and rated frequency, but does not define those terms.	—Proposed defining ''rated voltage,'' which provides that manufacturers select the voltage that is used for testing, and ''rated frequency''.	Similar to the NOPR. Clarifies further that the rated voltage must be one of the voltages used by the manufacturer for making representation of the small electric motor performance.	Improves repeatability of the test procedure.

DOE has determined that the amendments described in section III of this notice will not alter the measured efficiency of small electric motors or electric motors, and that the test procedures will not be unduly burdensome to conduct. Discussion of DOE's actions are addressed in detail in section III of this document.

III. Discussion

A. Scope of the Test Procedures for Currently Regulated Small Electric Motors and Electric Motors

This final rule does not change the scope of the test procedure with respect to small electric motors and electric motors. The scope of the test procedure as applied to currently regulated motors is discussed in sections III.A.1 through III.A.3.

1. Definition of ''Small Electric Motor''

EPCA defines the term ''small electric motor'' as ''a NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG 1–1987.'' 42 U.S.C. 6311(13)(G) In the July 2009 final rule, DOE adopted a modified version of this definition at 10 CFR 431.442 to specify that the term also encompasses those motors that are built as ''IEC metric equivalent motors.'' 74 FR 32059, 32062; 10 CFR 431.442. This specification ensures that motors that otherwise satisfy the small electric motor definition but are built in accordance with metric-units are treated in a like manner as their counterparts that are built in accordance with U.S. customary units of measurement.

The current definition at 10 CFR 431.442 lists the criteria that must be met for a motor to be defined as a ''small electric motor.'' Under these criteria, a small electric motor is:

A NEMA general purpose motor [8] that:

- Uses alternating current,
- Is single-speed,
- Is an induction motor; and
- Is built in a two-digit frame size in accordance with NEMA Standards Publication MG 1–1987, including IEC metric equivalent motors. See 10 CFR 431.442.

DOE did not propose to modify the definition of ''small electric motor'' in the April 2019 NOPR (*See* 84 FR 17004, 17007) and DOE did not receive any comments suggesting that it do so. Accordingly, DOE is not modifying the current definition of small electric motor.

2. Scope of the Small Electric Motor Test Procedure

In the March 2010 final rule, DOE concluded that the following motor topologies satisfy the small electric motor definition: Capacitor-start induction-run (''CSIR''), capacitor-start capacitor-run (''CSCR''), and certain polyphase motors. 75 FR 10874, 10882–10883. DOE determined for purposes of its regulations that only CSIR, CSCR, and polyphase motors are able to meet the performance requirements in NEMA MG1 and are widely considered general purpose alternating current motors, as shown by the listings found in manufacturers' catalogs. *Id.* As such, DOE concluded that CSIR, CSCR, and polyphase motors are the only motor categories that would satisfy the relevant criteria set by EPCA to be regulated as small electric motors. 75 FR 10874, 10883. DOE established test procedures for these three topologies in subpart X of 10 CFR part 431.

In response to the April 2019 NOPR, DOE received a number of comments relevant to the scope of applicability for the small electric motors test procedures. NEMA commented that there have been no significant technological advancements for small electric motors since the last rulemaking and that it supported maintaining the current scope of applicability. (NEMA, No. 84 at p. 2) [9] AHAM and AHRI also supported the current scope of the test procedure, (AHAM and AHRI, No. 85 at pp. 1–2), and opposed developing separate test procedures and energy conservation standards for special and definite purpose motors. In their view, an expanded test procedure scope would increase costs (equipment cost,

[8] In response to questions from NEMA and various motor manufacturers, DOE issued a guidance document that identifies some key design elements for consideration when determining whether a given individual motor meets the small electric motor definition and is subject to the energy conservation standards promulgated for small electric motors. See *https://www.regulations.gov/document?D=EERE-2017-BT-TP-0047-0082.*

[9] A notation in the form ''NEMA, No. 84 at p. 2'' identifies a written comment: (1) Made by NEMA; (2) recorded in document number 84 that is filed in the docket of this test procedure rulemaking (Docket No. EERE–2017–BT–TP–0047) and available for review at *http://www.regulations.gov;* and (3) which appears on page 2 of document number 84.

testing costs, and costs related to certification) and would not increase energy savings because original equipment manufacturers already consider efficient small electric motors as a design option to meet the energy conservation standards for those finished products regulated by DOE. *Id.* They added that an expanded scope to include definite and special purpose motors could impact the availability of replacement parts. They noted that home appliances and heating, ventilation, and air conditioning (''HVAC'') equipment have long lifetimes and often have sizing constraints. They asserted that, if motor sizes increase in response to efficiency requirements, replacement motors may no longer fit in those products using small electric motors.[10] (AHAM and AHRI, No. 85 at p. 3)

The CA IOUs and Efficiency Advocates supported expanding the scope of the small electric motors test procedures to cover a broader range of motors. In their view, DOE should expand the scope of the small electric motors test procedure to address a wide range of motors that the market considers ''small.'' (CA IOUs, No. 86 at p. 2) The Efficiency Advocates stated that DOE previously found that motors with the same characteristics as currently regulated small electric motors are widely available in larger horsepower ranges. They referenced DOE's preliminary identification presented in the July 2017 RFI of 11 motor categories that may represent significant shipment volumes and energy consumption and that were capable of being tested using existing test procedures. The Efficiency Advocates stated that these motor categories include both inefficient designs (*e.g.,* shaded-pole) and high-efficiency topologies (*e.g.,* permanent magnet and switched reluctance). (Efficiency Advocates, No. 87 at p. 1)

As previously stated, DOE is not modifying the test procedure's scope. The test procedure continues to apply only to small electric motors that are currently subject to DOE's existing test procedure at 10 CFR 431.444. As explained in the March 2010 final rule, under the definition of ''small electric motor'' prescribed by EPCA, CSIR, CSCR, and polyphase motors are the only motor categories that are general purpose motors (which is a key element to the statutory definition of this term), and therefore the only categories for which DOE has authority to regulate as a small electric motor. 75 FR 10874, 10881. Special purpose and definite purpose motors are not general purpose motors and therefore are not covered under the statutory or regulatory definition of ''small electric motor'' and are not ''small electric motors'' under DOE's statutory or regulatory framework.[11] (*See* 42 U.S.C. 6311(13)(G) (defining ''small electric motor''), 42 U.S.C. 6311(13)(C) (defining ''definite purpose motor'') and 42 U.S.C. 6311(13)(D) (defining ''special purpose motor''); *see also generally* 10 CFR 431.442)

In the July 2017 RFI, DOE indicated that it may consider setting test procedures for electric motors that are considered ''small'' by customers and the electric motors industry, but that are not currently subject to the small electric motor test procedure. 82 FR 35468, 35470–35471. DOE discussed that the motors identified in the July 2017 RFI may have similarities to motors that are currently regulated as small electric motors (such as horsepower) and may be used in similar applications. However, DOE had not concluded that the identified motors are small electric motors or electric motors (nor did DOE propose such a conclusion). While certain commenters urged DOE to expand the scope of the test procedures to include some or all of the 11 categories of motors identified in the July 2017 RFI, these commenters did not provide an explanation for how such expansion would be consistent with DOE's authority under EPCA, or how such motors should be classified and tested.

AHAM and AHRI referenced the statutory exemption regarding the application of energy conservation standards for small electric motors that are components of covered products (42 U.S.C. 6317(b)(3)) and requested that DOE interpret the exemption to apply to all small electric motors destined for or used in covered products or equipment. (AHAM and AHRI, No. 85 at p. 4)

By statute, the small electric motor standards established by DOE shall not apply to any such motor that is a component of a covered product, or of covered equipment. (42 U.S.C. 6317(b)(3)) Accordingly, consistent with the statute, the test procedure as amended in this final rule does not apply to a motor that is a component of a covered product, or of covered equipment.

3. Scope of the Electric Motor Test Procedure

As noted in section I.B, this final rule also addresses the test procedure for electric motors in response to a petition for rulemaking.[12] The current electric motor test procedure is codified at subpart B of 10 CFR part 431. DOE did not propose to amend the scope of the electric motor test procedure. Accordingly, this final rule does not change the scope of that test procedure.

B. Industry Standards

The DOE test procedures rely on industry standards that are incorporated by reference at 10 CFR 431.443 for small electric motors and 10 CFR 431.15 for electric motors. Specifically, the existing DOE test procedures for small electric motors and electric motors rely on the following test methods:

(1) For single-phase small electric motors: Either IEEE 114–2010, or CSA C747–09 (*see* 10 CFR 431.443(b)(1); 10 CFR 431.443(c)(2); 10 CFR 431.444(b)(1));

(2) For polyphase small electric motors of less than or equal to 1 hp, either Section 6.3 ''Efficiency Test Method A, Input-Output'' of IEEE 112–2004, ''IEEE Standard Test Procedure for Polyphase Induction Motors and Generators'' (''IEEE 112–2004'') or CSA C747–09 (*see* 10 CFR 431.443(b)(1); 10 CFR 431.443(c)(1)(i); 10 CFR 431.444(b)(2)); *and*

(3) For polyphase small electric motors of greater than 1 hp and electric motors, either Section 6.4 ''Efficiency Test Method B, Input-Output with Loss Segregation'' of IEEE 112–2004; or CSA C390–10 (*see* 10 CFR 431.443(b)(2); 10 CFR 431.443(c)(1)(ii); 10 CFR 431.444(b)(3); 10 CFR 431.16 and Appendix B).

[10] One of the methods for improving the efficiency of an electric motor is to increase its stack length—*i.e.,* the number of rotors and stators that are stacked together to fit along a given motor's shaft. While this may increase the efficiency of a given motor with specified horsepower and torque ratings, it also results in increasing the overall dimensions of the motor, thereby affecting its ability to fit within a given application.

[11] Under EPCA, the term ''definite purpose motor'' means ''any motor designed in standard ratings with standard operating characteristics or standard mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.'' 42 U.S.C. 6311(13)(C). Similarly, EPCA defines a ''special purpose motor'' as ''any motor, other than a general purpose motor or definite purpose motor, which has special operating characteristics or special mechanical construction, or both, designed for a particular application.'' 42 U.S.C. 6311(13)(D). Given that EPCA treats these motors as being separate from small electric motors, and that these two categories of motors generally fall outside of general purpose motor applications, coverage of definite purpose and special purpose motors cannot be accomplished through DOE's authority to regulate small electric motors.

[12] The NEMA petition and work paper are available at *https://www.regulations.gov/document?D=EERE-2017-BT-TP-0047-0028.* The UL petition and supporting documentation are available at *https://www.regulations.gov/document?D=EERE-2017-BT-TP-0047-0029.*

In preparation for the April 2019 NOPR, DOE reviewed each of the referenced industry standards to determine whether they still represent the most current procedures developed by industry. On February 14, 2018, IEEE published an updated edition of the IEEE 112 standard. The other referenced industry standards incorporated into DOE's test procedure developed by CSA and IEEE remain current or have been reaffirmed without changes.[13] This final rule maintains the references to IEEE 114–2010, CSA C390–10, and CSA C747–09. As discussed in Section III.B.1 of this document, DOE is updating the reference to IEEE 112 to reference the updated IEEE 112–2017 standard. As discussed in section III.B.2, DOE is also incorporating by reference IEC 60034–2–1:2014 as an additional alternative test procedure for small electric motors and electric motors. IEEE 112–2017 and IEC 60034–2–1:2014 are discussed in the following paragraphs.

1. IEEE 112–2017

On February 14, 2018, IEEE approved IEEE 112–2017, ''IEEE Standard Test Procedure for Polyphase Induction Motors and Generators.'' DOE conducted a full review of that revised testing standard to identify any changes made relative to the industry test methods that are incorporated by reference from IEEE 112–2004. In the April 2019 NOPR, DOE highlighted the following changes between the 2004 and 2017 version: (1) Section 4, ''Measurements'' of IEEE 112–2017, includes several updates regarding instrument selection and measurement accuracy; and (2) the method for calculating core loss used in Section 6.4, ''Efficiency Test Method B—Input-Output with Loss Segregation'' of IEEE 112–2017 was revised and aligned with the efficiency test method specified in CSA C390–10, currently incorporated by reference at 10 CFR 431.443(b)(2). 84 FR 17004, 17011. DOE further noted that this change also aligns with the Method 2–1–1B approach of IEC 60034–2–1:2014. *Id.* In the April 2019 NOPR, DOE noted that the revisions in the 2017 version aligned measurement, calculation methods, and instrumentation requirements with industry practice, and that the differences between the IEEE 112–2004 and IEEE 112–2017 calculation methods were minimal, with both tests resulting in an accurate and similar measurement of efficiency. 84 FR 17004, 17011–17012. DOE noted that, in the small electric motor and electric motor final rule published on May 4, 2012, commenters indicated the difference in efficiency outcome between IEEE 112–2004 and CSA C390–10 to be within 0.2 percent. 84 FR 17004, 17012 *citing* 77 FR 26608, 26622. DOE stated that the core loss calculation in IEEE 112–2017 aligns with the core loss calculation in CSA C390–10, and that based on this comparison of IEEE 112–2004 and CSA C390–10, the impact of the core loss calculation between IEEE 112–2004 and IEEE 112–2017 should be no greater than 0.2 percent. 84 FR 17004, 17012. To avoid any potential need to retest motors that have relied on IEEE 112–2004 for purposes of compliance, DOE proposed to incorporate the IEEE 112–2017 test method as an alternative to the test methods incorporated in the current test procedure, while retaining the currently incorporated IEEE 112–2004 method, and requested data comparing the results of the IEEE 112–2004 and IEEE 112–2017. 84 FR 17004, 17012.

In response to the April 2019 NOPR, NEMA supported updating the reference to IEEE 112 to its latest 2017 version and noted that IEEE 112–2017 Method B resolves previous technical differences between IEEE 112–2004 Method B and CSA C390–10. NEMA added that both versions of IEEE 112 led to equivalent results. (NEMA, No. 84 at p. 2) The Efficiency Advocates supported referencing the latest version of IEEE 112 and urged DOE not to continue referencing the older version since referencing two different procedures introduces additional variability into the DOE test procedure. (Efficiency Advocates, No. 87 at p. 2)

DOE has determined that IEEE 112–2017 will result in an accurate and similar measurement of efficiency as compared to IEEE 112–2004. Given the expected variation of tested efficiency values for small electric motors and electric motors due to manufacturing and material differences, any minor differences between IEEE 112–2004 and IEEE 112–2017 will not result in any significant change in overall energy efficiency test results. This determination is consistent with DOE's prior comparison of IEEE 112–2004 and CSA C390–10, as affirmed by NEMA's comment. Given the functional equivalency of testing under IEEE 112–2004 and IEEE 112–2017, DOE is incorporating IEEE 112–2017 in place of IEEE 112–2004. Referencing only the most recent version of IEEE 112 avoids the potential concerns identified by the Efficiency Advocates. Additionally, incorporating this update further aligns DOE's test procedures with current industry practice and reduces manufacturer test burden, while ensuring that motors that have demonstrated compliance under IEEE 112–2004 methods do not require retesting (see section III.F.1 for more details).

Therefore, the updates to IEEE 112–2017 are in the following sections of the CFR (as amended by this final rule):

For small electric motors, 10 CFR 431.443 ''Materials incorporated by reference,'' paragraph (d)(1); 10 CFR 431.444 ''Test procedures for the measurement of energy efficiency,'' paragraphs (b)(1)(vi), (b)(3)(i) and (b)(4)(i); and 10 CFR 431.447 ''Department of Energy recognition of nationally recognized certification programs,'' paragraphs (b)(4) and (c)(4).

For electric motors, 10 CFR 431.12 ''Definitions'' (the definition for ''accreditation''); 10 CFR 431.15 ''Materials incorporated by reference,'' paragraph (d)(1); 10 CFR 431.19 ''Department of Energy recognition of accreditation bodies,'' paragraphs (b)(4) and (c)(4); 10 CFR 431.20 ''Department of Energy recognition of nationally recognized certification programs,'' paragraphs (b)(4) and (c)(4); and Appendix B to Subpart B of Part 431 ''Uniform test method for measuring nominal full load efficiency of electric motors,'' Sections 0(d),[14] 2(3), 3.

2. IEC 60034–2–1:2014

As discussed in section I.B, NEMA and UL independently submitted written petitions requesting that certain portions of IEC 60034–2–1:2014 be adopted as a permitted alternative test method for small electric motors and electric motors. Specifically, NEMA's petition requested that DOE incorporate IEC 60034–2–1:2014 Method 2–1–1B [15] as an alternative to IEEE 112–2004 Test Method B and CSA C390–10, which are currently referenced in Appendix B. (NEMA, No. 28.2 at p. 1) UL requested that (1) IEC 60034–2–1:2014 Method 2–1–1B be approved for Appendix B and section 431.444 of 10 CFR part 431 (as an alternative to IEEE 112–2004 Test

[13] Both CSA C747–09 and CSA C390–10 have been reaffirmed in 2014 and 2015, respectively.

[14] Appendix B to subpart B of part 431 was reorganized to include a new section 0 in this final rule. Section 0 details the applicability of the industry testing standards incorporated by reference and provides the specific provisions of the industry testing standards that are applicable to the DOE test procedure and the sections of the DOE test procedure in which the industry testing standards are incorporated. Because of this re-organization, the instruction in section 3 of Appendix B to subpart B of part 431 regarding the applicability of subsequent editions of the incorporated industry testing standards was duplicative to those in section 0, and therefore removed in this final rule.

[15] IEC 60034–2–1:2014 Method 2–1–1B (2014), ''Rotating Electrical Machines—Part 2–1: Standard methods for determining losses and efficiency from tests (excluding machines for traction vehicles),'' ''Summation of losses, additional load losses according to the method of residual loss.''

Method B and CSA C390–10) and (2) that IEC 60034–2–1:2014 Method 2–1–1A [16] be approved for section 431.444 of 10 CFR part 431 (as an alternative to IEEE 112–2004 Test method A, IEEE 114–2010, and CSA C747–09). (UL, No. 29.1 at p. 1) The NEMA and UL petitions included and referenced papers that compare the testing methodologies presented in IEC 60034–2–1:2014 to the IEEE and CSA standards currently referenced in the small electric motors and electric motors test procedures at 10 CFR part 431.

The NEMA petition included a ''work paper'' that summarizes an evaluation conducted by the NEMA Motor and Generator Section technical committee, which found that IEC 60034–2–1:2014 Method 2–1–1B was a suitable alternative to the IEEE 112–2004 Test Method B and CSA C390–10 test methods. (NEMA, No. 28.3 at p. 1) This evaluation relied on (1) comparison of instrumentation accuracy, test method, and calculation approach among the IEC, IEEE, and CSA industry standards, (2) analysis of test results from over 500 motors tested at the Hydro-Québec Research Institute, and (3) reference to one scientific research paper (the ''Angers *et al.* study''), which also concluded that all three methods provide results that are very closely aligned. (NEMA, No. 28.3 at pp. 1–3)

The UL petition included two papers comparing the IEC 60034–2–1 test methods with the respective IEEE and CSA standards. The first paper was the Angers *et. al.* study, which concluded that the IEC 60034–2–1:2014 Method 2–1–1B test method provides results that are very closely aligned with the IEEE 112–2004 Test Method B and CSA C390–10 test methods. (UL, No. 29.2 at pp. 1–8) The second paper, written by IEEE member Wenping Cao, compared the IEEE 112 and IEC 60034–2–1 standards and concluded that the resulting efficiency values were found to be equal or otherwise closely aligned. (UL, No. 29.3 at p. 7) UL requested that DOE incorporate IEC 60034–2–1:2014 Method 2–1–1B as an alternative to IEEE 112–2004 Test Method B and CSA C390–10 because of an increased use of the IEC 60034–2–1:2014 Method 2–1–1B. (UL, No 29.1 at p.1) In its comments, UL did not quantify how broadly IEC 60034–2–1:2014 Method 2–1–1B is currently being used.

In the April 2019 NOPR, DOE proposed to permit use of IEC 60034–2–1:2014 Method 2–1–1A, with certain limitations regarding torque measurement, as an alternative to IEEE 112–2004 Test Method B and CSA C390–10. 84 FR 17004, 17012–17013. DOE also proposed to permit use of IEC 60034–2–1:2014 Method 2–1–1B as a permitted alternative to the test methods IEEE 112–2004 Test Method B and CSA C390–10. 84 FR 17004, 17014. DOE requested comment on its proposals regarding IEC 60034–2–1:2014 Method 2–1–1A and Method 2–1–1B, including data comparing test results of those standards with the corresponding CSA and IEEE test procedures. 84 FR 17004, 17013–17014.

The CA IOUs questioned whether alternative testing standards are truly equivalent to one another and commented that DOE should evaluate the possibility that one equivalent test procedure may produce a disproportionately favorable result compared to another. The CA IOUs recommended that, to avoid confusion in the market and maintain consistency in results, the DOE should specify a single version of a test procedure to be used for enforcement testing. (CA IOUs, No. 86 at p. 2–3)

As discussed in the April 2019 NOPR and in the following sections, DOE evaluated the various industry tests as well as the results of comparative testing and concludes that the relevant test methods in IEC 60034–2–1:2014 are equivalent to the corresponding industry standards currently referenced in the test procedures for small electric motors and electric motors. Permitting use of the test methods in IEC 60034–2–1:2014 further harmonizes DOE's test standards with industry and reduces test burden while ensuring that the test procedure reflects the energy efficiency of the relevant motors during a representative average use cycle.

a. Method 2–1–1A

Among multiple testing methods provided in IEC 60034–2–1:2014, Method 2–1–1A ''Direct measurement of input and output'' is the standard's preferred testing method for single-phase motors. It is based on direct measurement of electrical input power to the motor and mechanical output power (in the form of torque and speed) from the motor. This approach is analogous to the methods of the other industry standards, IEEE 114–2010 and CSA C747–09, currently incorporated by reference for testing single-phase motors, and IEEE 112–2004 Test Method A, currently incorporated by reference for the purpose of testing polyphase motors of output power less than or equal to one horsepower.

In the April 2019 NOPR, DOE tentatively determined that IEC 60034–2–1:2014 Method 2–1–1A is likely to produce accurate and reproducible results that are consistent with results from the other test methods permitted under subparts X and B of 10 CFR part 431. 84 FR 17004, 17013. DOE proposed to incorporate by reference IEC 60034–2–1:2014 Method 2–1–1A as an alternative to the currently incorporated industry testing standards IEEE 112–2004 Test Method A and CSA C747–09 in 10 CFR 431.443. *Id.* However, DOE also initially determined that the process for dynamometer torque correction in section 6.1.2.2 of IEC 60034–2–1:2014, Method 2–1–1A is insufficiently described. 84 FR 17004, 17013. Specifically, IEEE 114–2010 [17] and CSA C747–09 [18] contain more detailed descriptions of torque correction procedures, but both state that torque correction is not required when torque is measured using either an inline, rotating torque transducer or stator reaction torque transducer. The insufficient specificity of IEC 60034–2–1:2014 Method 2–1–1A regarding dynamometer torque correction can be avoided by using a torque measurement method that does not require correction. Consequently, DOE proposed to permit use of IEC 60034–2–1:2014 with limitations to limit torque measurement to methods that do not require dynamometer torque correction (*i.e.,* either in-line, shaft-coupled, rotating torque transducers or stationary, stator reaction torque transducers). 84 FR 17004, 17012–17013.

In response to the April 2019 NOPR, NEMA reiterated its support to have the option of using IEC 60034–2–1:2014 Method 2–1–1A. (NEMA, No. 84 at p. 3) DOE did not receive any other comment on the incorporation of IEC 60034–2–1:2014 Method 2–1–1A generally, or regarding the proposal to limit torque measurement.

For the reasons discussed in the April 2019 NOPR, DOE is referencing IEC 60034–2–1:2014 Method 2–1–1A as an alternative to the referenced industry testing standards IEEE 112–2017 Test Method A (per the amendment in this final rule) and CSA C747–09 in 10 CFR 431.443. As proposed, this final rule requires torque measurement, when using IEC 60034–2–1:2014 Method 2–1–1A, to be made using either in-line, shaft-coupled, rotating torque transducers or stationary, stator reaction torque transducers. This change will

[16] IEC 60034–2–1:2014 Method 2–1–1A (2014), ''Rotating Electrical Machines—Part 2–1: Standard methods for determining losses and efficiency from tests (excluding machines for traction vehicles),'' ''Direct Measurement of Input and Output.''

[17] Section 5.2.1.1.1 of IEEE 114–2010 addressees when torque correction is required.

[18] Section 6.7.1 of CSA C747–09 addresses when torque correction is required.

further harmonize DOE's test procedures with current industry practice and reduce manufacturer test burden (see section III.F.1 for more details).

For small electric motors, DOE is adding a reference to IEC 60034–2–1 in 10 CFR 431.443 ''Materials incorporated by reference,'' paragraph (c)(2) and making a more specific set of references to IEC 60034–2–1:2014 Method 2–1–1A in 10 CFR 431.444 ''Test procedures for the measurement of energy efficiency,'' paragraphs (b)(2)(iii) and (b)(3)(iii) and in 10 CFR 431.447 ''Department of Energy recognition of nationally recognized certification programs,'' paragraphs (b)(4) and (c)(4).

In addition, section 6.1.2.2 of IEC 60034–2–1:2014 Method 2–1–1A specifies that motors under test should be operated at the ''required load'' until thermal equilibrium is achieved. As required under DOE's test procedure, the motor must be rated and tested at rated load. For clarity and consistency, in the April 2019 NOPR, DOE proposed to modify these instructions by replacing the term ''required load'' with ''rated load.'' 84 FR 17004, 17013. DOE did not receive any stakeholder comments on this proposal and is modifying these instructions by replacing the term ''required load'' with ''rated load.''

Furthermore, IEC 60034–2–1:2014 references IEC 60034–1:2010 and IEC 60051–1:2016 to specify required test conditions and procedures when applying the test methods for measuring energy efficiency in the following sections: (1) Section 5.4.1 of IEC 60034–2–1:2014 specifies that the supply voltage shall be in accordance with sections 7.2 (and 8.3.1 for thermal tests) of IEC 60034–1:2010; (2) section 5.5.2 of IEC 60034–2–1:2014 specifies that the measuring instruments shall have the equivalent of an accuracy class of 0.2 in case of a direct test and 0.5 in case of an indirect test in accordance with IEC 60051; [19] and (3) section 5.7.1 of IEC 60034–2–1:2014 states that the measured resistance at the end of the thermal test shall be determined in a similar way to the extrapolation procedure as described in section 8.6.2.3.3 of IEC 60034–1, using the shortest possible time instead of the time interval specified in Table 5 therein, and extrapolating to zero. Therefore, in this final rule, DOE is also incorporating by reference IEC 60034–1:2010 and IEC 60051–1:2016 to specify the test conditions and procedures as referenced in IEC 60034–2–1:2014.

b. Method 2–1–1B

Among the multiple testing methods provided in IEC 60034–2–1:2014, Method 2–1–1B ''Summation of losses, additional load losses according to the method of residual loss'' is the IEC 60034–2–1:2014 standard's preferred testing method for three-phase motors. This method relies on the indirect calculation of motor losses using a combination of measured values (*e.g.,* winding resistance) and assumptions so that direct measurement of motor torque is not needed. This method is analogous to the methods of the other industry standards, IEEE 112–2004 and CSA C390–10, currently incorporated by reference for testing polyphase small electric motors of output power greater than one horsepower and electric motors.

DOE reviewed IEC 60034–2–1:2014, Method 2–1–1B, and stakeholder responses to the November 2017 notice of petition, as well as all of the research papers referenced in the NEMA and UL petitions. The research papers evaluated IEC 60034–2–1:2014, Method 2–1–1B and the IEEE 112–2004 Test Method B and CSA C390–10 testing standards with respect to a comparison of the instrumentation accuracy, test method, and calculation approach, in addition to an analysis of any variability of actual test results. DOE also considered a comparison of results from a round robin test program among 11 participants, which concluded that the same motor tested at multiple test facilities showed a maximum deviation of ±0.4 percentage points, using the same IEEE 112–2004 Test Method B for each test.[20] 84 FR 17013–17014. DOE noted that the largest difference reported by stakeholders between measured efficiency values using IEC 60034–2–1:2014, Method 2–1–1B and IEEE 112–2004 Test Method B did not exceed ±0.2 percentage points. 84 FR 17004, 17014.

DOE initially concluded that (1) these methods are not identical, but the differences between these standards are within the expected measurement variation of the existing test procedure; (2) all three tests would result in measurements of efficiency that would yield the same results with respect to motor compliance; and (3) given the variable nature of tested efficiency values for electric motors and small electric motors due to manufacturing and material differences, the variation in the calculated efficiency is insignificant and not likely to result in any significant change in overall energy efficiency test results. 84 FR 17004, 17014. Accordingly, in the April 2019 NOPR, DOE proposed to incorporate by reference IEC 60034–2–1:2014 Method 2–1–1B as an alternative to the currently incorporated industry testing standards IEEE 112–2004 Test Method B and CSA C390–10 and to IEEE 112–2017 Test Method B. *Id.*

In response to the April 2019 NOPR, NEMA reaffirmed its request for the addition of IEC 60034–2–1:2014 Method 2–1–1B as an alternative test standard for polyphase small electric motors greater than 1 hp and electric motors. (NEMA, No. 84 at p. 3)

Based on the considerations presented in the April 2019 NOPR, DOE affirms its initial conclusions regarding IEC 60034–2–1:2014 Method 2–1–1B. Allowing manufacturers to test according to IEC 60034–2–1:2014 Method 2–1–1B further harmonizes DOE's test procedures with current industry practice and reduces manufacturer test burden (see section III.F.2 for more details) while ensuring that the test procedure reflects the energy efficiency of the relevant motors during a representative average use cycle. Therefore, in this final rule, DOE is referencing IEC 60034–2–1:2014 Method 2–1–1B as a permitted alternative to the current test methods IEEE 112–2004 Test Method B (which in this final rule will be replaced with IEEE 112–2017 Test Method B) and CSA C390–10. In addition, as described in section III.B.2.a, DOE is also incorporating by reference IEC 60034–1:2010 and IEC 60051–1:2016, which specify the test conditions and procedures for IEC 60034–2–1:2014.

Accordingly, reference to IEC 60034–2–1:2014 Method 2–1–1B is being added to the following sections of the CFR:

For small electric motors, IEC 60034–2–1 is referenced in 10 CFR 431.443 ''Materials incorporated by reference,'' paragraph (c)(2). The specific references to IEC 60034–2–1:2014 Method 2–1–1B are in 10 CFR 431.444 ''Test procedures for the measurement of energy efficiency,'' paragraph (b)(4)(iii) and 10 CFR 431.447 ''Department of Energy recognition of nationally recognized

[19] Section 3.8.2 of IEC 60051–1:2016 defines ''accuracy class'' as a ''class of measuring instruments, all of which are intended to comply with a set of specifications regarding uncertainty.'' Furthermore, IEC 6005–1:2016 specifies that an accuracy class always specifies a limit of uncertainty, whatever other metrological characteristics it specifies. While IEC 60051–1:2006 does not define a metric for this term, in practice, accuracy classes are used to designate percentage uncertainties. For example, section 5.5.2 of IEC 60034–2–1:2014 states that ''for an accuracy class of 0.2, the measuring equipment shall reach an overall uncertainty of 0.2% of reading at power factor of 1.0.''

[20] Hydro-Quebec Research Institute, NEMA Motor Round Robin, November 2018. Motor Summit 2018 Proceedings. Available at *https://www.motorsummit.ch/sites/default/files/2018-11/MS18_proceedings.pdf.*

certification programs,'' paragraphs (b)(4) and (c)(4).

For electric motors, IEC 60034–2–1 is referenced in 10 CFR 431.12 ''Definitions'' (the definition for ''accreditation''); and 10 CFR 431.15 ''Materials incorporated by reference,'' paragraph (c)(3). The specific references to IEC 60034–2–1:2014 Method 2–1–1B are in 10 CFR 431.19 ''Department of Energy recognition of accreditation bodies,'' paragraphs (b)(4) and (c)(4); 10 CFR 431.20 ''Department of Energy recognition of nationally recognized certification programs,'' paragraphs (b)(4) and (c)(4); and Appendix B to Subpart B of Part 431 ''Uniform test method for measuring nominal full load efficiency of electric motors,'' Sections 2(2) and 3.

C. Rated Output Power and Breakdown Torque of Small Electric Motors

The current regulations for small electric motors specify that the metric for energy conservation standards, average full-load efficiency, is to be measured at ''full rated load.'' 10 CFR 431.442. The industry testing standards referenced in the small electric motor test procedure do not provide a method to determine the rated load of the tested unit but instead rely on manufacturer-specified output power, which is typically listed on a motor's nameplate, to determine average full-load efficiency at full rated load.[21] The industry standards do not define rated output power; rather, the output power is a manufacturer declaration.

As explained in the April 2019 NOPR, the motors subject to the small electric motors test procedures are capable of operating over a continuous range of loads. 84 FR 17004, 17014. For example, a motor that is rated at 1 hp is also capable of delivering 0.75 hp, but likely with a different speed, torque, and efficiency than those of when it is delivering its rated load of 1 hp. The output power of the motor depends on the load and the design of the motor. Therefore, the load point at which the motor must be tested is not an intrinsic parameter of the motor, but rather a parameter that must be defined or specified. The test's load point is relevant to efficiency testing because the efficiency of small electric motors varies according to load.

In the April 2019 NOPR, DOE proposed to define rated output power using breakdown torque as specified in NEMA MG 1–2016. 84 FR 17004, 17014–17016. In concept, breakdown torque describes the maximum torque the motor can develop without slowing down and stalling. The maximum torque over the entire speed range could occur at a different condition (*e.g.,* the motor start-up, zero speed condition) than the breakdown condition. As explained in the April 2019 NOPR, breakdown torque corresponds to a local maximum torque (on a plot of torque versus speed) that is nearest to the rated torque. 84 FR 17004, 17014. The phrase ''abrupt drop in speed'' corresponds to the expectation that the motor will slow down or stall if the load increases and indicates that minor reductions in speed observed due to measurement sensitivities are not considered.

The breakdown torque for a specific horsepower rating is specified as a range as a function of input frequency and synchronous speed of the motor in two tables: Table 10–5 of NEMA MG 1–2016, which applies to induction motors, except permanent-split capacitor (''PSC'') and shaded-pole motors; and Table 10–6 of NEMA MG 1–2016, which applies to shaded-pole and PSC motors for fan and pump applications. For polyphase motors, section 12.37 of NEMA MG 1–2016 specifies that the breakdown torque of a general-purpose polyphase squirrel-cage small motor shall not be less than 140 percent of the breakdown torque of a single-phase general purpose motor of the same horsepower and speed rating.

In the April 2019 NOPR, DOE initially determined that NEMA MG 1–2016's Table 10–5 can apply to all small electric motors subject to DOE's standards and that most manufacturers already use the breakdown torque method as a standard practice to determine rated output power. 84 FR 17004, 17016. Accordingly, DOE proposed to define ''rated output power'' as ''the mechanical output power that corresponds to the small electric motor's breakdown torque as specified in NEMA MG 1–2016 Table 10–5 for single-phase motors or 140 percent of the breakdown torque values specified in NEMA MG 1–2016 Table 10–5 for polyphase motors.'' [22] *Id.* DOE also proposed defining ''breakdown torque'' as ''the maximum torque that the motor will develop with rated voltage and frequency applied without an abrupt drop in speed, determined in accordance with NEMA MG 1–2016.'' *Id.* DOE requested comment on the proposed definitions for ''rated output power'' and ''breakdown torque.'' Additionally, DOE requested comment on how to determine when an ''abrupt drop in speed'' (*e.g.,* the local maximum of the torque-speed plot closest to the rated torque) has occurred when testing the breakdown torque of a small electric motor. *Id.*

In response to the April 2019 NOPR, NEMA commented that there is no need to define ''breakdown torque'' or ''abrupt drop in speed'' for the purposes of testing electric motors. (NEMA, No. 84 at p. 3) Specifically, NEMA stated that incorporating breakdown torque as the method to define the rated output power of the motor is unnecessary because NEMA MG 1–2016, Part 1.40 already states the output rating of a machine ''shall'' consist of the output power. Instead, NEMA recommended that the declared values of output power be used as provided on the manufacturer's nameplate and that DOE not require a declaration of breakdown torque. (NEMA, No. 84 at pp. 3–4). NEMA further stated that the ''abrupt drop in speed'' corresponds to the expectations that the motor will slow down or stall if the torque applied to the motor exceeds the local maximum value of torque that is most closely located to the rated torque of the motor (*i.e.,* the breakdown torque). Finally, NEMA claimed that performing any additional speed-torque tests for determining ''abrupt drop in speed'' would increase manufacturer burden. (NEMA, No. 84 at pp. 3–5) No other comments were received in regard to this issue.

In the April 2019 NOPR, DOE did not intend to suggest that it would require manufacturers to test or report the value of breakdown torque used to establish the rated output power of a small electric motor. Rather, the intent of defining ''breakdown torque,'' through reference to the industry standard NEMA MG 1–2016, was to in turn define ''rated output power'' for the purpose of measuring average full-load efficiency. As noted previously, NEMA responded to the April 2019 NOPR by explaining that NEMA MG 1–2016 Part 1.40 already states the output rating of a machine shall consist of the output power. (NEMA, No. 84 at p. 3–4) As indicated by its inclusion in NEMA MG 1–2016, the breakdown torque method is commonly used by industry for determining rated output power. Defining rated output power based on NEMA MG 1–2016 provides additional detail that allows for the accurate comparison of small electric motors.

Therefore, in this final rule, DOE defines ''rated output power'' as, the mechanical output power that corresponds to the small electric motor's

[21] See *e.g.,* CSA C747–09, Section 3, Definition of ''full load''; CSA C390–10, Section 3.1, Definition of ''rating''; IEEE 112–2017, Section 3.3.2 (''Specified temperature''); and IEEE 114–2010, Section 8.2 (''Determination of efficiency'').

[22] For purposes of this definition, NEMA MG 1–2016 Table 10–5 can be applied to all small electric motors, regardless of whether elements of NEMA MG 1–2016 Table 10–5 are identified as for small or medium motors.

breakdown torque as specified in NEMA MG 1–2016 Table 10–5 for single-phase motors or 140 percent of the breakdown torque values specified in NEMA MG 1–2016 Table 10–5 for polyphase motors. For purposes of this definition, NEMA MG 1–2016 Table 10–5 can be applied to all small electric motors, regardless of whether elements of NEMA MG 1–2016 Table 10–5 are identified as for small or medium motors.

DOE also is defining ''breakdown torque.'' Consistent with the proposed definition, DOE is defining ''breakdown torque,'' in part, as ''the maximum torque that the motor will develop with rated voltage and frequency applied without an abrupt drop in speed.'' As previously noted, the phrase ''abrupt drop in speed'' references the intrinsic behavior of motors, in which a motor will slow down or stall if the load applied to the motor exceeds the breakdown torque, and indicates that minor reductions in speed observed due to measurement sensitivities are not considered. To provide additional specification for determining breakdown torque based on the physical attributes of a small electric motor, DOE is also including in the definition that the breakdown torque of a motor is the local maximum of the torque-speed plot of the motor, closest to the synchronous speed of the motor.[23]

Both the April 2019 NOPR and NEMA's comments explained that on a torque-speed plot, the breakdown torque is the local maximum torque in the region of the plot characterized through reference to the rated torque. The relevant region of the plot can also be characterized through reference to the synchronous speed. The local maximum of the torque-speed plot in the region characterized by the rated torque is the same value as the local maximum of the torque-speed plot in the region characterized by the synchronous speed. DOE is providing additional detail to define breakdown torque using the synchronous speed, as it is a physical attribute of the motor rather than rated torque, which is a manufacturer declared value.

For the reasons discussed in the preceding paragraphs, DOE is defining ''breakdown torque'' as the maximum torque that the motor will develop with rated voltage and frequency applied without an abrupt drop in speed. The breakdown torque is the local maximum of the torque-speed plot of the motor, closest to the synchronous speed of the motor, determined in accordance with NEMA MG 1–2016.

D. Rated Values Specified for Testing Small Electric Motors

DOE notes that the definition of average full-load efficiency at 10 CFR 431.442 specifies that it is determined when the motor operates at the rated frequency, rated load, and rated voltage. Additionally, industry standards refer to these rated values, which are expected to be known or provided (*e.g.,* on the nameplate). However, ''rated frequency,'' ''rated load,'' and ''rated voltage'' are not defined. To provide additional specificity regarding these terms, in the April 2019 NOPR, DOE proposed to define them to further ensure the comparability of results between motors, and to better ensure reproducible testing for all equipment. 84 FR 17004, 17017–17018. In this final rule, DOE is amending 10 CFR 431.442 to establish definitions for ''rated frequency,'' ''rated load,'' and ''rated voltage,'' as discussed in the following sections.

1. Rated Frequency

The test procedures and energy conservation standards established under EPCA apply to those regulated motors that are distributed in commerce within the United States. Within the United States, electricity is supplied at 60 hertz (''Hz''); in other regions of the world, electricity is supplied at 50 Hz. Small electric motors could be designed to operate at frequencies in addition to 60 Hz (*e.g.,* motors designed to operate at either 60 or 50 Hz). Therefore, it could be unclear at which frequency the test should be performed. DOE proposed to amend the small electric motor test procedure at 10 CFR 431.442 by defining the term ''rated frequency'' as ''60 hertz.'' See 84 FR 17004, 17017.

NEMA commented that explicitly stating that rated frequency is 60 Hz would be beneficial in the case of a motor marked as 60/50 hertz. (NEMA, No. 84 at p. 4) The CA IOUs supported DOE's proposal that all tests be performed using a rated frequency of 60 Hz. (CA IOUs, No. 86 at p. 3) The Efficiency Advocates supported DOE's proposal to specify that all small electric motor tests be performed using a rated frequency of 60 Hz to remove ambiguity in the test procedure and to ensure that the test procedure reflects the operating frequency in the U.S. (Efficiency Advocates, No. 87 at p. 2) DOE did not receive any comments opposing the proposed definition.

DOE notes that 60 Hz as the tested input frequency matches the frequency experienced by the motor when installed in the field. In addition, commenters also recommended DOE require testing at a rated frequency of 60 Hz, as noted. Therefore, in this final rule, DOE is amending 10 CFR 431.442 to establish a definition of ''rated frequency'' as ''60 hertz.''

2. Rated Load

''Rated load''[24] is a term used in industry standards to specify a loading point for motor testing (*e.g.,* sections 5.6 and 6.1 in IEEE 112–2004, and section 8.2.1 in IEEE 114–2010). Typically, a rated load represents a power output expected from the motor (*e.g.,* a horsepower value on the nameplate). The rated load will have a corresponding rated speed and rated torque. In the April 2019 NOPR, DOE proposed to amend 10 CFR 431.442 by defining ''rated load'' as ''the rated output power of a small electric motor'' (see section III.C for definition of rated output power). 84 FR 17004, 17017. DOE also proposed that the rated output power (given on the motor nameplate) be used for any reference to rated load, full rated load, rated full-load, or full-load in an industry standard used for testing small electric motors. *Id*

The Efficiency Advocates supported DOE's proposed definition for rated load, commenting that this specification will help ensure that test procedures are applied consistently. (Efficiency Advocates, No. 87 at p. 2) The CA IOUs supported the definition for ''rated load'' for small electric motors based on NEMA MG 1–2016. (CA IOUs, No. 86 at p. 3) NEMA commented that qualifying that the rated output power stamped on the name plate of a small motor is equivalent to rated load, full rated load, rated full load or full-load in an industry standard is beneficial and eliminates questions regarding interpretation. (NEMA, No. 84 at p. 4)

Providing a definition for ''rated load'' further ensures the comparability of results between motors, and better ensures reproducible testing. In addition, qualifying that the rated output power is equivalent to rated load, rated full-load, full rated load, or full-load in an industry standard used for testing small electric motors removes any confusion on the interpretation of terms. Commenters also supported clarifying the term ''rated load.'' Accordingly, consistent with its proposal, DOE is amending 10 CFR 431.442 to establish a definition of ''rated load'' as ''the rated output power of a small electric motor.''

[23] The synchronous speed of a motor is calculated as follows: $120 \times f \div p$ where f is the frequency at which the motor is operating and p is the number of poles of the motor.

[24] Also referred to as ''rated full-load,'' ''full rated load,'' or ''full-load'' interchangeably.

3. Rated Voltage

Industry testing standards use ''rated voltage'' to specify the voltage supplied to the motor under test (*e.g.,* section 6.1 in IEEE 112–2004, section 6.1 in IEEE 112–2017, and section 3 in IEEE 114–2010). The industry test procedures incorporated into DOE's regulations permit manufacturers to select the input voltage for testing. DOE proposed to continue to permit small electric motors to be tested at the nameplate voltage [25] value selected by the manufacturer and to define ''rated voltage'' at 10 CFR 431.442 as ''the input voltage of a small electric motor selected by the motor's manufacturer to be used for testing the motor's efficiency.'' 84 FR 17004, 17017–17018.

In response to the April 2019 NOPR, the Efficiency Advocates commented that small electric motors should be tested at all nameplate voltages [26] and were concerned that allowing the manufacturer to select the voltage for testing will result in inconsistent ratings across products and will allow for gaming of the test procedure because of the fact that efficiency can vary with input voltage. The Efficiency Advocates suggested that DOE require that small electric motors be tested at all nameplate voltages and meet the minimum efficiency standards at all nameplate voltages. (Efficiency Advocates, No. 87 at p. 3) The CA IOUs opposed allowing motor manufacturers to select the voltage to be used when testing small electric motors, asserting that this creates uncertainty for consumers as to the motor's energy performance in the field. Instead, they recommended a prescribed voltage in the test procedure or that the motor be tested at all voltages listed on the motor nameplate, and that, if the motor is tested at multiple voltages, an efficiency level for each tested voltage should be listed on the nameplate. (CA IOUs, No. 86 at p. 3–4)

In the March 2010 final rule, DOE noted that the industry test procedures incorporated into DOE's regulations permit manufacturers to select the input voltage for testing. 75 FR 10874, 10892. In the April 2019 NOPR, DOE proposed to maintain the practice of permitting small electric motors to be tested at any nameplate voltage value and to specify this flexibility by defining the term ''rated voltage'' at 10 CFR 431.442 as referring to the input voltage of a small electric motor selected by the motor's manufacturer to be used for testing the motor's efficiency. 84 FR 17004, 17081.

DOE is adopting the proposed definition of ''rated voltage'' with additional clarification. In the April 2019 NOPR, DOE stated that the proposed definition of ''rated voltage'' would allow small electric motors to be tested at any nameplate voltage value. *Id.* As noted, DOE does not require a nameplate to be affixed to a small electric motor. To properly describe the voltages from which the voltage is selected for testing, DOE is specifying that the selected input voltage must be one of the voltages used by the manufacturer for making representations of the small electric motor performance (*i.e.,* a represented input voltage). Specifically, DOE is defining ''rated voltage'' as ''the input voltage of a small electric motor used when making representations of the performance characteristics of a given small electric motor and selected by the motor's manufacturer to be used for testing the motor's efficiency.'' Based on DOE's experience in reviewing manufacturer reports and literature, the additional description reflects manufacturer practice (*i.e.,* small electric motors are tested at one of the voltages at which manufacturer representations are made). The additional language also avoids any potential confusion as to the input voltage required for testing.

DOE is not requiring a specific input voltage for testing. As discussed in the April 2019 NOPR, NEMA previously indicated that the input voltage setting can affect efficiency, noting that, if DOE were to require motors to comply with testing performed at the input voltage that resulted in the lowest level of efficiency, manufacturers would be forced to redesign these motors, since at least some motors would be out of compliance at voltages not currently selected for certification. 84 FR 17004, 17017–17018. In its prior comment, NEMA explained that these redesign efforts would result in larger motors to accommodate the additional active material required to create a compliant motor and could result in the use of larger frame sizes, which would create utility problems for end users of the motors. (NEMA, EERE–2014–BT–CE–0019, No. 10 at p. 10) While the selection of the input voltage for testing may affect the measured efficiency, DOE does not have data to fully characterize any such impact.

Moreover, EPCA requires that the test procedures shall be reasonably designed to produce test results which reflect energy efficiency of small electric motors during a representative average use cycle and shall not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(1) and (2)) DOE does not have data to indicate that a represented input voltage selected by a manufacturer is inappropriately representative of the average use of that small electric motor as compared to a different represented input voltage. Commenters did not provide data to indicate that the represented values being selected by manufacturers are not representative of average use. Therefore, DOE is maintaining the current test procedure direction allowing manufacturers to select the input voltage for testing.

E. Effective and Compliance Date

The effective date (*i.e.,* the date the final rule is legally operative after being published in the **Federal Register**) for the adopted test procedure amendments will be 30 days after publication of this final rule in the **Federal Register**. See 10 CFR part 430, subpart C, appendix A, section 12(b) and 10 CFR 431.4 (applying 10 CFR part 430, subpart C, appendix A to commercial/industrial equipment). The compliance date (the specific date when manufacturers are required to use the amended test procedures requirements to make representations concerning the energy efficiency or use of a small electric motor and electric motor, including certification that the covered equipment meets an applicable energy conservation standard) is 180 days after the date of publication of this final rule in the **Federal Register**. *See id.* at section 12(c).

EPCA prescribes that all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with an amended test procedure, beginning 180 days after publication of the final rule in the **Federal Register**. (42 U.S.C. 6314(d)(1)) EPCA also provides an allowance for individual manufacturers of consumer products to petition DOE for an extension of the 180-day period if the manufacturer may experience undue hardship in meeting the deadline. (42 U.S.C. 6314(d)(2)). To receive such an extension, petitions must be filed with DOE no later than 60 days before the end of the 180-day period and must detail how the

[25] The April 2019 NOPR used the term ''nameplate voltage'' but DOE does not require that a nameplate be affixed to small electric motors. ''Nameplate voltage'' was used generally to describe representations made by a manufacturer either on a nameplate affixed to the unit or in equipment literature provided by the manufacturer.

[26] As discussed previously, DOE does not require that a nameplate be affixed to small electric motors. DOE understands the commenter to be referring to representations made by a manufacturer either on a nameplate affixed to the unit or in equipment literature provided by the manufacturer. It is in this context that DOE uses the term ''nameplate'' in this document.

manufacturer will experience undue hardship. (*Id.*)

F. Test Procedure Costs and Impacts

EPCA requires that test procedures prescribed by DOE not be unduly burdensome to conduct. 42 U.S.C. 6314(a)(2). DOE is amending (1) the existing test procedure for small electric motors by clarifying the existing scope and testing instructions, updating the reference to industry standard IEEE 112 to reference the 2017 version in place of the 2014 version, and permitting the use of IEC 60034–2–1:2014 as an additional alternative test procedure; and (2) the existing test procedure for electric motors by permitting the use of IEC 60034–2–1:2014 as an additional alternative and equivalent test procedure. DOE has determined that the test procedures as amended by this final rule will not be unduly burdensome for manufacturers to conduct and instead will reduce test burden for manufacturers.

This final rule will result in a net cost savings to manufacturers, as summarized in Table III–1 and Table III–2.

TABLE III–1—SUMMARY OF COST IMPACTS FOR SMALL ELECTRIC MOTORS AND ELECTRIC MOTORS

Category	Present value (million 2016$)	Discount rate (percent)
Cost Savings:		
Reduction in Future Testing Costs for Small Electric Motors	0.2	3
	0.1	7
Reduction in Future Testing Costs for Electric Motors	3.7	3
	1.4	7
Total Net Cost Impact:		
Total Net Cost Impact	(4.0)	3
	(1.5)	7

TABLE III–2—SUMMARY OF ANNUALIZED COST IMPACTS FOR SMALL ELECTRIC MOTORS AND ELECTRIC MOTORS

Category	Annualized value (thousand 2016$)	Discount rate (percent)
Annualized Cost Savings:		
Reduction in Future Testing Costs for Small Electric Motors	7	3
	6	7
Reduction in Future Testing Costs for Electric Motors	112	3
	100	7
Total Net Annualized Cost Impact:		
Total Net Cost Impact	(119)	3
	(106)	7

Further discussion of the analyses of the cost impact of the test procedure amendments is presented in the following paragraphs.

1. Cost Impacts for Small Electric Motors

The clarifications of the existing scope and test instructions will not impose any new requirements on manufacturers of regulated small electric motors. Instead, this final rule will provide manufacturers with greater certainty in the conduct of the test procedures, offer additional equivalent testing options, and do not increase test burden. Reference to IEEE 112–2017 in place of IEEE 112–2004 will not increase test burden or require new testing. As discussed, results under the 2017 version of IEEE 112 are equivalent to results from testing under the 2004 version. Manufacturers will be able to rely on data generated under the current test procedure. Additionally, the incorporation of IEC 60034–2–1:2014 as an additional alternative test procedure further harmonizes DOE's test procedures with current industry practice and international standards. Permitting manufacturers to test according to IEC 60034–2–1:2014 enables manufacturers who use IEC 60034–2–1:2014 for business purposes (for international markets), or to comply with regulatory requirements in other countries, to reduce the number of tests that they must perform by removing the need to conduct a test according to the CSA or IEEE methods [27] currently referenced in DOE's test procedure for small electric motors. As described in section III.B.2, NEMA and UL petitioned that certain portions of IEC test procedure 60034–2–1:2014 be adopted as a permitted alternative test method for small electric motors and electric motors. UL further noted in its petition the increasing use of the IEC test procedure 60034–2–1:2014 by the industry worldwide.

Recognizing that some, but not all, manufacturers already test their motors using IEC 60034–2–1:2014, DOE (as explained later in this section) assumed that 10 percent [28] of small electric motor models sold in the U.S. that are tested with either the CSA or IEEE methods referenced in the Federal test procedure are also tested with the IEC 60034–2–1 method.

To calculate the testing cost reduction associated with allowing the IEC 60034–2–1:2014 method for testing small electric motors, DOE estimated the number of motor models that would not have to be tested to both the amended DOE test procedure and the IEC test

[27] CSA 747–09, CSA 390–10, IEEE 112–2017 (per the amended reference under this final rule), or IEEE 114–2010 depending on the category of small electric motor.

[28] NEMA and UL did not provide quantitative information regarding the number of small electric motors that are tested with either the CSA method or the IEEE method, and the IEC method, although NEMA commented that this is an increasing trend. Based on a review of the market, only a small fraction of motors are designed for operation on 50 Hz and 60 Hz power (indicating they are suitable for sale in both the U.S. and foreign markets), or use NEMA and IEC units of measure (hp vs. kW) and other designators. As noted, the U.S. electrical grid is operated at 60 Hz, while many other countries and regions (*e.g.,* Europe) operate at 50 Hz.

method when brought to market. First, DOE reviewed the product catalogs of four major small electric motor manufacturers published over a seven-year period.[29] DOE compared the current product offerings to the historical catalogs to identify the total number of new models listed over that period of time.[30] DOE then annualized that total number of new models.[31] Next, DOE scaled up that annualized value based on the estimated market share of the manufacturers whose catalogs were reviewed. This scaled-up annualized value estimated the total number of new models listed for sale each year for the entire U.S. market.[32] Then, DOE estimated that 10 percent of new models would be tested each year.[33] DOE made this estimate based on (1) knowledge that many motor models are grouped under a single basic model classification (and therefore each individual model would not need to be tested), (2) observations that only a fraction of electric motor basic models are tested (the remainder have efficiency determined through an alternative efficiency determination method [''AEDM'']), and (3) recognition that many motor models may have been relabeled or rebranded but not redesigned (and therefore no new testing is needed). Finally, DOE assumed that 10 percent of small electric motor models sold in the U.S. that are tested with either the CSA or IEEE methods referenced in the Federal test procedure are also tested with the IEC 60034–2–1 method. Based on these calculations, DOE determined that approximately 1 new small electric motor basic model per year (*i.e.,* 10 percent of 13) that already would be tested with the IEC 60034–2–1 method would no longer have to conduct an additional test to comply with DOE's amended test procedure when introduced into the U.S market and therefore would realize costs savings due to the test procedure amendments.[34]

DOE estimated the cost of testing a single small electric motor unit to be $2,000 at a third-party facility and approximately $500 at an in-house facility.[35] DOE requires at least five units to be tested per basic model. 10 CFR 431.445(c)(2) To estimate in-house testing costs, DOE assumed testing a single motor unit requires approximately nine hours of a mechanical engineer technician time and three hours from a mechanical engineer. The mean hourly wage for a mechanical engineer technician is $28.00 and the total hourly compensation paid by the employer (including all fringe benefits) is $36.25.[36] The mean hourly wage for a mechanical engineer is $44.62 and the total hourly compensation paid by the employer (including all fringe benefits) is $57.76.[37] In addition, DOE assumed that 50 percent of tests are conducted at third-party facilities and 50 percent of tests are conducted at in-house facilities. Based on these estimates, DOE anticipates annual cost savings of approximately $8,000 for the small electric motors industry.

2. Cost Impacts for Electric Motors

Regarding electric motors, DOE is not amending the scope of applicability of the test procedure at Appendix B. Consistent with the small electric motors analysis, the incorporation of IEC 60034–2–1:2014 in this test procedure provides manufacturers additional flexibility by permitting an alternative and equivalent test procedure for measuring energy loss and would further harmonize DOE's test procedures with current industry practice and international standards. DOE expects that, for those manufacturers who are already using IEC 60034–2–1:2014, this change will reduce the number of tests that manufacturers perform by avoiding the need to conduct a test according to the CSA or IEEE methods[38] currently referenced in DOE's test procedure.

To calculate the testing cost reduction associated with allowing the IEC 60034–2–1:2014 method for testing electric motors, DOE employed a similar methodology to the small electric motors analysis and estimated the number of electric motor models that would not have to test to both the amended DOE test procedure and the IEC test method when brought to market. First, DOE reviewed the product catalogs of four major electric motor manufacturers published over a six-year period.[39] DOE compared the current product offerings to the historical catalogs to identify the total number of new models listed over that period of time.[40] DOE then annualized that total number of new models.[41]

Next, DOE scaled up that annualized value based on the estimated market share of the manufacturers whose catalogs were reviewed. This scaled-up annualized value estimated the total number of new models listed for sale each year for the entire U.S. market.[42] Then, DOE estimated that only 10 percent of new models would be tested each year.[43] DOE made this estimate based on (1) knowledge that many motor models are grouped under a single basic model classification (and therefore each individual model would not need to be tested), (2) observations that only a fraction of electric motor basic models are tested (the remainder have efficiency determined through an AEDM), and (3) recognition that many motor models that may have been relabeled or rebranded but not redesigned (and therefore no new

[29] The seven-year period for which DOE reviewed product catalogs was from 2009 to 2016. DOE expects this approach will also be representative of the market from 2016 to the present. DOE did not receive comment on this approach following the publication of the April 2019 NOPR.

[30] DOE identified 598 small electric motor models introduced into the U.S. market by these four manufacturers during the period 2009–2016.

[31] Based on this count, DOE estimates that these four small electric motor manufacturers collectively introduced approximately 85 small electric motor models into the U.S. market each year.

[32] This scaled-up calculation yielded a value of 128 small electric motor models introduced each year for the entire U.S. market, as DOE assumed these four small electric motor manufacturers represented approximately 67 percent of the entire U.S. market.

[33] DOE estimates that approximately 13 new small electric motor models are tested each year.

[34] This yields an estimate of 1.28, since DOE estimates 10 percent of the 12.8 new small electric motor models introduced each year are already tested with the IEC 60034–2–1 method.

[35] Estimate based on standard rates charged by third party laboratories.

[36] See Bureau of Labor Statistics, Occupational Employment and Wages, 17–3027 Mechanical Engineer Technician, May 2018. *https://www.bls.gov/oes/2018/may/oes173027.htm.* Last accessed February 20, 2020. United States Census Bureau, Annual Survey of Manufacturers, 2016 for NAICS Code 335312 ''Motor and Generator Manufacturing''. *https://www.census.gov/data/tables/2016/econ/asm/2016-asm.html.* Last accessed February 20, 2020.

[37] See Bureau of Labor Statistics, Occupational Employment and Wages, 17–2141 Mechanical Engineer, May 2018. *https://www.bls.gov/oes/2018/may/oes172141.htm.* Last accessed February 20, 2020.

United States Census Bureau, Annual Survey of Manufacturers, 2016 for NAICS Code 335312 ''Motor and Generator Manufacturing''. *https://www.census.gov/data/tables/2016/econ/asm/2016-asm.html.* Last accessed February 20, 2020.

[38] CSA 390–10 or IEEE 112–2017 (per the amended reference under this final rule) depending on the category of electric motor.

[39] The six-year period for which DOE reviewed product catalogs was from 2010 to 2016. DOE expects this approach will also be representative of the market from 2016 to the present. DOE did not receive comment on this approach following the publication of the April 2019 NOPR.

[40] DOE identified 8,110 electric motor models introduced into the U.S. market by these four manufacturers during the period 2010–2016.

[41] Based on this count, DOE estimates that these four electric motor manufacturers collectively introduced approximately 1,352 electric motor models into the U.S. market each year.

[42] This scaled-up calculation yielded a value of 2,028 electric motor models introduced each year for the entire U.S. market, as DOE assumed these four electric motor manufacturers represented approximately 67 percent of the entire U.S. market.

[43] DOE estimates that approximately 203 new electric motor models are tested each year.

testing is needed). Similar to what was done for small electric motors, DOE assumed that 10 percent of electric motor models sold in the U.S. that are tested with either the CSA or IEEE methods referenced in the Federal test procedure are also tested with the IEC 60034–2–1 method. Based on these calculations, DOE determined that approximately 20 new electric motor basic models per year (*i.e.,* 10 percent of 203) that already would be tested with the IEC 60034–2–1 method would no longer have to conduct an additional test to comply with DOE's amended test procedure when introduced into the U.S market and therefore would realize costs savings due to the test procedure amendments.[44]

DOE estimated the cost of testing a single electric motor unit to be $2,000 at a third-party facility and approximately $500 at an in-house facility. DOE requires at least five units to be tested per basic model. 10 CFR 431.17(b)(2) In addition, based on DOE's understanding that this equipment is tested both in-house and at third-party testing labs, DOE assumed an even split in testing between the two venues. Based on these estimates, DOE anticipates annual industry cost savings of approximately $127,000 for electric motors that are currently subject to the standards at 10 CFR 431.25.

3. Additional Amendments

The remainder of the amendments adopted in this final rule will not impact test costs. The other amendments adopted in this final rule include new definitions for ''rated load,'' ''rated output power,'' ''breakdown torque,'' ''rated frequency,'' and ''rated voltage''. The addition of these definitions will improve test procedure repeatability. Furthermore, the definitions reflect current industry practice, and therefore do not impose any new requirements on manufacturers of regulated small electric motors and electric motors.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (''OMB'') has determined that this test procedure rulemaking does not constitute a ''significant regulatory action'' under section 3(f) of Executive Order (''E.O.'') 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (''OIRA'') in OMB.

B. Review Under Executive Orders 13771 and 13777

On January 30, 2017, the President issued E.O. 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' See 82 FR 9339 (Feb. 3, 2017). E.O. 13771 stated the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds, from both public and private sources. E.O. 13771 stated it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations.

Additionally, on February 24, 2017, the President issued E.O. 13777, ''Enforcing the Regulatory Reform Agenda.'' 82 FR 12285 (March 1, 2017). E.O. 13777 required the head of each agency designate an agency official as its Regulatory Reform Officer (''RRO''). Each RRO oversees the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. Further, E.O. 13777 requires the establishment of a regulatory task force at each agency. The regulatory task force is required to make recommendations to the agency head regarding the repeal, replacement, or modification of existing regulations, consistent with applicable law. At a minimum, each regulatory reform task force must attempt to identify regulations that:

(1) Eliminate jobs, or inhibit job creation;

(2) Are outdated, unnecessary, or ineffective;

(3) Impose costs that exceed benefits;

(4) Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;

(5) Are inconsistent with the requirements of the Information Quality Act, or the guidance issued pursuant to that Act, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or

(6) Derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

DOE concludes that this rulemaking is consistent with the directives set forth in these executive orders. This final rule is estimated to result in a cost savings. The final rule yields annualized cost savings of approximately $106,000 using a perpetual time horizon discounted to 2016 at a 7 percent discount rate. Therefore, this final rule is an E.O. 13771 deregulatory action.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of a final regulatory flexibility analysis (''FRFA'') for any final rule where the agency was first required by law to publish a rule for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003 to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: *http://energy.gov/gc/office-general-counsel.*

These amendments would neither expand the scope of test procedure applicability to small electric motors beyond those currently subject to test procedures, nor would it place additional requirements on those small electric motors currently subject to DOE's test procedures. Furthermore, this proposal would not place any additional requirements on those electric motors that are already subject to DOE's test procedures, nor would it require manufacturers to retest existing electric motors. Accordingly, manufacturers would not be required under this rule to retest any existing small electric motors or electric motors already subject to DOE's test procedures.

These amendments would also not increase testing costs nor would it impose any additional testing burden on any manufacturers, including all small businesses. Therefore, DOE concludes that the cost effects accruing from this rule would not have a ''significant economic impact on a substantial number of small entities,'' and that the preparation of a FRFA is not warranted. DOE has submitted a certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

[44] This yields an estimate of 20.28, since DOE estimates 10 percent of the 202.8 new electric motor models introduced each year are already tested with the IEC 60034–2–1 method.

D. Review Under the Paperwork Reduction Act of 1995

Manufacturers of electric motors must certify to DOE that their equipment comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their equipment according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and industrial equipment, including electric motors. (See generally 10 CFR part 431.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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

E. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (''NEPA''), DOE has analyzed this action in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion (''CX'') under 10 CFR part 1021, subpart D, Appendix A5 because it is an interpretive rulemaking that does not change the environmental effect of the rule and meets the requirements for application of a CX. See 10 CFR 1021.410. Therefore, DOE has determined that promulgation of this rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an environmental assessment or environmental impact statement.

F. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by E.O. 13132.

G. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of E.O. 12988.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel.* DOE examined this final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to

prepare a Family Policymaking Assessment.

J. Review Under Executive Order 12630

DOE has determined, under E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

K. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

L. Review Under Executive Order 13211

E.O. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action is not a significant regulatory action under E.O. 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

M. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; ''FEAA'') Section 32 essentially provides in relevant part that, where a rule authorizes or requires use of commercial standards, the notice of rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the commercial or industry standards on competition.

The modifications to the test procedure for small electric motors and electric motors adopted in this final rule incorporate certain testing methods contained of the following commercial standards: ''IEC 60034–2–1:2014, Rotating electrical machines—Part 2–1: Standard methods for determining losses and efficiency from tests (excluding machines for traction vehicles);'' IEC 60034–1:2010, ''Rotating electric machines—Part 1: Rating and performance;'' IEC 60051–1:2016, ''Direct acting indicating analogue electrical measuring instruments and their accessories—Part 1: Definitions and general requirements common to all parts;'' ''IEEE 112–2017, IEEE Standard Test Procedure for Polyphase Induction Motors and Generators;'' and NEMA MG 1–2016 Motors and Generators. DOE has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA (*i.e.,* whether they were developed in a manner that fully provides for public participation, comment, and review.) DOE has consulted with both the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards and has received no comments objecting to their use.

N. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule before its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

O. Description of Materials Incorporated by Reference

In this final rule, DOE incorporates by reference standards published by IEC, IEEE and NEMA. The IEC standard, titled ''IEC 60034–2–1:2014 Rotating electrical machines—Part 2–1: Standard methods for determining losses and efficiency from tests (excluding machines for traction vehicles),'' is an alternative industry standard to those currently incorporated by reference (IEEE 112–2004, IEEE 114–2010, CSA C747–09, and CSA C390–10) for measurement of small electric motor efficiency and electric motor efficiency (See section III.B for more details).

IEC 60034–2–1:2014 establishes methods of determining efficiencies from tests and to specify methods of obtaining specific losses. In addition, DOE incorporates by reference two additional IEC standards, titled ''IEC 60034–1:2010, Rotating electrical machines—Part 1: Rating and performance'' and ''IEC 60051–1:2016, Direct acting indicating analogue measuring instruments and their accessories—Part 1: Definitions and general requirements common to all parts.'' IEC 60034–1:2010 and IEC 60051–1:2016 specify test conditions and procedures that are required for application of the test methods for measurement of energy efficiency established in IEC 60034–2–1:2014.

The IEEE standard, titled ''IEEE 112–2017, Test Procedure for Polyphase Induction Motors and Generators'' establishes methods of measurement for current and frequency for both small electric motors and electric motors. DOE incorporates IEEE 112–2017 Test Method A and Test Method B as an update to the industry test methods that are currently incorporated by reference from IEEE 112–2004 (See section III.B for more details). Such action will harmonize the permitted test methods under subparts X (for small electric motors) and B (for electric motors) of 10 CFR part 431 and align measurement and instrumentation requirements with industry practice.

The NEMA standard, titled ''NEMA MG 1–2016 Motors and Generators'' establishes industry definitions for breakdown torque of small electric motors (See section III.C for more details).

In summary, DOE incorporates by reference the following standards:

(1) IEC 60034–2–1:2014, ''Rotating electrical machines—Part 2–1: Standard methods for determining losses and efficiency from tests (excluding machines for traction vehicles)''.

(2) IEC 60034–1:2010, ''Rotating electric machines—Part 1: Rating and performance''.

(3) IEC 60051–1:2016, ''Direct acting indicating analogue electrical measuring instruments and their accessories—Part 1: Definitions and general requirements common to all parts''.

(4) IEEE 112–2017, ''IEEE Standard Test Procedure for Polyphase Induction Motors and Generators''.

(5) NEMA MG 1–2016, ''Motors and Generators''.

Copies of these standards can be obtained from the organizations directly at the following addresses:

• IEC, 3 rue de Varembé, 1st Floor, P.O. Box 131, CH—1211 Geneva 20—Switzerland, +41 22 919 02 11, or by visiting *https://webstore.iec.ch/home.*

• IEEE, 445 Hoes Lane, P.O. Box 1331, Piscataway, NJ 08855–1331, (732) 981–0060, or by visiting *http://www.ieee.org.*

• NEMA, 1300 North 17th Street, Suite 900, Arlington, Virginia 22209, +1 703 841 3200, or by visiting *https://www.nema.org.*

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation test procedures, Incorporation by reference, and Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on December 11, 2020, by Daniel R Simmons, Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 11, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons stated in the preamble, DOE is amending part 431 of Chapter II of Title 10, Code of Federal Regulations as set forth as follows:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 2. Section 431.12 is amended by revising the definition of ''Accreditation'' to read as follows:

§ 431.12 Definitions.

* * * * *

Accreditation means recognition by an accreditation body that a laboratory is competent to test the efficiency of electric motors according to the scope and procedures given in IEEE 112–2017 Test Method B, CSA C390–10, or IEC 60034–2–1:2014 Method 2–1–1B (incorporated by reference, see § 431.15).

* * * * *

■ 3. Section 431.15 is amended by:

■ a. Throughout this section, removing the words ''subpart B of part 431'' and adding, in their place, ''this subpart''

■ b. Revising paragraph (a);

■ c. Redesignating paragraph (c)(4) as paragraph (c)(7) and paragraphs (c)(2) and (3) as paragraphs (c)(4) and (5), respectively;

■ d. Adding new paragraphs (c)(2), (3), and (6); and

■ e. Revising paragraph (d)(1).

The additions and revisions read as follows:

§ 431.15 Materials incorporated by reference.

(a) *General.* Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Department of Energy must publish a document in the **Federal Register** and the material must be available to the public. Standards can be obtained from the sources below. All approved material is available for inspection at U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza SW, Washington, DC 20024, (202) 586–2945, or go to *http://www1.eere.energy.gov/buildings/appliance_standards/.* It is also available at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fedreg.legal@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

* * * * *

(c) * * *

(2) IEC 60034–1, Edition 12.0 2010–02, (''IEC 60034–1:2010''), Rotating Electrical Machines—Part 1: Rating and Performance, IBR approved for appendix B to this subpart.

(3) IEC 60034–2–1:2014, Edition 2.0 2014–06, (''IEC 60034–2–1:2014''), Rotating electrical machines—Part 2–1: Standard methods for determining losses and efficiency from tests (excluding machines for traction vehicles), IBR approved for §§ 431.12; 431.19; 431.20; appendix B to this subpart.

* * * * *

(6) IEC 60051–1:2016, Edition 6.0 2016–02, (''IEC 60051–1:2016''), Direct acting indicating analogue electrical measuring instruments and their accessories—Part 1: Definitions and general requirements common to all parts, IBR approved for appendix B to this subpart.

* * * * *

(d) * * *

(1) IEEE 112™–2017 (''IEEE 112–2017''), IEEE Standard Test Procedure for Polyphase Induction Motors and Generators, approved December 6, 2017, IBR approved for §§ 431.12; 431.19; 431.20; appendix B to this subpart.

* * * * *

■ 4. Section 431.19 is amended by revising paragraphs (b)(4) and (c)(4) to read as follows:

§ 431.19 Department of Energy recognition of accreditation bodies.

* * * * *

(b) * * *

(4) It must be expert in the content and application of the test procedures and methodologies in IEEE 112–2017 Test Method B, CSA C390–10, or IEC 60034–2–1:2014 Method 2–1–1B, (incorporated by reference, see § 431.15).

(c) * * *

(4) *Expertise in electric motor test procedures.* The petition should set forth the organization's experience with the test procedures and methodologies in IEEE 112–2017 Test Method B, CSA C390–10, or IEC 60034–2–1:2014 Method 2–1–1B, (incorporated by

reference, see § 431.15). This part of the petition should include items such as, but not limited to, a description of prior projects and qualifications of staff members. Of particular relevance would be documentary evidence that establishes experience in applying the guidelines contained in the ISO/IEC Guide 25, General Requirements for the Competence of Calibration and Testing Laboratories, (referenced for guidance only, see § 431.14) to energy efficiency testing for electric motors.

* * * * *

■ 5. Section 431.20 is amended by revising paragraphs (b)(4) and (c)(4) to read as follows:

§ 431.20 Department of Energy recognition of nationally recognized certification programs.

* * * * *

(b) * * *

(4) It must be expert in the content and application of the test procedures and methodologies in IEEE 112–2017 Test Method B, CSA C390–10, or IEC 60034–2–1:2014 Method 2–1–1B, (incorporated by reference, see § 431.15). It must have satisfactory criteria and procedures for the selection and sampling of electric motors tested for energy efficiency.

(c) * * *

(4) *Expertise in electric motor test procedures.* The petition should set forth the program's experience with the test procedures and methodologies in IEEE 112–2017 Test Method B, CSA C390–10, or IEC 60034–2–1:2014 Method 2–1–1B, (incorporated by reference, see § 431.15). This part of the petition should include items such as, but not limited to, a description of prior projects and qualifications of staff members. Of particular relevance would be documentary evidence that establishes experience in applying guidelines contained in the ISO/IEC Guide 25, General Requirements for the Competence of Calibration and Testing Laboratories (referenced for guidance only, see 431.14) to energy efficiency testing for electric motors.

* * * * *

■ 6. Appendix B to subpart B of part 431 is amended by:

■ a. Removing the introductory note;

■ b. Adding Section 0;

■ c. Revising Section 2;

■ d. Removing Section 3;

■ e. Redesignating Sections 4, 4.1,4.2, 4.3, 4.4, 4.5, 4.6, 4.7, and 4.8 as Sections 3, 3.1, 3.2, 3.4, 3.5, 3.6, 3.7, and 3.8 respectively;

■ f. Revising newly redesignated Section 3; and

■ g. In newly redesignated Section 3.8, remove ''IEEE 112 (Test Method B)'' at each occurrence and add in its place, ''IEEE 112–2017 Test Method B.''

The additions and revisions read as follows:

Appendix B to Subpart B of Part 431—Uniform Test Method for Measuring Nominal Full Load Efficiency of Electric Motors

0. Incorporation by Reference

(a) In § 431.15, DOE incorporated by reference the entire standard for CSA C390–10, IEC 60034–1:2010, IEC 60034–2–1:2014, IEC 60051–1:2016, and IEEE 112–2017; however, only enumerated provisions of those documents are applicable as follows:

(i) CSA C390–10:

(1) Section 1.3 ''Scope,'' as specified in section 2(1) of this appendix;

(2) Section 3.1 ''Definitions,'' as specified in section 2(1) of this appendix;

(3) Section 5 ''General test requirements—Measurements,'' as specified in section 2(1) of this appendix;

(4) Section 7 ''Test method,'' as specified in section 2(1) of this appendix;

(5) Table 1 ''Resistance measurement time delay,'' as specified in section 2(1) of this appendix;

(6) Annex B ''Linear regression analysis,'' as specified in section 2(1) of this appendix; and

(7) Annex C ''Procedure for correction of dynamometer torque readings'' as specified in section 2(1) of this appendix.

(ii) IEC 60034–1:2010:

(1) Section 7.2 as specified in section 2(2) of this appendix;

(2) Section 8.6.2.3.3 as specified in section 2(2) of this appendix; and

(3) Table 5 as specified in section 2(2) of this appendix.

(iii) IEC 60034–2–1:2014:

(1) Method 2–1–1B as specified in section 2(2) and section 3, of this appendix;

(2) Section 3 ''Terms and definitions'' as specified in section 2(2) of this appendix;

(3) Section 4 ''Symbols and abbreviations'' as specified in section 2(2) of this appendix;

(4) Section 5 ''Basic requirements'' as specified in section 2(2) of this appendix; and

(5) Section 6.1.3 ''Method 2–1–1B—Summation of losses, additional load losses according to the method of residual losses'' as specified in section 2(2) of this appendix.

(iv) IEEE 112–2017:

(1) Test Method B, Input-Output With Loss Segregation as specified in section 2(3), section 3, and section 3.8 of this appendix;

(2) Section 3 ''General'' as specified in section 2(3) of this appendix;

(3) Section 4 ''Measurements'' as specified in section 2(3) of this appendix;

(4) Section 5 ''Machine losses and tests for losses'' as specified in section 2(3) of this appendix;

(5) Section 6.1 ''General'' as specified in section 2(3) of this appendix;

(6) Section 6.4 ''Efficiency test method B—Input-output with loss segregation'' as specified in section 2(3) of this appendix; and

(7) Section 9.4 ''Form B—Method B'', and Section 9.5 ''Form B2—Method B calculations'' as specified in section 2(3) of this appendix.

(b) In § 431.15, DOE incorporated by reference the following enumerated provisions of NEMA MG 1–2009:

(i) Paragraph 12.58.1, ''Determination of Motor Efficiency and Losses'' as specified in the introductory paragraph to section 2 of this appendix, and

(ii) [Reserved]

(c) In cases where there is a conflict, the language of this appendix takes precedence over those documents. Any subsequent amendment to a referenced document by the standard-setting organization will not affect the test procedure in this appendix, unless and until the test procedure is amended by DOE. Material is incorporated as it exists on the date of the approval, and a notice of any change in the material will be published in the **Federal Register**.

* * * * *

2. Test Procedures

Efficiency and losses must be determined in accordance with NEMA MG 1–2009 (incorporated by reference, see § 431.15), paragraph 12.58.1, ''Determination of Motor Efficiency and Losses,'' and one of the following testing methods:

(1) CSA C390–10 (incorporated by reference, see § 431.15), Section 1.3 ''Scope'', Section 3.1 ''Definitions'', Section 5 ''General test requirements—Measurements'', Section 7 ''Test method'', Table 1 ''Resistance measurement time delay'', Annex B ''Linear regression analysis'' and Annex C ''Procedure for correction of dynamometer torque readings.''

(2) IEC 60034–2–1:2014 (incorporated by reference, see § 431.15), Method 2–1–1B, Section 3 ''Terms and definitions'', Section 4 ''Symbols and abbreviations'', Section 5 ''Basic requirements'', Section 6.1.3 ''Method 2–1–1B—Summation of losses, additional load losses according to the method of residual losses.'' The supply voltage shall be in accordance with section 7.2 of IEC 60034–1:2010 (incorporated by reference, see § 431.15). The measured resistance at the end of the thermal test shall be determined in a similar way to the extrapolation procedure described in section 8.6.2.3.3 of IEC 60034–1:2010, using the shortest possible time instead of the time interval specified in Table 5 therein, and extrapolating to zero. The measuring instruments for electrical quantities shall have the equivalent of an accuracy class of 0,2 in case of a direct test and 0,5 in case of an indirect test in accordance with IEC 60051–1:2016 (incorporated by reference, see § 431.15), or

(3) IEEE 112–2017, (incorporated by reference, see § 431.15), Test Method B, Input-Output With Loss Segregation, Section 3 ''General'', Section 4 ''Measurements'', Section 5 ''Machine losses and tests for losses'', Section 6.1 ''General'', Section 6.4 ''Efficiency test method B—Input-output with loss segregation'', Section 9.4 ''Form B—Method B'', and Section 9.5 ''Form B2—Method B calculations.''

3. Procedures for the Testing of Certain Electric Motor Types

Prior to testing according to CSA C390–10, IEC 60034–2–1:2014 Method 2–1–1B, or IEEE

112–2017 Test Method B, each basic model of the electric motor types listed below must be set up in accordance with the instructions of this section to ensure consistent test results. These steps are designed to enable a motor to be attached to a dynamometer and run continuously for testing purposes. For the purposes of this appendix, a ''standard bearing'' is a 6000 series, either open or grease-lubricated double-shielded, single-row, deep groove, radial ball bearing.

* * * * *

■ 7. Section 431.442 is amended by adding, in alphabetical order, definitions for ''Breakdown torque'', ''Rated frequency'', ''Rated load'', ''Rated output power'', and ''Rated voltage'', to read as follows:

§ 431.442 Definitions.

* * * * *

Breakdown torque means the maximum torque that the motor will develop with rated voltage and frequency applied without an abrupt drop in speed. The breakdown torque is the local maximum of the torque-speed plot of the motor, closest to the synchronous speed of the motor, determined in accordance with NEMA MG 1–2016 (incorporated by reference, see § 431.443).

* * * * *

Rated frequency means 60 hertz.

Rated load (or *full load, full rated load,* or *rated full load*) means the rated output power of a small electric motor.

Rated output power means the mechanical output power that corresponds to the small electric motor's breakdown torque as specified in NEMA MG 1–2016 Table 10–5 (incorporated by reference, see § 431.443) for single-phase motors or 140 percent of the breakdown torque values specified in NEMA MG 1–2016 Table 10–5 for polyphase motors. For purposes of this definition, NEMA MG 1–2016 Table 10–5 is applied regardless of whether elements of NEMA MG 1–2016 Table 10–5 are identified as for small or medium motors.

Rated voltage means the input voltage of a small electric motor used when making representations of the performance characteristics of a given small electric motor and selected by the motor's manufacturer to be used for testing the motor's efficiency.

* * * * *

■ 8. Section 431.443 is amended by:
■ a. Revising paragraph (a);
■ b. Redesignating paragraph (c) as (d);
■ c. Adding new paragraph (c);
■ d. Revising newly redesignated paragraph (d)(1); and
■ e. Adding paragraph (e).

The revisions and additions read as follows:

§ 431.443 Materials incorporated by reference.

(a) *General.* Certain material is incorporated by reference into subpart X of part 431 with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and a notification of any change in the material will be published in the **Federal Register**. Standards can be obtained from the sources below. All approved material is available for inspection at U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza SW, Washington, DC 20024, (202) 586–2945, or go to *http://www1.eere.energy.gov/buildings/appliance_standards/.* It is also available at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: *fedreg.legal@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

* * * * *

(c) *IEC.* International Electrotechnical Commission, 3 rue de Varembé, 1st Floor, P.O. Box 131, CH—1211 Geneva 20—Switzerland, +41 22 919 02 11, or go to *https://webstore.iec.ch/home.*

(1) IEC 60034–1, Edition 12.0 2010–02, (''IEC 60034–1:2010''), Rotating electrical machines—Part 1: Rating and performance, IBR approved for §§ 431.444.

(2) IEC 60034–2–1:2014, Edition 2.0 2014–06, (''IEC 60034–2–1:2014''), Rotating electrical machines—Part 2–1: Standard methods for determining losses and efficiency from tests (excluding machines for traction vehicles), IBR approved for §§ 431.444, and 431.447.

(3) IEC 60051–1:2016, Edition 6.0 2016–02, (''IEC 60051–1:2016), Direct acting indicating analogue electrical measuring instruments and their accessories—Part 1: Definitions and general requirements common to all parts, IBR approved for §§ 431.444.

(d) * * *

(1) IEEE 112™–2017 (''IEEE 112–2017''), IEEE Standard Test Procedure for Polyphase Induction Motors and Generators, approved December 6, 2017, IBR approved for §§ 431.444, and 431.447.

* * * * *

(e) *NEMA.* National Electrical Manufacturers Association, 1300 North 17th Street, Suite 900, Arlington, Virginia 22209, +1 703 841 3200, or go to *https://www.nema.org.*

(1) NEMA MG 1–2016, American National Standard for Motors and Generators, ANSI approved June 1, 2018, IBR approved for § 431.442.

(2) [Reserved]

■ 9. Section 431.444 is revised to read as follows:

§ 431.444 Test Procedures for the measurement of energy efficiency of small electric motors.

(a) *Scope.* Pursuant to section 346(b)(1) of EPCA, this section provides the test procedures for measuring the full-load efficiency of small electric motors pursuant to EPCA. (42 U.S.C. 6317(b)(1)) For purposes of this part 431 and EPCA, the test procedures for measuring the efficiency of small electric motors shall be the test procedures specified in paragraph (b) of this section.

(b) *Testing and Calculations.* Determine the full-load efficiency of a small electric motor using one of the test methods listed in this paragraphs (b)(1) through (4) of this section.

(1) *Incorporation by reference:* In § 431.443, DOE incorporated by reference the entire standard for CSA C747–09, CSA C390–10, IEC 60034–1:2010, IEC 60034–2–1:2014, IEC 60051–1:2016, IEEE 112–2017, and IEEE 114–2010 into this section; however, only enumerated provisions of those documents referenced in this section are applicable as follows:

(i) CSA C747–09:

(A) Section 1.6 ''Scope'' as specified in paragraphs (b)(2)(ii) and (b)(3)(ii) of this section;

(B) Section 3 ''Definitions'' as specified in paragraphs (b)(2)(ii) and (b)(3)(ii) of this section;

(C) Section 5 ''General test requirements'' as specified in paragraphs (b)(2)(ii) and (b)(3)(ii) of this section; and

(D) Section 6 ''Test method'' as specified in paragraphs (b)(2)(ii) and (b)(3)(ii) of this section.

(ii) CSA C390–10:

(A) Section 1.3, ''Scope'' as specified in paragraph (b)(4)(ii) of this section;

(B) Section 3.1, ''Definitions'' as specified in paragraph (b)(4)(ii) of this section;

(C) Section 5, ''General test requirements—Measurements'' as specified in paragraph (b)(4)(ii) of this section;

(D) Section 7, ''Test method'' as specified in paragraph (b)(4)(ii) of this section;

(E) Table 1, ''Resistance measurement time delay'' as specified in paragraph (b)(4)(ii) of this section;

(F) Annex B, ''Linear regression analysis'' as specified in paragraph (b)(4)(ii) of this section; and

(G) Annex C, ''Procedure for correction of dynamometer torque

readings'' as specified in paragraph (b)(4)(ii) of this section.

(iii) IEC 60034–1:2010:

(A) Section 7.2 as specified in paragraphs (b)(2)(iii), (b)(3)(iii), and (b)(4)(iii) of this section;

(B) Section 8.6.2.3.3 as specified in paragraphs (b)(2)(iii), (b)(3)(iii), and (b)(4)(iii) of this section; and

(C) Table 5 as specified in paragraphs (b)(2)(iii), (b)(3)(iii), and (b)(4)(iii) of this section.

(iv) IEC 60034–2–1:2014:

(A) Method 2–1–1A as specified in paragraphs (b)(2)(iii) and (b)(3)(iii) of this section;

(B) Method 2–1–1B as specified in paragraph (b)(4)(iii) of this section;

(C) Section 3 ''Terms and definitions'' as specified in paragraphs (b)(2)(iii), (b)(3)(iii), and (b)(4)(iii) of this section;

(D) Section 4 ''Symbols and abbreviations'' as specified in paragraphs (b)(2)(iii), (b)(3)(iii), (b)(4)(iii) of this section;

(E) Section 5 ''Basic requirements'' as specified in paragraphs (b)(2)(iii), (b)(3)(iii), and (b)(4)(iii) of this section;

(F) Section 6.1.2 ''Method 2–1–1A—Direct measurement of input and output'' (except Section 6.1.2.2, ''Test Procedure'') as specified in paragraphs (b)(2)(iii) and (b)(3)(iii) of this section;

(G) Section 6.1.3 ''Method 2–1–1B—Summations of losses, additional load losses according to the method of residual losses'' as specified in paragraph (b)(4)(iii) of this section; and

(H) Annex D, ''Test report template for 2–1–1B'' as specified in paragraph (b)(4)(iii) of this section.

(v) IEC 60051–1:2016:

(A) Section 5.2 as specified in paragraphs (b)(2)(iii), (b)(3)(iii) and (b)(4)(iii), of this section; and

(B) [Reserved]

(vi) IEEE 112–2017:

(A) Test Method A as specified in paragraph (b)(3)(i) of this section;

(B) Test Method B as specified in paragraph (b)(4)(i) of this section;

(C) Section 3, ''General'' as specified in paragraphs (b)(3)(i) and (b)(4)(i) of this section;

(D) Section 4, ''Measurements'' as specified in paragraphs (b)(3)(i) and (b)(4)(i) of this section;

(E) Section 5, ''Machine losses and tests for losses'' as specified in paragraphs (b)(3)(i) and (b)(4)(i) of this section;

(F) Section 6.1, ''General'' as specified in paragraphs (b)(3)(i) and (b)(4)(i) of this section;

(G) Section 6.3, ''Efficiency test method A—Input-output'' as specified in paragraph (b)(3)(i) of this section;

(H) Section 6.4, ''Efficiency test method B—Input-output'' as specified in paragraph (b)(4)(i) of this section;

(I) Section 9.2, ''Form A—Method A'' as specified in paragraph (b)(3)(i) of this section;

(J) Section 9.3, ''Form A2—Method A calculations'' as specified in paragraph (b)(3)(i) of this section;

(K) Section 9.4, ''Form B—Method B'' as specified in paragraph (b)(4)(i) of this section; and

(L) Section 9.5, ''Form B2—Method B calculations'' as specified in paragraph (b)(4)(i) of this section.

(vii) IEEE 114–2010:

(A) Section 3.2, ''Test with load'' as specified in paragraph (b)(2)(i) of this section;

(B) Section 4, ''Testing Facilities as specified in paragraph (b)(2)(i) of this section;

(C) Section 5, ''Measurements'' as specified in paragraph (b)(2)(i) of this section;

(D) Section 6, ''General'' as specified in paragraph (b)(2)(i) of this section;

(E) Section 7, ''Type of loss'' as specified in paragraph (b)(2)(i) of this section;

(F) Section 8, ''Efficiency and Power Factor'' as specified in paragraph (b)(2)(i) of this section;

(G) Section 10 ''Temperature Tests'' as specified in paragraph (b)(2)(i) of this section;

(H) Annex A, Section A.3 ''Determination of Motor Efficiency'' as specified in paragraph (b)(2)(i) of this section; and

(I) Annex A, Section A.4 ''Explanatory notes for form 3, test data'' as specified in paragraph (b)(2)(i) of this section.

(viii) In cases where there is a conflict, the language of this appendix takes precedence over those documents. Any subsequent amendment to a referenced document by the standard-setting organization will not affect the test procedure in this appendix, unless and until the test procedure is amended by DOE.

(2) *Single-phase small electric motors.* For single-phase small electric motors, use one of the following methods:

(i) IEEE 114–2010, Section 3.2, ''Test with load'', Section 4, ''Testing Facilities, Section 5, ''Measurements'', Section 6, ''General'', Section 7, ''Type of loss'', Section 8, ''Efficiency and Power Factor''; Section 10 ''Temperature Tests'', Annex A, Section A.3 ''Determination of Motor Efficiency'', Annex A, Section A.4 ''Explanatory notes for form 3, test data'';

(ii) CSA C747–09, Section 1.6 ''Scope'', Section 3 ''Definitions'', Section 5, ''General test requirements'', and Section 6 ''Test method'';

(iii) IEC 60034–2–1:2014 Method 2–1–1A, Section 3 ''Terms and definitions'', Section 4 ''Symbols and abbreviations'', Section 5 ''Basic requirements'', and Section 6.1.2 ''Method 2–1–1A—Direct measurement of input and output'' (except Section 6.1.2.2, ''Test Procedure''). The supply voltage shall be in accordance with section 7.2 of IEC 60034–1:2010 (incorporated by reference, see § 431.443). The measured resistance at the end of the thermal test shall be determined in a similar way to the extrapolation procedure described in section 8.6.2.3.3 of IEC 60034–1:2010, using the shortest possible time instead of the time interval specified in Table 5 therein, and extrapolating to zero. The measuring instruments for electrical quantities shall have the equivalent of an accuracy class of 0,2 in case of a direct test and 0,5 in case of an indirect test in accordance with section 5.2 of IEC 60051–1:2016 (incorporated by reference, see § 431.443).

(A) *Additional IEC 60034–2–1:2014 Method 2–1–1A Torque Measurement Instructions.*

If using IEC 60034–2–1:2014 Method 2–1–1A to measure motor performance, follow the instructions in paragraph (b)(2)(iii)(B) of this section, instead of section 6.1.2.2 of IEC 60034–2–1:2014;

(B) Couple the machine under test to a load machine. Measure torque using an in-line, shaft-coupled, rotating torque transducer or stationary, stator reaction torque transducer. Operate the machine under test at the rated load until thermal equilibrium is achieved (rate of change 1 K or less per half hour). Record U, I, Pel, n, T, θc.

(3) *Polyphase small electric motors of less than or equal to 1 horsepower (0.75 kW).* For polyphase small electric motors with 1 horsepower or less, use one of the following methods:

(i) IEEE 112–2017 Test Method A, Section 3, ''General'', Section 4, ''Measurements'', Section 5, ''Machine losses and tests for losses'', Section 6.1, ''General'', Section 6.3, ''Efficiency test method A—Input-output'', Section 9.2, ''Form A—Method A'', and Section 9.3, ''Form A2—Method A calculations'';

(ii) CSA C747–09, Section 1.6 ''Scope'', Section 3 ''Definitions'', Section 5, ''General test requirements'', and Section 6 ''Test method'';

(iii) IEC 60034–2–1:2014 Method 2–1–1A, Section 3 ''Terms and definitions'', Section 4 ''Symbols and abbreviations'', Section 5 ''Basic requirements'', and Section 6.1.2 ''Method 2–1–1A—Direct measurement of input and output'' (except Section 6.1.2.2, ''Test Procedure''). The supply voltage shall be in accordance with section 7.2 of IEC 60034–1:2010. The measured resistance at the end of the thermal test shall be determined in a similar way to the

extrapolation procedure described in section 8.6.2.3.3 of IEC 60034–1:2010 using the shortest possible time instead of the time interval specified in Table 5 therein, and extrapolating to zero. The measuring instruments for electrical quantities shall have the equivalent of an accuracy class of 0,2 in case of a direct test and 0,5 in case of an indirect test in accordance with section 5.2 of IEC 60051–1:2016.

(A) *Additional IEC 60034–2–1:2014 Method 2–1–1A Torque Measurement Instructions.*

If using IEC 60034–2–1:2014 Method 2–1–1A to measure motor performance, follow the instructions in paragraph (b)(3)(iii)(B) of this section, instead of section 6.1.2.2 of IEC 60034–2–1:2014;

(B) Couple the machine under test to load machine. Measure torque using an in-line shaft-coupled, rotating torque transducer or stationary, stator reaction torque transducer. Operate the machine under test at the rated load until thermal equilibrium is achieved (rate of change 1 K or less per half hour). Record U, I, Pel, n, T, θc.

(4) *Polyphase small electric motors of greater than 1 horsepower (0.75 kW).* For polyphase small electric motors exceeding 1 horsepower, use one of the following methods:

(i) IEEE 112–2017 Test Method B, Section 3, ''General''; Section 4, ''Measurements''; Section 5, ''Machine losses and tests for losses'', Section 6.1, ''General'', Section 6.4, ''Efficiency test method B—Input-output with loss segregation'', Section 9.4, ''Form B—Method B'', and Section 9.5, ''Form B2—Method B calculations''; or

(ii) CSA C390–10, Section 1.3, ''Scope'', Section 3.1, ''Definitions'', Section 5, ''General test requirements—Measurements'', Section 7, ''Test method'', Table 1, ''Resistance measurement time delay, Annex B, ''Linear regression analysis'', and Annex C, ''Procedure for correction of dynamometer torque readings''; or

(iii) IEC 60034–2–1:2014 Method 2–1–1B Section 3 ''Terms and definitions'', Section 4 ''Symbols and abbreviations'', Section 5 ''Basic requirements'', Section 6.1.3 ''Method 2–1–1B—Summation of losses, additional load losses according to the method of residual losses.'', and Annex D, ''Test report template for 2–1–1B. The supply voltage shall be in accordance with section 7.2 of IEC 60034–1:2010. The measured resistance at the end of the thermal test shall be determined in a similar way to the extrapolation procedure described in section 8.6.2.3.3 of IEC 60034–1:2010 using the shortest possible time instead of the time interval specified in Table 5 therein, and extrapolating to zero. The measuring instruments for electrical quantities shall have the equivalent of an accuracy class of 0,2 in case of a direct test and 0,5 in case of an indirect test in accordance with section 5.2 of IEC 60051–1:2016.

■ 10. Section 431.447 is amended by revising paragraphs (b)(4) and (c)(4), to read as follows:

§ 431.447 Department of Energy recognition of nationally recognized certification programs.

* * * * *

(b) * * *

(4) It must be expert in the content and application of the test procedures and methodologies in IEEE 112–2017 Test Method A, IEEE 112–2017 Test Method B, IEEE 114–2010, IEC 60034–2–1:2014 Method 2–1–1A, IEC 60034–2–1:2014 Method 2–1–1B, CSA C390–10, or CSA C747–09 (incorporated by reference, see § 431.443) or similar procedures and methodologies for determining the energy efficiency of small electric motors. It must have satisfactory criteria and procedures for the selection and sampling of electric motors tested for energy efficiency.

(c) * * *

(4) *Expertise in small electric motor test procedures.* The petition should set forth the program's experience, as applicable, with the test procedures and methodologies in, IEEE 112–2017 Test Method A, IEEE 112–2017 Test Method B, IEEE 114–2010, IEC 60034–2–1:2014 Method 2–1–1A, IEC 60034–2–1:2014 Method 2–1–1B, CSA C390–10, and CSA C747–09 (incorporated by reference, see § 431.443) and with similar procedures and methodologies. This part of the petition should include items such as, but not limited to, a description of prior projects and qualifications of staff members. Of particular relevance would be documentary evidence that establishes experience in applying guidelines contained in the ISO/IEC Guide 25, General Requirements for the Competence of Calibration and Testing Laboratories to energy efficiency testing for electric motors.

* * * * *

[FR Doc. 2020–27662 Filed 12–31–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31349; Amdt. No. 3938]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective January 4, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 4, 2021.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, email *fedreg.legal@nara.gov* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg 29 Room 104, Oklahoma City, OK 73169. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION:

This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on December 25, 2020.

Wade Terrell,

Aviation Safety, Manager, Flight Procedures & Airspace Group, Flight Technologies and Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, CFR part 97, is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

Effective Upon Publication

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
28–Jan–21	NY	New York	John F Kennedy Intl ...	0/1081	12/15/20	VOR RWY 31L, Orig-A.

[FR Doc. 2020–29057 Filed 12–31–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31348; Amdt. No. 3937]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPS) and associated Takeoff Minimums and Obstacle Departure procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective January 4, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 4, 2021.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30. 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg 29 Room 104, Oklahoma City, OK 73169. Telephone (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, 8260–15B, when required by an entry on 8260–15A, and 8260–15C.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers or aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the typed of SIAPS, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Lists of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on December 25, 2020.

Wade Terrell,

Aviation Safety Manager, Flight Procedures & Airspace Group, Flight Technologies and Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CRF part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 28 January 2021

Naples, FL, KAPF, RNAV (GPS)-A, Orig-B
Naples, FL, KAPF, RNAV (GPS)-B, Orig-B

Effective 25 February 2021

Huntsville, AL, KHSV, RADAR–1, Amdt 11
Ukiah, CA, Ukiah Muni, Takeoff Minimums and Obstacle DP, Amdt 2A
Erie, CO, Erie Muni, RNAV (GPS)-B, Orig
Erie, CO, Erie Muni, VOR–A, Amdt 1
Danbury, CT, Danbury Muni, Takeoff Minimums and Obstacle DP, Amdt 4A
Apalachicola, FL, KAAF, NDB RWY 14, Amdt 2C, CANCELLED
Reidsville, GA, KRVJ, RNAV (GPS) RWY 11, Amdt 1C
Kaunakakai, HI, Molokai, RNAV (GPS)-B, Amdt 2
Terre Haute, IN, KHUF, RNAV (GPS) RWY 23, Amdt 1E
Goodland, KS, KGLD, RNAV (GPS) RWY 23, Amdt 1D
Falmouth, MA, KFMH, RNAV (GPS) RWY 23, Orig-A
Falmouth, MA, Cape Cod Coast Guard Air Station, Takeoff Minimums and Obstacle DP, Orig-A
Lawrence, MA, KLWM, ILS OR LOC RWY 5, Amdt 6A
College Park, MD, College Park, Takeoff Minimums and Obstacle DP, Amdt 4
Cumberland, MD, KCBE, RNAV (GPS) RWY 5, Amdt 3
Hancock, MI, KCMX, RNAV (GPS) RWY 7, Amdt 1C
Hancock, MI, KCMX, VOR RWY 25, Amdt 17D
Springfield, MN, D42, RNAV (GPS) RWY 13, Orig-C
Springfield, MN, D42, RNAV (GPS) RWY 31, Orig-C
Springfield, MN, D42, VOR RWY 13, Amdt 3B
Memphis, MO, 03D, RNAV (GPS) RWY 12, Orig-A
Memphis, MO, 03D, RNAV (GPS) RWY 30, Orig-A
Neosho, MO, KEOS, VOR–A, Amdt 7A, CANCELLED
Ronan, MT, 7S0, RNAV (GPS) RWY 16. Amdt 1B
Ronan, MT, 7S0, RNAV (GPS) RWY 34. Amdt 1B
Stevensville, MT, 32S, RNAV (GPS)-A, Orig-F
Asheville, NC, KAVL, ILS OR LOC RWY 17, Orig
Omaha, NE, KOMA, ILS OR LOC RWY 14L, Amdt 2A
Portsmouth, NH, Portsmouth Intl at Pease, ILS OR LOC RWY 16, Amdt 2B
Portsmouth, NH, Portsmouth Intl at Pease, ILS OR LOC RWY 34, Amdt 3A
Tucumcari, NM, Tucumcari Muni, RNAV (GPS) RWY 26, Orig-A
Saratoga Springs, NY, 5B2, RNAV (GPS) RWY 5, Amdt 1E
Batavia, OH, I69, RNAV (GPS) RWY 22, Amdt 2
Dubois, PA, KDUJ, ILS OR LOC RWY 25, Amdt 10
Dubois, PA, KDUJ, RNAV (GPS) RWY 7, Amdt 3
Dubois, PA, KDUJ, RNAV (GPS) RWY 25, Amdt 2
Dubois, PA, KDUJ, VOR/DME RWY 7, Amdt 4, CANCELLED
Athens, TN, McMinn County, Takeoff Minimums and Obstacle DP, Amdt 1A
Humboldt, TN, Humboldt Muni, Takeoff Minimums and Obstacle DP, Amdt 2
Borger, TX, Hutchinson County Airport, Takeoff Minimums and Obstacle DP, Amdt 2A
Tyler, TX, KTYR, RNAV (GPS) RWY 18, Amdt 1A
Tyler, TX, KTYR, RNAV (GPS) RWY 36, Amdt 1A
Tyler, TX, Tyler Pounds Rgnl, Takeoff Minimums and Obstacle DP, Amdt 3A
Tyler, TX, KTYR, VOR RWY 4, Amdt 5B
Norfolk, VA, KORF, ILS OR LOC RWY 23, Amdt 8A
Rutland, VT, KRUT, ILS Y LOC Y RWY 19, Amdt 1A
Rutland, VT, KRUT, ILS Z LOC Z RWY 19, Amdt 1A
Bremerton, WA, Bremerton Intl, RNAV (GPS) RWY 2, Amdt 2B

[FR Doc. 2020–29056 Filed 12–31–20; 8:45 am]

BILLING CODE 4910–13–P

Proposed Rules

Federal Register
Vol. 86, No. 1
Monday, January 4, 2021

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 HOMELAND SECURITY

RIN 1615–AC63

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Office of the Secretary

29 CFR Part 18

Wage and Hour Division

29 CFR Part 503

[DOL Docket No. DOL–2020–0019]

RIN 1290–AA43

Discretionary Review by the Secretary of Labor

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security; and Office of the Secretary, Employment and Training Administration, and Wage and Hour Division, Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security and the Department of Labor (DOL) are jointly issuing this notice of proposed rulemaking to seek public comments on a proposal to extend DOL's recently established system of discretionary Secretary of Labor review to H–2B temporary labor certification cases (H–2B cases) pending before or decided by the Department of Labor's Board of Alien Labor Certification Appeals and to make technical, conforming changes to regulations governing the timing and finality of those decisions and of decisions from the Department of Labor's Administrative Review Board in H–2B cases.

DATES: The Departments invite interested persons to submit comments on the proposed rule. To ensure consideration, comments must be in writing and must be received by January 19, 2021.

ADDRESSES: You may send comments, identified by Regulatory Identification Number (RIN) 1290–AA43, electronically only, consistent with the following instructions. Submit comments, read background documents, and read comments received through the Federal eRulemaking Portal at *http://www.regulations.gov.* To locate this rulemaking, use docket number DOL–2020–0019 or key words such as ''Office of Administrative Law Judges'' or ''Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges.'' Instructions for submitting comments are found on the *www.regulations.gov* website. All comments must be received by 11:59 p.m. on the date indicated for consideration in this rulemaking. Please be advised that comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Therefore, the Departments recommend that commenters safeguard their personal information by not including social security numbers, personal addresses, telephone numbers, and email addresses in comments. It is the responsibility of the commenters to safeguard their information.

If you need assistance to review the comments of the rulemaking, the Department will consider providing the comments and the proposed rule in other formats upon request. For assistance to review the comments or obtain the direct final rule in an alternate format, contact Mr. Todd Smyth, General Counsel, U.S. Department of Labor, at (513) 684–3252.

FOR FURTHER INFORMATION CONTACT: Todd Smyth, General Counsel, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street NW, Washington, DC 20001–8002; telephone (513) 684–3252. Individuals with hearing or speech impairments may access the telephone number above by TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: This preamble is divided into five sections: Section I describes the process of rulemaking using a direct final rule with a companion proposed rule; Section II provides general background information on the proposed rulemaking; Section III summarizes the proposed regulatory text; Section IV covers the administrative requirements for this proposed rulemaking; and Section V provides additional information and instructions to those wishing to comment on the rule.

This proposed rule is not expected to be an Executive Order 13771 regulatory action because it 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 as not a major rule as defined by 5 U.S.C. 804(2).

I. Proposed Rule Published Concurrently With Companion Direct Final Rule

The Department of Homeland Security (DHS) and Department of Labor (DOL) (collectively, the Departments) are simultaneously publishing with this proposed rule an identical ''direct final'' rule elsewhere in this issue of the **Federal Register**, with an identical change to the regulatory text. In direct final rulemaking, an agency publishes a final rule with a statement that the rule will go into effect unless the agency receives significant adverse comments within a specified period. If the agency receives no significant adverse comments in response to the direct final rule (DFR), the DFR goes into effect. If the agency receives significant adverse comments, the agency withdraws the direct final rule and treats such comments as submissions in response to the proposed rule. The proposed rule provides the procedural framework to finalize the proposed regulatory changes through a final rule. Agencies typically use direct final rulemaking when they anticipate a rule will be non-controversial.

The Departments have determined that this rule is suitable for direct final rulemaking. The proposed revision to DOL's internal adjudicatory processes would implement the mechanism by which the Secretary of Labor can review H–2B cases pending before or decided by the Board of Alien Labor Certification Appeals (BALCA) and decisions of the Administrative Review Board (ARB)—a power the Secretary already possesses with respect to other cases pending before or decided by BALCA under DOL's recent final rule,

Rules Concerning Discretionary Review by the Secretary, 85 FR 30608 (May 20, 2020), and, with respect to ARB decisions in H–2B cases, reflects a power he already possesses pursuant to the Secretary of Labor's Order 01–2020, *Delegation of Authority and Assignment of Responsibility to the Administrative Review Board,* 85 FR 13186 (Mar. 6, 2020). This proposed rule is a rule of agency management and personnel and is entirely a procedural change to how officers within DOL exercise delegated authority on behalf of the Secretary of Labor; therefore, the Departments are not required to engage in a notice and comment process to issue this rule. *See* 5 U.S.C. 553(a)(2), (b)(A). Further, discretionary review by an agency head over adjudicatory decisions exists in many other executive branch agencies, including the Department of Justice, the Department of the Interior, and the Department of Education. The proposed rule is thus consistent with well-known and well-established models of internal agency review both at DOL and at other agencies.

The comment period for this proposed rule runs concurrently with the comment period for the direct final rule. Any comments received in response to this proposed rule will also be considered comments regarding the direct final rule and vice versa. For purposes of this rulemaking, a significant adverse comment is one that addresses (1) why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the rule will be ineffective or unacceptable without a change. In determining whether a significant adverse comment counsels in favor of withdrawal of the direct final rule, the Departments will consider whether the comment raises an issue serious enough to warrant a substantive response. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how the direct final rule would be ineffective or unacceptable without the addition.

The Departments request comments on all issues related to this rule, including economic or other regulatory impacts of this rule on the public.

II. Background and Joint Issuance for This Rulemaking

BALCA has authority over appeals from the decisions of the Employment and Training Administration's adjudication of foreign labor certification applications. It was created by regulation to exercise delegated authority on behalf of the Secretary of Labor. Its existence is neither compelled nor governed by statute, and it is entrusted with the power to issue final agency decisions in the name of the Secretary of Labor. Earlier this year, DOL issued regulations establishing a mechanism by which the Secretary of Labor can exercise review of decisions issued by BALCA on his behalf in the H–2A, CW–1, and PERM programs. This rule will apply the same mechanism for review over decisions issued by BALCA in the H–2B program.

To ensure that the Secretary of Labor has the ability to properly supervise and direct the actions of the Department he supervises, earlier this year the Secretary also established a system of discretionary secretarial review over the decisions of the ARB. *See* Secretary of Labor's Order No. 01–2020. DOL's authority to effect this reform, as well as the related rulemaking undertaken earlier this year to establish discretionary review over decisions of and appeals before BALCA, derives from 5 U.S.C. 301, which authorizes the heads of agencies to regulate the internal operations of their departments; 5 U.S.C. 305, which provides for continuing review of agency operations; and the Secretary of Labor's authority to administer the statutes and programs at issue in ARB and BALCA proceedings, including the H–2B temporary-labor-certification and enforcement programs provided for in DHS and DOL's 2015 joint rules. In combination, these authorities establish many of the powers of DOL within the Office of the Secretary, and give the Secretary of Labor wide latitude to delegate those powers to his subordinates on the terms he deems appropriate. Thus, the Secretary of Labor has the power to delegate his authority to appropriately supervise the adjudicatory process within DOL, and has similarly exercised that same authority to assert his decision-making prerogatives by modifying the terms on which the members of the ARB and BALCA exercise his delegated authority. The Departments propose to do so through this rulemaking with respect to H–2B cases pending before or decided by BALCA.

This proposal, like those actions undertaken earlier this year, preserves the existing structures by which DOL processes adjudications while giving the Secretary of Labor the option, in his sole discretion, to initiate review directly. As with DOL's existing mechanisms of secretarial review, under this reform the Secretary will rely on BALCA to assist him in identifying cases where secretarial review may be warranted. Also consistent with current practices at DOL and other agencies, the Departments do not anticipate that the power of secretarial review over H–2B cases will be used often. The Departments similarly anticipate that secretarial review—while completely within the Secretary of Labor's discretion as the principal officer accountable for DOL's activities—will typically be reserved for matters of significant importance. Finally, DOL will ensure that the secretarial review process will continue to be accomplished in a manner that complies with any applicable legal requirements.

The Departments appreciate the expeditious nature of BALCA proceedings involving temporary labor certifications and, as with the existing system of review, do not anticipate that secretarial review over H–2B cases will significantly disrupt or otherwise impede the way such cases are currently processed. As noted above, the Departments expect that secretarial review over BALCA's H–2B decisions will likely not be exercised often. Further, BALCA decisions will remain the Secretary of Labor's final administrative decision unless the Secretary himself assumes jurisdiction over the case. For example, once BALCA issues a decision that grants a labor certification or remands for further processing, the private party in the case will be able to proceed immediately to the next step of the application process. The private party will be delayed in doing so only if the Secretary of Labor later decides to undertake review. Moreover, as it does now, 29 CFR 18.95 will continue to limit any potential uncertainty that may exist because of the possibility of secretarial review by placing strict time limits on when the Secretary of Labor will have the option of assuming jurisdiction over a case.

As noted in the DOL's prior rulemaking establishing secretarial review over other BALCA cases, 85 FR 30608, the Departments have determined that it is appropriate to issue jointly this rule regarding the Secretary of Labor's review authority over H–2B cases under 29 CFR 18.95. This determination follows conflicting court decisions concerning DOL's authority to issue legislative rules on its own to carry out its duties in the H–2B program. Although the Departments each have authority to issue rules implementing their respective duties in the H–2B program, including rules providing for secretarial review, the Departments are proposing to make the amendments to the applicable regulations jointly to ensure that there can be no question about the authority underlying such amendments. This approach is consistent with the joint

rulemaking governing the Temporary Non-Agricultural Employment of H–2B Aliens in the United States, 80 FR 24042 (Apr. 29, 2015) (codified at 8 CFR part 214, 20 CFR part 655, and 29 CFR part 503).

III. Discussion of Changes

This rule proposes revisions to 29 CFR part 18 by modifying the conditions under which an H–2B decision of BALCA becomes the final decision of DOL and by extending to H–2B cases the process by which the Secretary of Labor may exercise discretionary review over cases pending before or decided by the BALCA. Technical amendments are also made to 20 CFR part 655, subpart A to harmonize the manner in which BALCA issues decisions on behalf of the Secretary with the system of discretionary review established in 29 CFR part 18. Additionally, this rule proposes to modify or remove the reference to ''final'' decisions of the ARB in 20 CFR 655.73(g)(6) and 29 CFR 503.55 to reflect that the finality of ARB decisions is governed by Secretary of Labor's Order 01–2020.

IV. Administrative Requirements of the Proposed Rulemaking

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

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

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866. The Departments, in coordination with the Office of Management and Budget (OMB), determined that this proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 because the rule will not have an annual effect on the economy of $100 million or more; will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; and will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Furthermore, the rule does not raise a novel legal or policy issue arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

Accordingly, OMB has waived review.

Regulatory Flexibility Act of 1980

Because no notice of proposed rulemaking is required for this rule under section 553 of the Administrative Procedure Act, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act, 5 U.S.C. 603, 604, do not apply to this rule. *See* 5 U.S.C. 603(a), 604(a).

Paperwork Reduction Act

The Departments have determined that this proposed rule is not subject to the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* as this rulemaking does not involve any collections of information. *See* 5 CFR 1320.3(c).

Unfunded Mandates Reform Act of 1995 and Executive Order 13132, Federalism

The Departments have reviewed this proposed rule in accordance with the requirements of Executive Order 13132 and the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.,* and have found no potential or substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. As there is no Federal mandate contained herein that could result in increased expenditures by state, local, and tribal governments, or by the private sector, the Departments have not prepared a budgetary impact statement.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

The Departments have reviewed this proposed rule in accordance with Executive Order 13175 and has determined that it does not have ''tribal implications.'' The proposed rule does not ''have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

Signature

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, has delegated the authority to electronically sign this document to Chad R. Mizelle, who is the Senior Official Performing the Duties of the General Counsel for DHS, for purposes of publication in the **Federal Register**.

V. Notice and Comment

A. APA Requirements for Notice and Comment

This proposed rule addresses matters of internal agency management and personnel, as well as matters of agency organization, practice and procedure, and consequently are exempt from the notice and public comments requirements of the Administrative Procedure Act. *See* 5 U.S.C. 553(a)(2), (b)(A). Nevertheless, the Departments wish to provide the public an opportunity to submit comments.

B. Publication of Comments

Please be advised that the Departments will generally post all comments without making any change to the comments, including any personal information provided. The *www.regulations.gov* website is the Federal e-rulemaking portal, and all comments received will be available and accessible to the public on this website. Therefore, the Departments recommend that commenters safeguard their personal information by not including social security numbers, personal addresses, telephone numbers, or email addresses in comments. It is the responsibility of the commenter to safeguard his or her information.

C. Access to Docket

In addition to all comments received by the Departments being accessible on *www.regulations.gov,* the Departments will make all the comments available for public inspection during normal business hours at the office listed in the **ADDRESSES** section above. If you need assistance to review the comments, the Departments will provide you with appropriate aids such as readers or print magnifiers. The Departments will make copies of the proposed rule available, upon request, in large print or electronic file on portable digital media. The Departments will consider providing the proposed rule in other formats upon request. To schedule an appointment to review the comments or obtain the proposed rule in an alternate format, contact Todd Smyth, General Counsel, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street NW, Washington, DC 20001–8002; telephone (513) 684–3252.

Individuals with hearing or speech impairments may access the telephone number above by TTY by calling the

toll-free Federal Information Relay Service at (800) 877–8339.

List of Subjects

20 CFR Part 655

Administrative practice and procedure, Labor certification processes for temporary employment.

29 CFR Part 18

Administrative practice and procedure, Labor.

29 CFR Part 503

Administrative practice and procedure, Obligations, Enforcement, Immigration and Nationality Act, Temporary alien non-agricultural workers.

For the reasons discussed in the joint preamble, part 655 of title 20 of the Code of Federal Regulations and parts 18 and 503 of title 29 of the Code of Federal Regulations are proposed to be amended as follows:

DEPARTMENT OF LABOR

Title 20: Employees' Benefits

Employment and Training Administration

PART 655—TEMPORARY EMPLOYMENT OF FOREIGN WORKERS IN THE UNITED STATES

■ 1. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i) and (ii), 8 U.S.C. 1103(a)(6), 1182(m), (n), (p), and (t), 1184(c), (g), and (j), 1188, and 1288(c) and (d); sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; sec. 412(e), Pub. L. 105–277, 112 Stat. 2681 (8 U.S.C. 1182 note); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); 29 U.S.C. 49k; Pub. L. 107–296, 116 Stat. 2135, as amended; Pub. L. 109–423, 120 Stat. 2900; 8 CFR 214.2(h)(4)(i); 8 CFR 214.2(h)(6)(iii); and sec. 6, Pub. L. 115–218, 132 Stat. 1547 (48 U.S.C. 1806).

Subpart A issued under 8 CFR 214.2(h).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188; and 8 CFR 214.2(h).

Subpart E issued under 48 U.S.C. 1806.

Subparts F and G issued under 8 U.S.C. 1288(c) and (d); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b) and (b)(1), 1182(n), (p), and (t), and 1184(g) and (j); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 412(e), Pub. L. 105–277, 112 Stat. 2681; 8 CFR 214.2(h); and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts L and M issued under 8 U.S.C. 1101(a)(15)(H)(i)(c) and 1182(m); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); Pub. L. 109–423, 120 Stat. 2900; and 8 CFR 214.2(h).

■ 2. In § 655.61, revise paragraph (e) to read as follows:

§ 655.61 Administrative review.

* * * * *

(e) *Review.* The BALCA must review the CO's determination only on the basis of the Appeal File, the request for review, and any legal briefs submitted and must, except in cases over which the Secretary has assumed jurisdiction pursuant to 29 CFR 18.95:

(1) Affirm the CO's determination; or

(2) Reverse or modify the CO's determination; or

(3) Remand to the CO for further action.

* * * * *

■ 3. In § 655.72, revise paragraph (b)(3) to read as follows:

§ 655.72 Revocation.

* * * * *

(b) * * *

(3) *Appeal.* An employer may appeal a Notice of Revocation, or a final determination of the Administrator, OFLC after the review of rebuttal evidence, according to the appeal procedures of § 655.61.

* * * * *

■ 4. In § 655.73, revise paragraph (g)(6) to read as follows:

§ 655.73 Debarment.

* * * * *

(g) * * *

(6) *ARB decision.* The ARB's decision must be issued within 90 calendar days from the notice granting the petition and served upon all parties and the ALJ.

* * * * *

Title 29: Labor

Office of the Secretary of Labor

PART 18—RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES

■ 5. The authority citation for part 18 continues to read as follows:

Authority: 5 U.S.C. 301; 5 U.S.C. 551–553; 5 U.S.C. 571 note; E.O. 12778; 57 FR 7292.

■ 6. In § 18.95, revise paragraph (b)(1) to read as follows:

§ 18.95 Review of decision and review by the Secretary.

* * * * *

(b) * * *

(1) In any case for which administrative review is sought or handled in accordance with 20 CFR 655.61, 655.171(a), or 655.461, at any point from when the BALCA receives a request for review until the passage of 10 business days after the date on which BALCA has issued its decision.

* * * * *

Title 29: Labor

Wage and Hour Division

PART 503—ENFORCEMENT OF OBLIGATIONS FOR TEMPORARY NONIMMIGRANT NON-AGRICULTURAL WORKERS DESCRIBED IN THE IMMIGRATION AND NATIONALITY ACT

■ 7. The authority citation for part 503 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(H)(ii)(b); 8 U.S.C. 1184; 8 CFR 214.2(h); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701.

■ 8. Revise § 503.55 to read as follows:

§ 503.55 Decision of the Administrative Review Board.

The ARB's decision will be issued within 90 days from the notice granting the petition and served upon all parties and the ALJ.

Eugene Scalia,

Secretary of Labor.

Chad R. Mizelle,

Senior Official Performing the Duties of the General Counsel, U.S. Department of Homeland Security.

[FR Doc. 2020–28952 Filed 12–30–20; 4:15 pm]

BILLING CODE 4510–HL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2020–0691]

RIN 1625–AA00

Safety Zone; Super Bowl LV; Hillsborough Bay and River, Tampa, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone on certain waters of Garrison Channel, Seddon Channel Turning Basin, and the Hillsborough River, in the vicinity of downtown Tampa, Florida during the Super Bowl LV celebrations from January 29, 2021, through February 7, 2021. The safety zone is necessary to protect the public and Super Bowl event

personnel from the hazards associated with potential vessel traffic within the area of the safety zone. All persons and vessels would be required to transit through the safety zone at a steady speed and may not slow down, stop or anchor except in the case of unforeseen mechanical failure or other emergency unless given prior authorization from the Captain of the Port. Any person or vessel forced to slow or stop in the established zone must immediately notify the Captain of the Port Tampa via VHF channel 16. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before February 3, 2021.

ADDRESSES: You may submit comments identified by docket number USCG–2020–0691 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Marine Science Technician First Class Michael D. Shackleford, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228–2191, email *Michael.D.Shackleford@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On September 22, 2020, the Maritime Subcommittee for Super Bowl LV notified the Coast Guard that during the Super bowl LV event celebrations there will be several planned Super Bowl-related events throughout the waterfront areas of Tampa, FL. These events will occur at various times from January 29, 2021 through February 7, 2021. These events could lead to large gatherings of persons and vessels in waterways around the Tampa area. The Captain of the Port St. Petersburg (COTP) has determined that the potential hazards associated with persons and vessel congestion within the proposed safety zone during these events is a safety concern.

The purpose of this rulemaking is to ensure the safety of vessels and persons and the navigable waters within the safety zone before, during, and after the scheduled events. The Coast Guard is proposing this rulemaking under the authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP Saint Petersburg is proposing a safety zone from January 29, 2021, through February 7, 2021. The safety zone would cover certain navigable waters of Garrison Channel, Seddon Channel Turning Basin, and the Hillsborough River, in the vicinity of downtown Tampa, Florida. The duration of the zone is intended to ensure the safety of persons, vessels, and navigable waters before, during, and after the scheduled events. All persons and vessels would be required to transit through the safety zone at a steady speed and may not slow down, stop or anchor except in the case of unforeseen mechanical failure or other emergency unless given prior authorization from the COTP. Any person or vessel forced to slow or stop in the established zone must immediately notify the Captain of the Port Tampa via VHF channel 16.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, scope and duration of the safety zone. The rule will impact only a small designated area of Garrison Channel, Seddon Channel Turning Basin, and the Hillsborough River in the vicinity of downtown Tampa, Florida, and vessel traffic will be able to safely operate in the area with minimal restrictions, hence the safety zone is limited in size and location. Vessels will be able to transit through the safety zone at a steady speed, making it limited in scope. The safety zone will be in effect for ten days, making it limited in duration. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM Channel 16 about the safety zone.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the

relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting 10 days that would restrict certain aspects of navigation on certain waters in the vicinity of Tampa, Florida within the safety zone. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T07–0691 to read as follows:

§ 165.T07–0691 Safety Zone; Super Bowl LV, Hillsborough Bay and River, Tampa, FL.

(a) *Location.* The following regulated area is a safety zone: All waters of Hillsborough River south of the N. Boulevard Bridge, Seddon Channel Turning Basin, and Garrison Channel in the vicinity of downtown, Tampa, Florida.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port St. Petersburg in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are required to transit through the safety zone at a steady speed and may not slow down, stop or anchor except in the case of unforeseen mechanical failure or other emergency unless given prior authorization from the Captain of the Port. Any person or vessel forced to slow or stop in the established zone must immediately notify the Captain of the Port Tampa via VHF channel 16.

(2) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement period.* This rule will be enforced daily from January 29, 2021, through February 7, 2021.

Dated: November 19, 2020.

Matthew A. Thompson,

Captain, U.S. Coast Guard, Captain of the Port St. Petersburg.

[FR Doc. 2020–26070 Filed 12–31–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

37 CFR Parts 401 and 404

[Docket No.: 201207–0327]

RIN 0693–AB66

Rights to Federally Funded Inventions and Licensing of Government Owned Inventions

AGENCY: National Institute of Standards and Technology (NIST), United States Department of Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Institute of Standards and Technology (NIST) requests comments on proposed revisions to regulations that would further the Return on Investment (ROI) Initiative for Unleashing American Innovation. The proposed revisions to ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements'' and ''Licensing of Government-Owned Inventions'' make technical corrections; reorganize certain subsections; remove outdated and/or unnecessary sections; institute a reporting requirement on Federal agencies; and provide clarifications on definitions, communications, scope of march-in rights, filing of provisional patent applications, electronic filing, the purpose of royalties on government licenses, and the processes for granting exclusive, co-exclusive and partially exclusive licenses and for appeals. NIST intends to hold a webinar regarding the proposed changes and information on that webinar will be available to the public at *https://www.nist.gov/tpo/bayh-dole.*

DATES:

For Comments: Comments must be received no later than April 5, 2021.

For Public Webinar: Details about accessing the public webinar will be made available via the Technology Partnerships Office website at *http://www.nist.gov/tpo/bayh-dole.*

ADDRESSES: Submit your comments, identified by docket identification (ID) number: 201207–0327, through the *Federal e-Rulemaking Portal: http://www.regulations.gov* (search using the docket number). Follow the online instructions for submitting comments. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number). See **SUPPLEMENTARY INFORMATION** for file formats and other information about electronic filing. All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. NIST reserves the right to publish relevant comments publicly, unedited and in their entirety. Personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Do not submit confidential business information, or otherwise proprietary, sensitive or protected information. Comments that contain profanity, vulgarity, threats, or other inappropriate language or content will not be posted or considered.

For Public Webinar: Details about accessing the public webinar will be made available via the Technology Partnerships Office website at *http://www.nist.gov/tpo/bayh-dole.*

FOR FURTHER INFORMATION CONTACT: Courtney Silverthorn, via email: *courtney.silverthorn@nist.gov* or by telephone at 301–975–4189.

SUPPLEMENTARY INFORMATION:

I. General Information

Does this action apply to me?

This action may be of interest to you if you are an educational institution, company, or nonprofit organization, especially one that has received or would like to receive Federal funding for scientific research and development.

II. Statutory Framework

These proposed rule revisions are promulgated under the University and Small Business Patent Procedures Act of 1980, Public Law 96–517 (as amended), codified at title 35 of the United States Code (U.S.C.) 200 *et seq.,* commonly known as the ''Bayh-Dole Act'' or ''Bayh-Dole,'' which governs rights in inventions made with Federal assistance. The Bayh-Dole Act obligates nonprofit organizations and small business firms (''contractors''), and large businesses, as directed by Executive Order 12591, to disclose each ''subject invention'' (that is, each invention conceived or first actually reduced to practice in the performance of work under a funding agreement, 35 U.S.C. 201(e)) within a reasonable time after the invention becomes known to the contractor, 35 U.S.C. 202(c)(1), and permits contractors to elect, within a reasonable time after disclosure, to retain title to a subject invention, 35 U.S.C. 202(a). Under certain defined ''exceptional'' circumstances, Bayh-Dole permits the Government to restrict or eliminate the contractor's right to elect to retain title, 35 U.S.C. 202(a), 202(b), and under such circumstances, rights vest in the Government.

The Secretary of Commerce has delegated to the Director of NIST the authority to promulgate implementing regulations. Regulations implementing 35 U.S.C. 200 through 204 are codified at 37 CFR part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts, and Co-operative Agreements,'' and apply to all Federal agencies, 37 CFR 401.1(b). These regulations govern all subject inventions under Bayh-Dole, 37 CFR 401.2(d), even if the Federal Government is not the sole source of funding for either the conception or the reduction to practice, 37 CFR 401.1(a). Regulations implementing 35 U.S.C. 208, specifying the terms and conditions upon which federally owned inventions, other than inventions owned by the Tennessee Valley Authority, may be licensed on a nonexclusive, partially exclusive, or exclusive basis, are codified at 37 CFR part 404, ''Licensing of Government Owned Inventions.''

Bayh-Dole and its implementing regulations require Federal funding agencies to employ certain ''standard clauses'' in funding agreements awarded to contractors, except under certain specified conditions; 37 CFR 401.3. Through these standard clauses, set forth at 37 CFR 401.14(a), contractors are obligated to take certain actions to properly manage subject inventions. These actions include disclosing each subject invention to the Federal agency within two months after the contractor's inventor discloses it in writing to contractor personnel responsible for patent matters, 37 CFR 401.14(c)(1); electing in writing whether or not to retain title to any subject invention by notifying the Federal agency within two years of disclosure, 37 CFR 401.14(c)(2); filing an initial patent application on a subject invention as to which the contractor elects to retain title within one year after election, 37 CFR 401.14(c)(3); executing and promptly delivering to the Federal agency all instruments necessary to establish or confirm the rights the Government has throughout the world in those subject inventions to which the contractor elects to retain title, 37 CFR 401.14(f)(1); requiring, by written agreement, the contractor's employees to disclose promptly in writing each subject invention made under contract, 37 CFR 401.14(f)(2); notifying the Federal agency of any decision not to continue the prosecution of a patent application, 37 CFR 401.14(f)(3); and including in the specification of any U.S. patent

applications and any patent issuing thereon covering a subject invention, a statement that the invention was made with Government support under the grant or contract awarded by the Federal agency, and that the Government has certain rights in the invention, 37 CFR 401.14(f)(4).

In addition, a contractor is obligated to include the requirements of the standard clauses in any subcontracts under the contractor's award, 37 CFR 401.14(g); to submit periodic reports as requested on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the contractor or its licensees or assignees, 37 CFR 401.14(h); and to agree that neither the contractor nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States, 37 CFR 401.14(i), subject to waiver.

Bayh-Dole and its implementing regulations also specify certain conditions applicable to licenses granted by Federal agencies in any federally owned invention. The implementing regulations include 37 CFR 404.5, which sets forth restrictions and conditions applicable to all Federal agency licenses, 37 CFR 404.6, which addresses requirements pertaining to nonexclusive licenses, and 37 CFR 404.7, which addresses requirements pertaining to exclusive and partially exclusive licenses.

Pursuant to authority delegated to it by the Secretary of Commerce, NIST is providing notice to the public of a proposed rulemaking to revise Parts 401 and 404 of Title 37 of the Code of Federal Regulations which address rights to inventions made under Government grants, contracts, and cooperative agreements, and licensing of government owned inventions. NIST is seeking public comments on the proposed amendments. Brief explanations of the proposed changes are included below; the full text of 37 CFR part 401 is available at *https://www.gpo.gov/fdsys/pkg/CFR-2010-title37-vol1/pdf/CFR-2010-title37-vol1-part401.pdf* and the full text of 37 CFR part 404 is available at *https://www.gpo.gov/fdsys/granule/CFR-2004-title37-vol1/CFR-2004-title37-vol1-part404.*

III. Return on Investment Initiative

In 2018, NIST undertook a large-scale stakeholder engagement effort to inform the development of the Lab-to-Market Cross Agency Priority (CAP) goal, part of the 2018 President's Management Agenda. The Lab-to-Market CAP goal's stated purpose is to ''. . .improve the transition of federally funded innovations from the laboratory to the marketplace by reducing the administrative and regulatory burdens for technology transfer and increasing private sector investment in later-stage research and development (R&D); develop and implement more effective partnering models and technology transfer mechanisms for Federal agencies; and enhance the effectiveness of technology transfer by improving the methods for evaluating the ROI and economic and national security impacts of federally funded R&D, and using that information to focus efforts on approaches proven to work.''

Beginning in April 2018, NIST utilized a number of avenues to seek input from the public on ways to improve federal technology transfer and the commercialization of federally funded inventions. These included a Request for Information that NIST published in the **Federal Register**,[1] four public meetings,[2] a summit hosted by NIST, extensive consultations with interagency working groups responsible for technology transfer issues, and multiple stakeholder engagement sessions. These public inputs, as well as an extensive literature review of government and academic publications on federal technology transfer, ultimately informed NIST Special Publication 1234: Return on Investment Initiative To Advance the President's Management Agenda, Final Green Paper.

The Green Paper described 15 findings from NIST's stakeholder engagement process that may have the potential to ''unleash American innovation'' and advance the goals of Lab-to-Market through regulatory or legislative changes, updates to policy and guidance, and the development of new tools and services. In addition to the overall Lab-to-Market strategy to ''Identify regulatory impediments and administrative improvements in Federal technology transfer policies and practices'' (which supports the Administration's stated goal to streamline and reduce regulatory burdens), seven of the Green Paper's 15 findings noted potential changes to the Bayh-Dole implementing regulations that could improve compliance, enhance a contractor's ability to commercialize subject inventions, and increase the return on investment of Federal funding through new goods and services to the public. Four of those seven findings are considered in this notice of proposed rulemaking (NPRM or proposed rule).

As part of the overall streamlining effort in this proposed rule, some outdated or redundant text has been proposed for removal. This includes §§ 401.1(a), 401.1(c), 401.1(d), 401.1(f), 401.3(g), 401.8, 401.11(a), 401.11(b)(5), 401.13(b) and 404.4. Other text has been moved or substantially reincorporated into new sections in the proposed rule as follows: § 401.5(f) moved to § 401.14(c)(1) and (3); §§ 401.7 and 401.14(m) incorporated into §§ 401.14(k)(4) through (6); § 401.13(a) moved to § 401.14(c)(6); § 401.15 incorporated into § 401.9; § 401.16 moved to § 401.14(m); § 404.2 incorporated into § 404.1(b); and § 404.4 incorporated into § 404.5(g).

In addition to these changes and technical corrections throughout the regulation, the proposed revisions to 37 CFR part 401 will:

(1) Clarify in § 401.1 the scope of the regulation and applicability to large businesses unless otherwise directed by statute, and remove the outdated requirement for multiple copies of agency regulations to be submitted to the Secretary prior to OMB review.

(2) Update the definitions of *electronically filed* and *electronic system* in § 401.2(k) and (l) to remove outdated references to ''optical electronic system''.

(3) Update the definitions of *patent application* and *initial patent application* in § 401.2(m) and (n) to encompass U.S. provisional and non-provisional applications, applications filed in a foreign country or international patent office directly, PCT applications, and applications for Plant Variety Protection certificates.

(4) Update § 401.5(a) to reflect that modifications to paragraph § 401.14(g) are no longer needed due to the applicability of 37 CFR part 401 to all businesses regardless of size pursuant to E.O. 12591.

(5) Revise § 401.5(b) for clarity by removing the ambiguity of ''instructions'' to the agency versus ''instructions'' to the contractor.

(6) Revise the existing text at § 401.6(b) [new § 401.6(a)(1)] to clarify the informal agency consultation process with the contractor prior to the exercise of march-in rights, and increase the allowable time frame an agency has

[1] ''Request for Information Regarding Federal Technology Transfer Authorities and Process'' published in the **Federal Register** on May 1, 2018 (83 FR 19052).

[2] San Jose, California, May 17, 2018; Denver, Colorado, May 21, 2018; Oak Lawn, Illinois, May 29, 2018; NIST Campus Gaithersburg, Maryland, June 14, 2018.

to respond to the contractor following the informal consultation from 60 days to 120 days.

(7) Clarify § 401.6 to include a provision that march-in rights shall not be exercised by an agency exclusively on the basis of business decisions of a contractor regarding the pricing of commercial goods and services arising from the practical application of the invention.

(8) Revise § 401.9 to clarify the statutory authority and process for assigning rights to an employee/inventor, and to clarify said employee/inventor's responsibilities under 37 CFR part 401 when receiving an assignment of rights to a subject invention made under a funding agreement, and incorporate streamlined text from § 401.15 to clarify the process by which a contractor may make a request for greater rights in an invention when the funding agreement contains an alternate provision in accordance with § 401.3(a)(2), and remove the requirement for an agency to reimburse the contractor for the costs of filing a patent application while a greater rights request is under review.

(9) Revise § 401.13 to streamline the text and clarify the confidentiality of contractor submissions made under § 401.14(c) as it relates to Freedom of Information Act requests, copies of documents filed with a patent office, and agency policies on public dissemination of results supported by agency funding programs.

(10) Revise § 401.14(c)(3) to clarify the procedures for filing more than one provisional patent application on a disclosed subject invention.

(11) Revise § 401.14(d) to add a new paragraph permitting agencies, at their discretion, to release the contractor from the requirement to waive title to the agency after one of the conditions in § 401.14(d) has occurred.

(12) Revise § 401.14(k) to streamline the requirements for small business considerations into a single section by incorporating language from §§ 401.7 and 401.14(m).

(13) Move the electronic filing requirements from § 401.16 into the standard clause at § 401.14; update the requirements to include that if the patent information and periodic reports in § 401.14(c)(3) and/or the close-out report § 401.14(c)(1) are required by an agency, they will be electronically filed unless otherwise directed by the agency; and permit other written notices to be electronically transmitted between the contractor and the agency.

(14) Implement a requirement [new § 401.16] for federal agencies to report annually on activities under 37 CFR part 401, including the number of subject inventions reported, the number of patent applications filed on reported subject inventions, the number of issued patents on subject inventions, the number of requests made and granted for extensions of time under § 401.14(c)(5), the number of subject inventions to which title has been conveyed to the Government, the number of requests made and granted for a waiver of the preference for U.S. industry requirement, and the number of requests for assignment of invention rights.

(15) Remove the telephone number for the Interagency Edison service center so that contact information can be updated in a timelier fashion via the iEdison website.

This proposed rulemaking does not address government assignment to contractor of rights in invention of government employee (§ 401.10) or licensing of background rights to third parties (§ 401.12).

In addition to the aforementioned streamlining changes and technical corrections throughout the regulation, the proposed revisions to 37 CFR part 404 will:

(1) Revise § 404.1 to clarify that licensing royalties are not considered an augmentation of appropriated funds.

(2) Revise § 404.2 to clarify the link between establishing patent license financial terms and the goal of promoting commercial use, by noting that the government may consider licensing payments as a means to ensure commercialization by the licensee and thus promote the practical application of a subject invention.

(3) Streamline § 404.7 by removing duplicative sections and revising the paragraph to align the process for granting exclusive, co-exclusive and partially exclusive licenses with the requirements of 35 U.S.C. 209 as it pertains to the required information and publication site for a notice of intent to grant an exclusive license, the requirement to consider the interests of the Federal Government or United States industry in foreign commerce before granting an exclusive license on a foreign patent application or patent, and the additional provisions that apply to exclusive licenses beyond the requirements of § 404.5.

(4) Revise § 404.10 to remove the requirement that a Federal agency notify sublicensees of an intent to modify or terminate a license.

(5) Revise § 404.11 to clarify who has standing to appeal the grant, denial, modification, or termination of a license by limiting a claim of damage by the agency's granting of an exclusive license to that which denies a party the opportunity to promote the commercialization of an invention, and by requiring all agencies to establish procedures for considering appeals.

This proposed rulemaking does not address definitions (§ 404.3), nonexclusive licenses (§ 404.6), application for a license (§ 404.8), protection and administration of inventions (§ 404.12), or transfer of custody (§ 404.13).

IV. Request for Comments

NIST is requesting comments about 37 CFR parts 401 and 404 of the Bayh-Dole regulations. We have included some questions that you might consider as you develop your comments:

1. Are there any changes to these regulations, consistent with current law, that you or your organization think would accelerate the transfer of federally funded research and technology to entrepreneurs, or otherwise strengthen the Nation's innovation system?

2. Are there specific revisions to the language in § 401.14(b) that could help clarify the existing scope of the Government Use License for owners and licensees working to achieve practical application of subject inventions?

3. Are there provisions within 37 CFR part 401 or 404 that are inconsistent with, or otherwise affected by, changes in the patent laws under the Leahy-Smith America Invents Act, Public Law 112–29, or that Act's implementing regulations?

When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Please organize your comments by referencing the specific question you are responding to or the relevant section number in the proposed regulatory text.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. Provide specific examples to illustrate your concerns and suggest alternatives.

vi. Explain your views as clearly as possible.

vii. All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. NIST reserves the right to publish relevant comments publicly, unedited and in their entirety. Personal information, such as account numbers

or Social Security numbers, or names of other individuals, should not be included. Do not submit confidential business information, or otherwise proprietary, sensitive or protected information. Comments that contain profanity, vulgarity, threats, or other inappropriate language will not be considered.

viii. Make sure to submit your comments by the comment period deadline identified.

ix. The following formats are preferred for comment submissions: .doc or .docx, .pdf, and .txt.

V. References

1. National Institute of Standards and Technology (2019). *Unleashing American Innovation: Return on Investment Initiative to Advance the President's Management Agenda, Final Green Paper.* NIST Special Publication 1234, retrieved from: *https://www.nist.gov/unleashing-american-innovation/green-paper.*
2. Copan, W. and Kratsios, M. (2019). *Lab to Market: Cross Agency Priority Goal Quarterly Progress Update, December 2019.* Retrieved from: *https://www.performance.gov/CAP/action_plans/dec_2019_Lab_to_Market.pdf.*
3. *Additional Actions Needed to Improve Licensing of Patented Laboratory Inventions* (2018). GAO–18–327, Retrieved from: *https://www.gao.gov/assets/700/692961.pdf.*
4. National Institute of Standards and Technology (2019). *Federal Laboratory Technology Transfer, Fiscal Year 2016 Summary Report to the President and the Congress.* Retrieved from: *https://www.nist.gov/tpo/reports-and-publications.* See ''Federal Licenses'' table on page 8.
5. Federal Laboratory Consortium for Technology Transfer (2013). *Technology Transfer Desk Reference.* Retrieved from: *https://federallabs.org/media/publication-library/flc-technology-transfer-desk-reference.*

VI. Statutory and Executive Order Reviews

Executive Order 12866

This rulemaking is a significant regulatory action under Executive Order 12866. This rulemaking, however, is not an ''economically significant'' regulatory action under section 3(f)(1) of the Executive order, as it does not have an effect on the economy of $100 million or more in any one year, and it does not have a material adverse effect on the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Executive Order 13132

This proposed rule does not contain policies with federalism implications as defined in Executive Order 13132.

Executive Order 13771

This final rule is considered to be an E.O. 13771 deregulatory action. The proposed regulation is deregulatory in that it is removing duplicative text and streamlining and/or reducing regulatory burdens, all at no additional cost.

The proposed regulation: (1) Updates the definitions of *patent application* and *initial patent application* in § 401.2(m) and (n) to encompass U.S. provisional and non-provisional applications, applications filed in a foreign country or international patent office directly, PCT applications, and applications for Plant Variety Protection certificates, which reduces patent filing burdens for recipients of federal funding by providing additional options to fulfill the regulation's filing requirements. (2) Clarifies § 401.6 to include a provision that march-in rights shall not be exercised by an agency exclusively on the basis of business decisions of a contractor regarding the pricing of commercial goods and services arising from practical application of the invention, which limits the government's use of this provision and provides additional certainty to licensees. (3) Moves the electronic filing requirements from § 401.16 into the standard clause at § 401.14; update the requirements to include that if the patent information and periodic reports in § 401.14(c)(3) and/or the close-out report § 401.14(c)(1) are required by an agency, they will be electronically filed unless otherwise directed by the agency; and permit other written notices to be electronically transmitted between the contractor and the agency, which reduces the burden on recipients of federal funding to complete and submit paper forms.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires the preparation and availability for public comment of ''an initial regulatory flexibility analysis'' which will ''describe the impact of the proposed rule on small entities.'' (5 U.S.C. 603(a)). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this rulemaking, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

A description of this proposed rule, why it is being considered, and the objectives of this proposed rule are contained in the preamble and in the **SUMMARY** section of the preamble. The statutory basis for this proposed rule is provided by 35 U.S.C. 200–212. The Bayh-Dole Act and its implementing regulations apply to all small business firms and nonprofit organizations that have entered into a Federal funding agreement, as defined in 35 U.S.C. 201, and express a policy to ''encourage maximum participation of small business firms in federally supported research and development efforts; to promote collaboration between commercial concerns and nonprofit organizations, including universities; [and] to ensure that inventions made by nonprofit organizations and small business firms are used in a manner to promote free competition and enterprise without unduly encumbering future research and discovery.'' 35 U.S.C. 200. For small business firms and nonprofit organizations that deal with the Government in areas of technology development, the Bayh-Dole implementing regulations make it easier to participate in federally-supported programs by guaranteeing the protection of the intellectual property they create. This proposed rule, if implemented, would predominantly make technical changes and clarifications, remove outdated material, and streamline the regulation, and is not anticipated to have any quantifiable economic impact with respect to small entities. Several proposed changes would reduce administrative burdens and increase the ability of small entities to fulfill regulatory requirements through electronic submissions, while clarifying the confidentiality of said submissions so as to not affect the ability to seek patent protection on a subject invention. The proposed change to the definition of an ''initial patent application'' expands the applications by which a contractor can fulfil the filing requirement of the regulation, providing additional flexibility for small entities. Proposed revisions to 37 CFR 401.6 provide additional clarity on the scope of the Government's march-in rights, while the proposed revision to 37 CFR 401.14(d) provides an avenue for an agency to release a small entity from the requirement to convey title to the Government if they have taken corrective actions after failing to meet a

regulatory requirement—these revisions will all increase the ability for a small entity to more effectively attract outside funding for their inventions. Proposed revisions to 37 CFR 401.9 and § 401.15 will clarify the process by which small entities and sole proprietors may request title to their inventions when not otherwise automatically granted title by the funding agreement. While the requirements for small business considerations in licensing have been significantly streamlined, the proposed revision greatly increases the clarity of these requirements while not affecting any of the statutory requirements that a contractor must fulfill with regard to small entities. Finally, revisions to 37 CFR 404.7 will make it easier for small entities to seek exclusive, co-exclusive, or partially exclusive licenses.

The information provided above supports a determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. Because this rulemaking, if implemented, is not expected to have a significant economic impact on any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

Paperwork Reduction Act

This proposed rule contains no new collection of information subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

This proposed rule will not significantly affect the quality of the human environment. Therefore, an environmental assessment or Environmental Impact Statement is not required to be prepared under the National Environmental Policy Act of 1969.

List of Subjects in 37 CFR Parts 401 and 404

Inventions and patents, Laboratories, Research and development, Science and technology, Technology transfer.

For the reasons stated in the preamble, the National Institute of Standards and Technology proposes to amend 37 CFR parts 401 and 404 as follows:

PART 401—RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

■ 1. The authority citation for 37 CFR part 401 continues to read as follows:

Authority: 35 U.S.C. 206; DOO 30–2A.

■ 2. Revise § 401.1 to read as follows:

§ 401.1 Scope.

(a) This part implements 35 U.S.C. 200 through 204 and is applicable to any funding agreement with a nonprofit organization or small business firm as defined by 35 U.S.C. 201, except for an agreement made primarily for educational purposes under 35 U.S.C. 212. This part also applies to any funding agreement with business firms regardless of size in accordance with section 1, paragraph (b)(4) of Executive Order 12591, as amended by Executive Order 12618, unless directed otherwise pursuant to NASA or DOE vesting statutes.

(b) This regulation supersedes OMB Circular A–124 and shall take precedence over any regulations or other guidance dealing with ownership of inventions made by businesses and nonprofit organizations which are inconsistent with it. Only deviations requested by a contractor and not inconsistent with Chapter 18 of Title 35, United States Code, may be made without approval of the Secretary. Modifications or tailoring of clauses as authorized by § 401.5 or 401.3, when alternate provisions are used under § 401.3(a)(1) through (6), are not considered deviations requiring the Secretary's approval.

(c) This part is not intended to apply to arrangements under which nonprofit organizations, small business firms, or others are allowed to use government-owned research facilities and normal technical assistance provided to users of those facilities, whether on a reimbursable or nonreimbursable basis. This part is also not intended to apply to arrangements under which sponsors reimburse the government or facility contractor for the contractor employee's time in performing work for the sponsor. Such arrangements are not considered ''funding agreements'' as defined at 35 U.S.C. 201(b) and § 401.2(a).

■ 3. Amend § 401.2 by revising the introductory text and paragraphs (k) through (o) to read as follows:

§ 401.2 Definitions.

In addition to the definitions in 35 U.S.C. 201, as used in this part—

* * * * *

(k) The term *electronically filed* means any submission of information transmitted by an electronic system.

(l) The term *electronic system* means a software-based system approved by the agency for the transmission of information.

(m) The term *patent application* or ''application for patent'' may be the following:

(1) A United States provisional application as defined in 37 CFR 1.9(a)(2) and filed under 35 U.S.C. 111(b); or

(2) A United States nonprovisional application as defined in 37 CFR 1.9(a)(3) and filed under 35 U.S.C. 111(a); or

(3) A patent application filed in a foreign country or an international patent office; or

(4) A patent application filed under the Patent Cooperation Treaty as defined in 37 CFR 1.9(b) which designates the United States; or

(5) An application for a Plant Variety Protection certificate.

(n) The term *initial patent application* means, as to a given subject invention:

(1) The first United States provisional application as defined in 37 CFR 1.9(a)(2) and filed under 35 U.S.C. 111(b); or

(2) The first United States nonprovisional application as defined in 37 CFR 1.9(a)(3) and filed under 35 U.S.C. 111(a); or

(3) The first patent application filed in a foreign country or an international patent office; or

(4) The first patent application filed under the Patent Cooperation Treaty as defined in 37 CFR 1.9(b) which designates the United States; or

(5) The first application for a Plant Variety Protection certificate.

(o) The term *statutory period* means the one-year period before the effective filing date of a claimed invention in a patent application during which exceptions to prior art exist per 35 U.S.C. 102(b) as amended by the Leahy-Smith America Invents Act, Public Law 112–29.

§ 401.3 [Amended]

■ 4. Amend § 401.3 as follows:

■ a. Remove ''§ 401.5(g)'' and add in its place ''§ 401.5(f)'' in paragraph (c)(3);

■ b. Remove ''of Commerce'' from the fourth sentence of paragraph (f); and

■ c. Remove paragraph (g) and redesignate paragraphs (h) and (i) as paragraphs (g) and (h).

§ 401.4 [Amended]

■ 5. Amend § 401.4 as follows:
■ a. Remove ''35 U.S.C. 202(b)(4)'' and add in its place ''35 U.S.C. 202(b)(3)'' in the first sentence of paragraph (a); and
■ b. Remove ''United States Claims Court'' and add in its place ''United States Court of Federal Claims'' in the last sentence of paragraph (b)(6).
■ 6. Amend § 401.5 as follows:
■ a. Revise paragraphs (a) and (b);
■ b. Remove paragraph (f) and redesignate paragraphs (g) and (h) as paragraphs (f) and (g);
■ c. Revise the newly redesignated paragraph (g).

The revisions read as follows:

§ 401.5 Modification and tailoring of clauses.

(a) Agencies should complete the blank in paragraph (g)(2) of the clauses at § 401.14 in accordance with their own or applicable government-wide regulations such as the Federal Acquisition Regulation. If the funding agreement is a grant or cooperative agreement, paragraph (g)(3) of the clause may be deleted.

(b) Agencies should complete paragraph (l) of the clause in § 401.14, ''Communication'' by designating a central point of contact for communications on matters relating to the clause. Agencies may also include additional information on communications in paragraph (l) of the clause in § 401.14.

* * * * *

(g) If the contract is for the operation of a government-owned facility, agencies may add paragraph (f)(6) to the clause at § 401.14 with the following text:

The contractor shall establish and maintain active and effective procedures to ensure that subject inventions are promptly identified and timely disclosed and shall submit a description of the procedures to the *contracting officer* so that the *contracting officer* may evaluate and determine their effectiveness.

■ 7. Amend § 401.6 as follows:
■ a. Remove the period from the end of paragraph (a) introductory text and add in its place a colon;
■ b. Add paragraphs (a)(1) through (7);
■ c. Redesignate paragraph (b) as paragraph (a)(1) and revise the newly redesignated paragraph (a)(1);
■ d. Redesignate paragraphs (c) and (d) as paragraphs (a)(2) and (3);
■ e. Redesignate paragraph (e) as paragraph (a)(4) and revise the newly redesignated paragraph (a)(4);
■ f. Redesignate paragraphs (f) through (h) as paragraphs (a)(5) through (7) respectively;
■ g. Redesignate paragraph (i) as paragraph (b);
■ h. Redesignate paragraph (j) as paragraph (c) and revise the newly redesignated paragraph (c);
■ i. Redesignate paragraph (k) as paragraph (d);
■ j. Add a new paragraph (e);
■ k. Redesignate paragraph (l) as paragraph (f).

The revisions and additions read as follows:

§ 401.6 Exercise of march-in rights.

(a) * * *

(1) Whenever an agency receives information that it believes might warrant the exercise of march-in rights, before initiating any march-in proceeding, it shall notify the contractor in writing (including electronic means) of the information and request an informal consultation and information relevant to the matter with the contractor to understand the nature of the issue and consider possible actions other than exercising march-in rights. In the absence of response from the contractor to the agency request for informal consultation within 30 days, the agency may, at its discretion, proceed with the procedures below. If informal consultation occurs within 30 days, or later if the agency has not initiated the procedures below, then the agency shall, within 120 days after informal consultation, either notify the contractor of the initiation of the procedures below with a summary of the efforts taken, or notify the contractor, in writing, that it will not pursue march-in rights on the basis of the available information.

(2) A march-in proceeding shall be initiated by the issuance of a written notice by the agency to the contractor and its assignee or exclusive licensee, as applicable and if known to the agency, stating that the agency is considering the exercise of march-in rights. The notice shall state the reasons for the proposed march-in in terms sufficient to put the contractor on notice of the facts upon which the action would be based and shall specify the field or fields of use in which the agency is considering requiring licensing. The notice shall advise the contractor (assignee or exclusive licensee) of its rights, as set forth in this section and in any supplemental agency regulations. The determination to exercise march-in rights shall be made by the head of the agency or his or her designee.

(3) Within 30 days after the receipt of the written notice of march-in, the contractor (assignee or exclusive licensee) may submit in person, in writing, or through a representative, information or argument in opposition to the proposed march-in, including any additional specific information which raises a genuine dispute over the material facts upon which the march-in is based. If the information presented raises a genuine dispute over the material facts, the head of the agency or designee shall undertake or refer the matter to another official for fact-finding.

(4) Fact-finding shall be conducted in accordance with the procedures established by the agency. Such procedures shall be as informal as practicable and be consistent with principles of fundamental fairness. The procedures should afford the contractor the opportunity to appear with counsel, submit documentary evidence, present witnesses and confront such persons as the agency may present. A transcribed record shall be made and shall be available at cost to the contractor upon request. The requirement for a transcribed record may be waived by mutual agreement of the contractor and the agency. Any portion of the march-in proceeding, including a fact-finding hearing that involves testimony or evidence relating to the utilization or efforts at obtaining utilization that are being made by the contractor, its assignee, or licensees shall be closed to the public, including potential licensees. In accordance with 35 U.S.C. 202(c)(5), agencies shall not disclose any such information obtained during a march-in proceeding to persons outside the government except when such release is authorized by the contractor (assignee or licensee) or otherwise required by law.

(5) The official conducting the fact-finding shall prepare or adopt written findings of fact and transmit them to the head of the agency or designee promptly after the conclusion of the fact-finding proceeding along with a recommended determination. A copy of the findings of fact shall be sent to the contractor (assignee or exclusive licensee) by registered or certified mail. The contractor (assignee or exclusive licensee) and agency representatives will be given 30 days to submit written arguments to the head of the agency or designee; and, upon request by the contractor oral arguments will be held before the agency head or designee that will make the final determination.

(6) In cases in which fact-finding has been conducted, the head of the agency or designee shall base his or her determination on the facts found, together with any other information and written or oral arguments submitted by the contractor (assignee or exclusive licensee) and agency representatives,

and any other information in the administrative record. The consistency of the exercise of march-in rights with the policy and objectives of 35 U.S.C. 200 shall also be considered. In cases referred for fact-finding, the head of the agency or designee may reject only those facts that have been found to be clearly erroneous, but must explicitly state the rejection and indicate the basis for the contrary finding. Written notice of the determination whether march-in rights will be exercised shall be made by the head of the agency or designee and sent to the contractor (assignee of exclusive licensee) by certified or registered mail within 90 days after the completion of fact-finding or 90 days after oral arguments, whichever is later, or the proceedings will be deemed to have been terminated and thereafter no march-in based on the facts and reasons upon which the proceeding was initiated may be exercised.

(7) An agency may, at any time, terminate a march-in proceeding if it is satisfied that it does not wish to exercise march-in rights.

(b) The procedures of this part shall also apply to the exercise of march-in rights against inventors receiving title to subject inventions under 35 U.S.C. 202(d) and, for that purpose, the term ''contractor'' as used in this section shall be deemed to include the inventor.

(c) An agency determination unfavorable to the contractor (assignee or exclusive licensee) shall be held in abeyance pending the exhaustion of appeals or petitions filed under 35 U.S.C. 203(b).

(d) For purposes of this section the term exclusive licensee includes a partially exclusive licensee.

(e) March-in rights shall not be exercised exclusively based on the business decisions of the contractor regarding the pricing of commercial goods and services arising from the practical application of the invention.

(f) Agencies are authorized to issue supplemental procedures not inconsistent with this part for the conduct of march-in proceedings.

§ § 401.7 and 401.8 [Removed and Reserved]

■ 8. Remove and reserve §§ 401.7 and 401.8.

■ 9. Revise § 401.9 as follows:

§ 401.9 Contractor and contractor employee inventor requests for rights in inventions.

(a) Agencies shall allow a contractor to request greater rights in an invention, including a request to return title to an invention to the contractor, when the funding agreement contains alternate provisions in accordance with § 401.3(a)(2):

(1) The agency shall consider if the circumstances which originally led the agency to invoke an exception under § 401.3(a) are currently valid and applicable to the actual subject invention.

(i) The agency shall provide the contractor the opportunity to submit information on its plans and intentions to bring the subject invention to practical application pursuant to 35 U.S.C. 200.

(ii) The agency shall assess whether government ownership of the invention will better promote the policies and objectives of 35 U.S.C. 200 than the plans and intentions submitted by the contractor.

(iii) The agency shall consider whether to allow the standard clause at § 401.14 to apply with additional conditions imposed upon the contractor's use of the invention for specific uses or applications, or with expanded government license rights in such uses or applications.

(2) The agency shall reply to the contractor with its determination within 90 days after receiving a request and any supporting information from the contractor. If a bar to patenting is sooner than 90 days from receipt of a request, the agency may either file a patent application on the subject invention or authorize the contractor to file a patent application at its own risk and expense.

(3) The Department of Energy is authorized to process deferred determinations either in accordance with its waiver regulations or this section.

(b) Pursuant to 35 U.S.C. 202(d), a contractor is required to obtain approval from a funding Agency before assigning rights to a subject invention made under a funding agreement to an employee/inventor. When an employee/inventor retains rights to a subject invention made under a funding agreement, either the Agency or the contractor must ensure compliance by the employee/inventor with at least those conditions that would apply under paragraphs (b), (d), (f)(4), (h), (i), and (j) of the clause at § 401.14.

■ 10. Amend § 401.11 as follows:

■ a. Remove paragraph (a);

■ b. Redesignate paragraph (b) as paragraph (a);

■ c. Revise the newly redesignated paragraphs (a)(1) through (4);

■ d. Remove newly redesignated paragraph (a)(5);

■ e. Redesignate paragraphs (c) through (e) as paragraphs (b) through (d), respectively, and revise the newly redesignated paragraphs (b) through (d).

The revisions read as follows:

§ 401.11 Appeals.

(a) * * *

(1) A refusal to grant an extension under paragraph (c)(5) of the standard clause at § 401.14.

(2) A request for a conveyance of title under paragraph (d)(1) of the standard clause at § 401.14.

(3) A refusal to grant a waiver under paragraph (i) of the standard clause at § 401.14.

(4) A refusal to approve an assignment under paragraph (k)(1) of the standard clause at § 401.14.

(b) Each agency shall establish and publish procedures under which any of the agency actions listed in paragraph (a) of this section may be appealed to the head of the agency or designee. Review at this level shall consider both the factual and legal basis for the actions and its consistency with the policy and objectives of 35 U.S.C. 200–206.

(c) Appeals procedures established under paragraph (b) of this section shall include administrative due process procedures and standards for fact-finding at least comparable to those set forth in § 401.6(a)(4) through (6) whenever there is a dispute as to the factual basis for an agency request for a conveyance of title under paragraph (d) of the standard clause at § 401.14, including any dispute as to whether or not an invention is a subject invention.

(d) To the extent that any of the actions described in paragraph (a) of this section are subject to appeal under the Contract Dispute Act, the procedures under the Act will satisfy the requirements of paragraphs (b) and (c) of this section.

■ 11. Revise § 401.13 to read as follows:

§ 401.13 Confidentiality of contractor submissions.

Pursuant to 35 U.S.C. 202(c)(5) and 205, the following procedures shall govern confidentiality of documents submitted under paragraph (c) of the standard clause found at § 401.14:

(a) Agencies shall not disclose to third parties pursuant to requests under the Freedom of Information Act (FOIA) any information disclosing a subject invention during the time which an initial patent application may be filed under paragraph (c) of the standard clause found at § 401.14 or such other clause in the funding agreement. This prohibition does not apply to information that has previously been published by the inventor, contractor, or otherwise.

(b) Agencies shall not disclose or release, pursuant to requests under the Freedom of Information Act or

otherwise, copies of any document which is part of an application for patent with the U.S. Patent and Trademark Office or any foreign patent office filed by the contractor (or its assignees, licensees, or employees) on a subject invention to which the contractor has elected to retain title. This prohibition does not extend to disclosure to other government agencies or contractors of government agencies under an obligation to maintain such information in confidence. This prohibition does not apply to documents published by the U.S. Patent and Trademark Office or any foreign patent office.

(c) When implementing policies that encourage public dissemination of the results of work supported by the agency through government publications or other publications of technical reports, agencies shall not include copies of documents submitted by contractors pursuant to § 401.14(c) when a contractor notifies the agency that a particular report or other submission contains a disclosure of a subject invention to which it has elected title or may elect title, or such publication could create a statutory bar to obtaining patent protection.

■ 12. Amend § 401.14 as follows:

■ a. Revise paragraphs (a)(2) and (7), and (c)(1) and (3);

■ b. Add paragraph (c)(6);

■ c. Revise paragraph (d);

■ d. Remove ''sucessor'' and add in its place ''successor'' in the final sentence of paragraph (e)(1);

■ e. Revise paragraph (f)(3);

■ f. Remove ''incidential'' and add in its place ''incidental'' in paragraph (k)(3);

■ g. Revise paragraph (k)(4);

■ h. Add paragraphs (k)(5) and (6);

■ i. Add paragraph (m).

The revisions read as follows:

§ 401.14 Standard patent rights clauses.

* * * * *

(a) * * *

(2) *Subject invention* means any invention of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement; provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of contract performance. An invention that is conceived and reduced to practice without the use of any federal funds is not considered a subject invention.

* * * * *

(7) The term *statutory period* means the one-year period before the effective filing date of a claimed invention in a patent application during which exceptions to prior art exist per 35 U.S.C. 102(b) as amended by the Leahy-Smith America Invents Act, Public Law 112–29.

* * * * *

(c) * * *

(1) The *contractor* will disclose each subject invention to the *Federal agency* within two months after the inventor discloses it in writing to contractor personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention, and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the *contractor* will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the contractor. If required by the *Federal agency,* the *contractor* will provide periodic (but no more frequently than annual) listings of all subject inventions which were disclosed to the agency during the period covered by the report, and will provide a report prior to the close-out of a funding agreement listing all subject inventions or stating that there were none.

* * * * *

(3)(i) The *contractor* will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. Subject to the grant of an extension by an agency under paragraph (c)(5) of this clause, if the contractor files a provisional application as its initial patent application, it shall file a non-provisional application within 10 months of the filing of the provisional application.

(ii) Each provisional application filed following the initial patent application must contain additional written description of the subject invention not previously disclosed in a patent application. The *contractor* shall file or notify the government that they do not intend to file a non-provisional application within 10 months of the last filed provisional application that is consistent with this section.

(iii) The *contractor* will file patent applications in additional countries or international patent offices within either ten months of the first filed patent application or six months from the date permission is granted by the Commissioner of Patents to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(iv) If required by the *Federal agency,* the *contractor* will provide the filing date, patent application number and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the contractor has applied for a patent.

* * * * *

(6) In the event a subject invention is made under funding agreements of more than one agency, at the request of the *contractor* or on their own initiative the agencies shall designate one agency as responsible for administration of the rights of the government in the invention.

(d) Conditions When the Government May Obtain Title

(1) A *Federal agency* may require the *contractor* to convey title to the *Federal agency* of any subject invention—

(i) If the *contractor* fails to disclose or elect title to the subject invention within the times specified in paragraph (c) of this clause, or elects not to retain title.

(ii) In those countries in which the *contractor* fails to file patent applications within the times specified in paragraph (c) of this clause; provided, however, that if the contractor has filed a patent application in a country after the times specified in paragraph (c) of this clause, but prior to its receipt of the written request of the *Federal agency,* the *contractor* shall continue to retain title in that country.

(iii) In any country in which the *contractor* decides not to continue the prosecution of any non-provisional patent application for, to pay a maintenance, annuity or renewal fee on, or to defend in a reexamination or opposition proceeding on, a patent on a subject invention.

(2) A *Federal agency,* at its discretion, may waive the requirement for the *contractor* to convey title to any subject invention.

* * * * *

(f) * * *

(3) For each subject invention, the *contractor* will, no less than 60 days

prior to the expiration of the statutory deadline, or 60 days prior to the date if 401.14(c)(5) applies, notify the *Federal agency* of any decision.

* * * * *

(k) * * *

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that, when appropriate, it will give a preference to a small business firm when licensing a subject invention;

(5) The *Federal agency* may review the *contractor's* licensing program and decisions regarding small business applicants, and the *contractor* will negotiate changes to its licensing policies, procedures, or practices with the *Federal agency* when the *Federal agency's* review discloses that the contractor could take reasonable steps to more effectively implement the requirements of paragraph (k)(4) of this clause; and

(6) The *Federal agency* may take into consideration concerns presented by small businesses in making such determinations in paragraph (k)(5) of this clause.

* * * * *

(m) Electronic Filing

(a) Unless otherwise requested or directed by the *Federal agency*—

(1) The written disclosure required in (c)(1) of this clause shall be electronically filed;

(2) The written election required in (c)(2) of this clause shall be electronically filed; and

(3) If required by the agency to be submitted, the close-out report in paragraph (c)(1) of this clause and the patent information and periodic reporting identified in paragraph (c)(3) of this clause shall be electronically filed.

(b) Other written notices required in this clause may be electronically delivered to the agency or the *contractor* through an electronic database used for reporting subject inventions, patents, and utilization reports to the funding agency.

§ 401.15 [Removed and Reserved]

■ 13. Remove and reserve § 401.15.

■ 14. Revise § 401.16 to read as follows:

§ 401.16 Federal agency reporting requirements.

Federal agencies will report annually to the Secretary of Commerce on data pertaining to reported subject inventions under a funding agreement, including—

(a) Number of subject inventions reported to the Federal Agency;

(b) Patent applications filed on subject inventions;

(c) Issued patents on subject inventions;

(d) Number of requests and number of requests granted for extension of the time for disclosures, election, and filing per 37 CFR 401.14(c)(5);

(e) Number of subject inventions conveyed to the Government in accordance with 37 CFR 401.14(d);

(f) Number of waivers requested and waivers granted per 37 CFR 401.14(i); and

(g) Number of requests for assignment of invention rights. Such information will be received by the Secretary no later than the last day of October of each year.

§ 401.17 [Amended]

■ 15. Amend § 401.17 by removing the phrase '', telephone (301) 435–1986'' before the final period of the paragraph.

PART 404—LICENSING OF GOVERNMENT OWNED INVENTIONS

■ 16. The authority citation for 37 CFR part 404 continues to read as follows:

Authority: 35 U.S.C. 207–209, DOO 30–2A.

■ 17. Revise § 404.1 to read as follows:

§ 404.1 Scope of part.

(a) This part prescribes the terms, conditions, and procedures upon which a federally owned invention, other than an invention in the custody of the Tennessee Valley Authority, may be licensed. This part does not affect licenses which:

(1) Were in effect prior to April 7, 2006;

(2) May exist at the time of the Government's acquisition of title to the invention, including those resulting from the allocation of rights to inventions made under Government research and development contracts;

(3) Are the result of an authorized exchange of rights in the settlement of patent disputes, including interferences; or

(4) Are otherwise authorized by law or treaty, including 35 U.S.C. 202(e), 35 U.S.C. 207(a)(3) and 15 U.S.C. 3710a, which also may authorize the assignment of inventions. Although licenses on inventions made under a cooperative research and development agreement (CRADA) are not subject to this regulation, agencies are encouraged to apply the same policies and use similar terms when appropriate. Similarly, this should be done for licenses granted under inventions where the agency has acquired rights pursuant to 35 U.S.C. 207(a)(3).

(b) Royalties collected pursuant to this part are not intended as an alternative to appropriated funding or as an alternative funding mechanism.

■ 18. Revise § 404.2 to read as follows:

§ 404.2 Policy and objective.

It is the policy and objective of this subpart to promote the results of federally funded research and development through the patenting and licensing process. In negotiating licenses, the Government may consider payments under a licensing agreement as a means for promoting the practical application of a subject invention and as a method to ensure commercialization by the licensee.

§ 404.4 [Removed and Reserved]

■ 19. Remove and reserve § 404.4.

§ 404.5 [Amended]

■ 20. Amend § 404.5 by removing ''§ 404.5(a)(2)'' from paragraph (b)(8)(iv) and adding in its place ''35 U.S.C. 209(b)''.

■ 21. Revise § 404.7 to read as follows:

§ 404.7 Exclusive, co-exclusive, and partially exclusive licenses.

(a) Exclusive, co-exclusive or partially exclusive licenses may be granted on Government owned inventions, only if:

(1) Notice of a prospective license, identifying the invention at a minimum, has been published and responses, if any, reviewed in accordance with 35 U.S.C. 209. The agency, in its discretion, may include other information as appropriate;

(2) After expiration of the public notice period and consideration of any written objections received in accordance with 35 U.S.C. 209(e), the Federal agency has determined that:

(i) The public will be served by the granting of the license, as indicated by the applicant's intentions, plans and ability to bring the invention to the point of practical application or otherwise promote the invention's utilization by the public;

(ii) The proposed scope of exclusivity is not greater than reasonably necessary to provide the incentive for bringing the invention to practical application, as proposed by the applicant, or otherwise to promote the invention's utilization by the public; and

(iii) Exclusive, co-exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the investment capital and expenditures needed to bring the invention to practical application or otherwise promote the invention's utilization by the public;

(3) The Federal agency has determined that the grant of such a license will not tend substantially to

lessen competition or create or maintain a violation of the Federal antitrust laws;

(4) The Federal agency has given first preference to any small business firms submitting plans that are determined by the agency to be within the capability of the firms and as having equal or greater likelihood as those from other applicants to bring the invention to practical application within a reasonable time; and

(5) In the case of an invention covered by a foreign patent application or patent, the interests of the Federal Government or United States industry in foreign commerce will be enhanced.

(b) In addition to the provisions of § 404.5, the following terms and conditions apply to exclusive, co-exclusive and partially exclusive licenses:

(1) The license shall be subject to the irrevocable, royalty-free right of the Government of the United States to practice or have practiced the invention on behalf of the United States and on behalf of any foreign government or international organization pursuant to any existing or future treaty or agreement with the United States.

(2) The license shall reserve to the Federal agency the right to require the licensee to grant sublicenses to responsible applicants, on reasonable terms, when necessary to fulfill health or safety needs.

(3) The license shall be subject to any licenses in force at the time of the grant of the exclusive, co-exclusive or partially exclusive license.

(4) The license may grant the licensee the right to take any suitable and necessary actions to protect the licensed property, on behalf of the Federal Government.

(c) Federal agencies shall maintain a record of determinations to grant exclusive, co-exclusive or partially exclusive licenses.

§ 404.10 [Amended]

■ 22. Amend § 404.10 by removing ''and any sublicensee of record''.

■ 23. Revise paragraphs (a) introductory text, (a)(3), and (b) to read as follows:

§ 404.11 Appeals.

(a) The following parties may appeal to the agency head or designee any decision or determination concerning the grant, denial, modification, or termination of a license:

* * * * *

(3) A person who timely filed a written objection in response to the notice required by § 404.7 and who can demonstrate to the satisfaction of the Federal agency that such person may be damaged by the agency action due to being denied the opportunity to promote the commercialization of the invention.

(b) The Federal agency shall establish appropriate procedures for considering appeals under paragraph (a) of this section.

■ 24. Revise § 404.14 to read as follows:

§ 404.14 Confidentiality of information.

35 U.S.C. 209(f) requires that any plan submitted pursuant to § 404.8(a)(8) and any report required by 35 U.S.C. 209(d)(2) shall be treated as commercial or financial information obtained from a person and privileged and confidential and not subject to disclosure under 5 U.S.C. 552.

Kevin Kimball,

Chief of Staff.

[FR Doc. 2020–27581 Filed 12–31–20; 8:45 am]

BILLING CODE 3510–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 64

[EB Docket No. 20–374; FCC 20–174; FRS 17331]

Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes rules to implement the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) to streamline the process by which private entities may submit information to the Commission about violations of the Communications Act.

DATES: Comments are due on or before February 3, 2021 and reply comments are due on or before February 18, 2021.

ADDRESSES: You may submit comments, identified by EB Docket No. 20–374, by any of the following methods:

• *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*

• *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• 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 45 L Street NE, Washington, DC 20554.

• Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, DA 20–304 (March 19, 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Daniel Stepanicich of the Telecommunications Consumers Division, Enforcement Bureau, at *Daniel.Stepanicich@fcc.gov* or (202) 418–7451.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 20–174, EB Docket No. 20–374, adopted and released on December 8, 2020. The full text of this document is available for public inspection online at *https://docs.fcc.gov/public/attachments/FCC-20-174A1.pdf.* To request this document in accessible formats for people with disabilities (*e.g.,* Braille, large print, electronic files, audio format, etc.) or to request reasonable accommodations (*e.g.,* accessible format documents, sign language interpreters, CART, etc.), send an email to *FCC504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

1. In this Notice of Proposed Rulemaking, the Federal Communications Commission (Commission) proposes to implement

section 10(a) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement Act (TRACED Act). Unlawful robocalls plague the American public. Such calls are frequently coupled with misleading or inaccurate telephone numbers displayed as caller ID information, an act known as spoofing. Spoofed calls are often used to facilitate fraudulent or other harmful activities. Congress enacted the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) to aid efforts to curb illegal robocalling. Congress recognized the value of industry cooperation in fighting unlawful spoofed robocalls and took steps to formalize such cooperation.

2. In particular, Congress sought to enhance the ability of private entities to convey concerns about calls and texts that violate robocall or caller ID spoofing restrictions. Specifically, Congress directed the Commission to establish regulations, no later than June 30, 2021, to create a process that ''streamlines the ways in which a private entity may voluntarily share with the Commission information relating to'' a call or text message that violates the law regarding robocalls or spoofing. This Notice of Proposed Rulemaking proposes and seeks comment on rules to implement this mandate. We propose to establish an online web portal where private entities may submit information about violations of sections 227(b) and 227(e) of the Communications Act. Under the proposal, the Commission's Enforcement Bureau would monitor the portal.

3. *Definition of Private Entity.* We must first determine what constitutes a ''private entity'' for purposes of section 10 of the TRACED Act. Given the breadth of the term ''entity,'' which typically goes beyond just persons, we propose to define ''private entity'' to exclude only governments; in other words, a private entity is anyone (an individual, a company, an organization, an association, etc.) that is not a public entity. We note that Congress did not define the term ''private entity'' in the TRACED Act, but in other laws Congress has defined ''private entity'' in a similar manner. We seek comment on our proposed interpretation, and whether there is a basis for a different interpretation of what constitutes a private entity.

4. *Streamlined Process.* We propose to create a mechanism for private entities to submit information about suspected robocall and spoofing violations directly to the Enforcement Bureau. We propose to create an online portal located on the FCC website that the Enforcement Bureau would monitor. We believe that this will streamline the collection of information pertaining to robocall and spoofing violations, in conformance with section 10(a) of the TRACED Act. We seek comment on this proposal. We propose that this mechanism will be in addition to, and distinct from, the informal complaint process that the Consumer and Governmental Affairs Bureau manages. We anticipate that private entities will use the portal to submit information about suspected robocall or spoofing violations (*i.e.,* ''tips''). Based on our experience, we expect that the portal will be particularly valuable to employees who suspect that their company is violating the law, and third parties who have been disrupted by unlawful spoofers. Consumers should continue to submit complaints about robocalls and spoofed calls through the Consumer and Governmental Affairs Bureau's informal consumer complaint process. We seek comment on this proposal. We also seek comment on alternative or additional methods to streamline collection of information from private entities for potential enforcement of robocalling or spoofing violations.

5. We propose that the online form would require certain minimum information, including the name of the private entity, a point of contact, the caller ID information displayed as well as the phone numbers affected by the robocalling incident, the date(s) and time(s) of the relevant calls or texts, the name of the private entity's service provider, and a description of the problematic calls or texts. We propose to allow private entities to submit additional information. We invite input on this proposal and seek comment on what other information we should require.

6. We further invite comment on whether there are any regulatory or statutory obligations or mandates that we should consider in developing the new streamlined process for collecting information from private entities under the definition we propose. Specifically, are there any laws or regulations that currently deter private entities from sharing data with the Commission regarding robocalls and spoofed calls and texts? What confidentiality assurances, if any, are necessary to ensure that a private entity would not open itself up to potential liability for any such sharing.

7. What other incentives are needed to encourage private entities to share information with the Commission about illegal robocalling or spoofing campaigns in a timely manner? For example, should we consider creating a safe harbor for private entities that share information through the web portal, and if so, what should be the scope of any such safe harbor? Would additional safe harbor protections be necessary and appropriate to encourage timely reporting of violations? We invite specific suggestions for safe harbors, including our legal authority to adopt such suggestions.

8. *No Impact on Informal Consumer Complaint Process.* We note that our actions here would not affect the process by which a consumer submits an informal complaint about a robocall or spoofed call. The Commission receives thousands of informal consumer complaints a month involving unwanted calls, including robocalls and robotexts. The unwanted calls complaint form asks for information such as date and time of the incident, caller ID information displayed, telephone number where the unwanted call was received, information about the consumer's telephone service, and a description of the unwanted call. The Consumer and Governmental Affairs Bureau uses this information to inform Commission consumer protection policies as well as for analytical and consumer education purposes. It also forwards these complaints to the Enforcement Bureau, which may use them to pursue enforcement actions. We recognize that consumers might mistakenly file complaints with the new streamlined process rather than the existing consumer complaint process. In such cases, we propose that the Enforcement Bureau will forward such consumer complaints to the Consumer and Governmental Affairs Bureau. And to mitigate that impact, we propose that the new portal clearly explain its purpose and intended uses. We seek comment on these proposals.

9. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules addressed in the Notice of Proposed Rulemaking. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice of Proposed Rulemaking. The Commission will send a copy of the Notice of Proposed Rulemaking, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Notice of Proposed Rulemaking and IRFA (or summaries

thereof) will be published in the **Federal Register**.

10. In the Notice of Proposed Rulemaking, the Commission proposes to streamline the process for private entities to submit information to the Commission about a violation of 47 U.S.C. 227(b) or 47 U.S.C. 227(e). The Commission proposes to create a web portal where private entities can submit robocall violation information that will be monitored and reviewed by the Enforcement Bureau. Additionally, the Commission proposes to define ''private entity'' as any individual or entity other than a public entity.

11. The proposed action is authorized pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 227, and section 10(a) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Public Law 116–105, 133 Stat. 3274.

12. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operations; and (3) satisfies any additional criteria established by the SBA.

13. *Small Business, Small Organizations, and Small Governmental Jurisdictions.* Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could potentially be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the RFA, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9 percent of all businesses in the United States, which translates to 30.7 million businesses.

14. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

15. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty-thousand.'' The rules proposed in this Notice of Proposed Rulemaking exclude public entities and therefore do not apply to small governmental jurisdictions.

16. The Commission does not expect the rules proposed in the Notice of Proposed Rulemaking will impose any new and/or additional reporting or recordkeeping and/or compliance obligations on small entities. The proposed web portal is a completely voluntary process that small entities may use to submit information about robocall or spoofing violations. Small entities are advised to retain copies of their submissions to the Commission as well any supporting documentation should the Bureau wish to follow-up with the complainant for more information.

17. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) the exemption from coverage of the rule, or any part thereof, for such small entities.''

18. Congress directed the Commission to streamline the process for private entities to submit information about robocall violations. We determined that creating a web portal would best meet the Congressional mandate while also placing as few burdens as possible on private entities. Furthermore, the use of the portal is entirely voluntary and does not place any additional requirements on small entities. We also considered whether to make changes to the existing Consumer Complaint Center, but we determined that any such changes would be disruptive and counterproductive to consumers and small entities. We propose to give maximum flexibility to small entities as they may still continue to submit robocall complaints to the Consumer Complaint Center. This flexibility limits any undue burdens on small entities. We seek comment on whether we should consider any alternative proposals to reduce the impact on small entities.

19. *Initial Paperwork Reduction Act of 1995 Analysis.* The Notice of Proposed Rulemaking contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

20. *Ex Parte Presentations—Permit-But-Disclose.* This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte 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 filing 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 meeting are deemed to be written ex parte presentations and must be filed consistent with section 1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f)

of the Commission's rules or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable.pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

List of Subjects in Parts 0 and 64

Authority delegations (Government agencies), Telecommunications.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 0 and 64 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

■ 2. Amend § 0.111 by redesignating paragraph (j) as paragraph (k) and adding new paragraph (j) to read as follows:

§ 0.111 Functions of the Bureau

* * * * *

(j) Collects and reviews information received from private entities related to violations of § 64.1200(a) and § 64.1604(a) of this title.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 3. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 225, 226, 227, 227b, 228, 251(e), 254(k), 262, 276, 403(b)(2)(B), (c), 616, 620, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

■ 4. Add § 64.1204 to read as follows:

§ 64.1204 Private entity submissions of robocall violations.

(a) Any private entity may submit to the Enforcement Bureau information related to a call made in violation of § 64.1200(a).

(b) For the purposes of this section, the term ''private entity'' shall mean any individual or entity other than a public entity.

■ 5. Add § 64.1606 to read as follows:

§ 64.1606 Private entity submissions of spoofing violations.

(a) Any private entity may submit to the Enforcement Bureau information related to a call or text message for which misleading or inaccurate caller identification information was caused to be transmitted in violation of § 64.1604(a).

(b) For the purposes of this section, the term ''private entity'' shall mean any individual or entity other than a public entity.

[FR Doc. 2020–28612 Filed 12–31–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2020–0093]

RIN 2127–AL34

Federal Motor Vehicle Safety Standards; Child Restraint Systems, Incorporation by Reference

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Proposed rule; extension of comment period.

SUMMARY: NHTSA has received petitions asking the Agency to extend the comment period for a notice of proposed rulemaking (NPRM) to update Federal Motor Vehicle Safety Standard (FMVSS) No. 213, ''Child restraint systems.'' The NPRM proposed to incorporate a new test sled assembly to conduct compliance tests of child restraints and update a number of the test procedures of the standard. The comment period for the NPRM is scheduled to end on January 4, 2021. In response to petitions from the Juvenile Products Manufacturers Association and the Children's Hospital of Philadelphia, the Agency is extending the comment period by 90 days.

DATES: The comment period for the NPRM published on November 2, 2020, at 85 FR 69388, is extended to April 5, 2021.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9332 before coming.
- *Fax:* 202–493–2251.

Regardless of how you submit your comments, please mention the docket number identified in the heading of this document.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its decision-making 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.transportation.gov/privacy.* In order to facilitate comment tracking and response, the Agency encourages commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov,* or the street address listed above. To be sure someone is there to help you, please call (202) 366–9332 before coming. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: For technical issues, you may call Cristina Echemendia, Office of Crashworthiness Standards (telephone: 202–366–6345) (fax: 202–493–2990). For legal issues, you may call Deirdre Fujita, Office of Chief Counsel (telephone: 202–366–5246) (fax: 202–366–3820). Address: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Section 31501(b) of the Moving Ahead for Progress in the 21st Century Act (MAP–21) requires the Secretary (NHTSA, by delegation) to commence and complete a rulemaking to amend the standard seat assembly in FMVSS No. 213 to better simulate a single representative motor vehicle rear seat. Pursuant to this mandate, on November 2, 2020, NHTSA published an NPRM proposing to amend FMVSS No. 213 by updating the standard seat assembly NHTSA uses to test child restraint systems (CRSs) for compliance with the standard's dynamic performance requirements. This NPRM proposed other amendments to modernize FMVSS No. 213, including ways to streamline the Agency's use of test dummies to assess restraint performance. NHTSA provided a 60-day comment period for the November 2, 2020 proposal, which closes on January 4, 2021.

Petitions

The Juvenile Products Manufacturers Association (JPMA), representing manufacturers of child restraint systems, submitted a petition on December 14, 2020 requesting a 120-day extension of the comment period for the November 2, 2020 NPRM.[1] JPMA provided several reasons for extending the comment period, including the need for social distancing and restrictions on businesses due to the public health emergency, the delay in public release of the drawing package for the standard seat assembly referenced by the NPRM, and the plans of some manufacturers to evaluate the proposed standard seat assembly by fabricating and evaluating the assembly for repeatability and reproducibility of results with the child restraint models they produce. JPMA stated that the original 60-day comment period does not adequately reflect the time necessary for manufacturers to evaluate the potential implications of the NPRM thoroughly and to provide constructive feedback to NHTSA. They argued that the proposed changes are extensive, and evaluation of the changes requires the fabrication of standard seat assemblies, which JPMA said would take 8 to 16 weeks for delivery to the testing facilities. JPMA stated that ''[w]ithout the ability to inspect, fully evaluate and conduct comparative testing using this new bench, particularly in regard to its repeatability and reproducibility characteristics, our CRS manufacturing members are seriously limited in their ability to comment in the time period prescribed in the current NPRM.''

On December 11, 2020, the Children's Hospital of Philadelphia (CHOP) submitted a petition to extend the comment period. CHOP did not specify the additional time sought but argued that remote teleworking and competing work due to the public health emergency has created challenges to gather all the individuals and relevant data to draft a response.

Agency Decision

In accordance with NHTSA's rulemaking procedures in 49 CFR part 553, subpart B, the Agency is granting the petitioners' requests to extend the comment period, but is extending it only for 90 days. NHTSA has determined that the petitioners have shown good cause for an extension, and that the extension is consistent with the public interest (49 CFR 553.19). Entities seeking to build the proposed standard seat assembly need time to procure materials and fabricate the assembly. NHTSA typically procures test seat assemblies in 6 to 8 weeks, but understand that it may take longer to obtain the seat assembly discussed in the NPRM due to possible customer demand, the time needed to procure the seat foam (8–12 weeks), and the business restrictions caused by the public health emergency. However, JPMA has not provided any basis explaining why it would take 8 to 16 weeks, almost twice the normal time, to procure the assembly. Without a reasoned explanation for the exceptionally long period, we conclude a 120-day extension is unwarranted and unduly delays the rulemaking.

In considering the petitions, NHTSA weighed the statutory interest in completing this rulemaking, the complexity and importance of the rulemaking, and the basis for the requests. The 3-dimensional drawings of the standard seat assembly were made public on November 16, 2020.[2] Based on an 8 to 12-week lead time for fabrication and delivery of the proposed seat assembly, NHTSA estimates entities could acquire the proposed seat assembly for evaluation between mid-January and early February 2021. A 90-day extension of the comment period provides sufficient time following procurement of the seat assembly for interested persons to test CRSs, analyze results, and prepare comments. Therefore, NHTSA partially grants the requests for extending the comment period by extending it for 90 days.

The Agency supports efforts to develop useful technical information on the proposal and believes 90 additional days will achieve that result. Extending the comment period 90 days balances the need to provide more time to entities to assess the proposal with the need to incorporate a representative vehicle seat in FMVSS No. 213 compliance tests expeditiously. Incorporating a representative vehicle seat in FMVSS No. 213 will provide a more meaningful assessment of the performance of CRSs in vehicles on the road today.

Please note that even after the comment closing date has passed, interested persons are able to file comments in the docket, which NHTSA will consider to the extent practicable. 49 CFR 553.23. NHTSA may also continue to file relevant information in the docket as it becomes available. Accordingly, the Agency recommends that readers periodically check the docket for new material.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95 and 49 CFR 501.8.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.8.

James C. Owens,

Deputy Administrator.

[FR Doc. 2020–29111 Filed 12–30–20; 11:15 am]

BILLING CODE 4910–59–P

[1] JPMA requested that ''the comment period be extended to 180 days from the date of publication'' of the NPRM. NHTSA understands this request to include the 60 days provided by the NPRM, which means JPMA is requesting a 120-day extension.

[2] JPMA incorrectly stated the publishing date was November 9, 2020.

Notices

Federal Register

Vol. 86, No. 1

Monday, January 4, 2021

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

Solicitation of Commodity Board Topics and Contribution of Funding Under the Agriculture and Food Research Initiative Competitive Grants Program

AGENCY: National Institute of Food and Agriculture (NIFA), USDA.

ACTION: Notice of opportunity for commodity boards to submit topics and contribute funding under the Agriculture and Food Research Initiative Competitive Grants Program.

SUMMARY: NIFA is soliciting topics commodity board entities (Federal and State-level commodity boards, as defined below) are willing to co-fund equally with NIFA. To be considered for inclusion in future Agriculture and Food Research Initiative (AFRI) competitive grants program Requests for Applications (RFAs), topics must relate to the established priority areas of AFRI. Commodity boards are those entities established under a commodity promotion law, as such term is defined under the Federal Agriculture Improvement and Reform Act of 1996, or a State commodity board or other equivalent State entity. See the **SUPPLEMENTARY INFORMATION** section of this Notice under the heading ''Eligibility for Submitting Topics'' for further information.

DATES: Commodity boards may submit topics at any time; however, all topics received by 5:00 p.m. EDT on March 5, 2021 will be considered for the fiscal year 2021 AFRI RFAs. Topics submitted by eligible commodity board entities after this date are not guaranteed review for fiscal year 2021 but will be considered for RFAs to be issued in future years. Frequently asked questions about commodity board topics are available on the NIFA website (*https://nifa.usda.gov/commodity-boards-frequently-asked-questions*).

ADDRESSES: You may submit topics by the following method: Website: *https://nifa.usda.gov/resource/commodity-board-submission-form.* Instructions: The topic submission must be emailed to *commodityboards@usda.gov* using the website form. Required fields are marked. Topics submitted through this form will not be posted to a public site. Submitted topics will receive an email with acknowledgment of receipt.

FOR FURTHER INFORMATION CONTACT: Mark Mirando; Phone: (202) 445–5575, or Email: *commodityboards@usda.gov.*

SUPPLEMENTARY INFORMATION: If, after NIFA's evaluation, proposed topics are accepted for inclusion, they will be incorporated into AFRI competitive grants program RFAs. As a condition of funding grants pertaining to a topic, NIFA will require an agreement with the commodity board to provide funds equal to the amount NIFA is contributing under the agreed upon topic.

This Notice invites topic submissions from commodity boards as defined above, outlines the process NIFA will use to evaluate the appropriateness of these topics for inclusion in AFRI RFAs, and describes the commitment required of commodity boards for NIFA to jointly fund competitively selected AFRI awards within a topic area submitted by the commodity boards.

Background and Purpose

This Notice begins the sixth topic submission cycle to implement section 2(b)(4)(F) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 3157(b)(4)(F)), as added by section 7404 of the Agricultural Act of 2014, Public Law 113–79, which requires NIFA to ''establish procedures, including timelines, under which an entity established under a commodity promotion law (as such term is defined under section 501(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401(a))) or a State commodity board (or other equivalent State entity) may directly submit to [NIFA] for consideration proposals for requests for applications'' within the AFRI Program.

Stakeholder feedback gathered in previous years informed this Notice and the process NIFA is using to implement section 7404. This Notice invites entities established under a commodity promotion law or State commodity boards (or other equivalent State entities) to submit topics they are proposing for inclusion in fiscal year 2021 AFRI RFAs. Topics must relate to the established AFRI priority areas, which are: Plant health and production and plant products; animal health and production and animal products; food safety, nutrition, and health; bioenergy, natural resources, and environment; agriculture systems and technology; and agriculture economics and rural communities. A summary statement on AFRI is included below. To learn more about AFRI programs, including program priorities, typical award budget amounts, and examples of RFAs, please visit: *https://nifa.usda.gov/commodity-boards/.*

AFRI Program Overview

The AFRI program is the largest agricultural competitive grants program in the United States and a primary funding source for research, education, and extension projects that bring practical solutions to some of today's most critical societal challenges. AFRI programs impact all components of agriculture, including farm and ranch efficiency and profitability, bioenergy, forestry, aquaculture, rural communities, human nutrition, food safety, biotechnology, and genetic improvement of plants and animals.

In FY 2021, NIFA plans to solicit applications for AFRI funding opportunities in the six AFRI priority areas (Plant health and production and plant products; Animal health and production and animal products; Food safety, nutrition, and health; Bioenergy, natural resources, and environment; Agriculture systems and technology; Agriculture economics and rural communities). It is anticipated these will include the AFRI Foundational and Applied Science Program RFA and the AFRI Education and Workforce Development RFA. The annual AFRI Foundational and Applied Science Program RFA solicits grant applications focused predominately, but not exclusively, on fundamental scientific research addressing statutory priorities. The AFRI Education and Workforce Development RFA solicits grant applications for training K–14 educational professionals, workforce training, undergraduate research and extension experiential learning fellowships, and pre- and post-doctoral

fellowships. Any additional AFRI RFAs made available in FY 2021 may be included in this solicitation.

Eligibility for Submitting Topics

Eligible commodity board entities are those established under a commodity promotion law, as such term is defined under 7 U.S.C. 7401(a), or a State commodity board (or other equivalent State entity). Language in 7 U.S.C. 7401(a) defines a ''commodity promotion law'' as ''a Federal law that provides for the establishment and operation of a promotion program regarding an agricultural commodity that includes a combination of promotion, research, industry information, or consumer information activities, is funded by mandatory assessments on producers or processors, and is designed to maintain or expand markets and uses for the commodity (as determined by the Secretary).'' 7 U.S.C. 7401(a) includes a list of such Federal laws.

A current list of approved entities is maintained at *https://nifa.usda.gov/commodity-boards/.* Additionally, entities eligible to submit topics include State commodity boards (or other equivalent State entities). This includes commodity boards authorized by State law; commodity boards that are not authorized by State law, but are organized and operate within a State and meet the requirements of their authorizing statute; and commodity boards that are authorized by a State and operate within the State for commodities that have no Federal program or oversight.

Topic Submission Guidance and Procedures

Topics may be submitted at any time and will be evaluated by NIFA on an annual basis. However, to guarantee consideration for the proposed fiscal year 2021 AFRI RFAs, topics must be received by 5:00 p.m. EDT on March 5, 2021.

Each topic proposed must be submitted using the topic submission form provided at: *https://nifa.usda.gov/resource/commodity-board-submission-form.* Commodity boards may propose support for multiple awards for each topic proposed. For each topic the commodity board proposes to support, the minimum amount contributed by the commodity board must align with budget guidance for each AFRI area *https://nifa.usda.gov/commodity-boards/* and comply with the maximum amount of $5 million allowed per topic. NIFA does not intend to match funding from a single commodity board in excess of $10 million in any year. Commodity boards should only submit topics that have a strong economic impact on their industry and U.S. agriculture, as a whole. Examples of topics typically supported by AFRI can be found at *https://nifa.usda.gov/commodity-boards/.*

If topics are accepted for funding, they will be incorporated into AFRI RFAs, and grants supporting the topic area may be awarded to AFRI eligible entities based on a competitive peer review process. As a condition of funding grants in a topic, NIFA will require an agreement by the commodity board to provide funds in an amount equal to the amount NIFA is contributing under the agreed upon topic. If a topic is selected for inclusion in an RFA, the commodity board submitting the topic will be required to maintain the confidentiality of the topic until the RFA is issued by NIFA. All commodity board funds and NIFA funds must be available at the time projects are selected for funding; awards are fully funded at the beginning of the award. Applications submitted under topics provided by commodity boards will be required to include a letter of support for co-funding from the commodity board that proposed the topic.

Evaluation and Notification Process

NIFA will screen proposed research topics to ensure eligibility of the submitting commodity boards. NIFA will also consult with USDA's Agricultural Marketing Service (AMS) to determine that submissions and proposed financial contributions are consistent with commodity promotion laws and commodity boards' charters, as applicable.

Commodity board topics are reviewed by an internal panel based on evaluation criteria developed using stakeholder input from commodity boards and other stakeholders from government, industry, and academe. Each topic will be evaluated based on alignment with one or more of the statutory AFRI priority areas (six AFRI priority areas authorized in the Farm Bill and described in 7 CFR 3430.309); alignment with the President's budget proposal for NIFA, as identified in the Department of Agriculture's annual budget submission; and alignment with the priority areas in the AFRI RFAs to be released by NIFA during the fiscal year for which the commodity board is proposing a topic for funding (for example, within the AFRI Foundational and Applied Science RFA, the AFRI Animal Health and Production and Animal Products' ''Animal Reproduction'' priority area).

From those topics received by 5:00 p.m. EDT on March 5, 2021, NIFA will select the topic(s) that were evaluated favorably for inclusion in the appropriate FY 2021 AFRI RFA. NIFA will notify commodity boards as to whether their topics will be included by April 5, 2021. Based on the evaluation, NIFA reserves the right to negotiate with commodity boards should changes be required to accept topics and funding amounts. Any changes to topics and funding amounts will be reviewed by USDA's AMS to determine if such changes are consistent with applicable commodity promotion laws.

NIFA will evaluate topics submitted after the March 5, 2021 deadline on an annual basis and notify commodity boards whether their topics will be included in subsequent RFAs within two weeks following the meeting of the internal evaluation panel, the date of which will be published on NIFA's Commodity Boards web page at (*https://nifa.usda.gov/commodity-boards/*).

Done at Washington, DC, this 21st day of December 2020.

Parag R. Chitnis,

Acting Director, National Institute of Food and Agriculture, Department of Agriculture.

[FR Doc. 2020–28698 Filed 12–31–20; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0109]

Notice of Request for Approval of an Information Collection; SARS–CoV–2 Testing in Animals Reporting Activities

ACTION: New information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request approval of a new information collection associated with the testing and reporting of SARS–CoV–2 in animals.

DATES: We will consider all comments that we receive on or before March 5, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0109.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2020–0109, Regulatory Analysis and Development, PPD, APHIS, Station

3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0109* or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on testing and reporting of SARS–CoV–2 in animals, contact Dr. Laura Miles, Veterinarian Epidemiologist, Surveillance, Design, and Analysis Section, Center for Epidemiology and Animal Health, Veterinary Services, 2150 Centre Ave., Bldg. B, Fort Collins, CO 80526; (970) 494–7246; *NLRAD.NAHRS@usda.gov.* For additional information about the information collection process, contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: SARS–CoV–2 Testing in Animals Reporting Activities.

OMB Control Number: 0579–XXXX.

Type of Request: Approval of a new information collection.

Abstract: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The AHPA gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of agricultural animals and animal products. The Secretary may also prohibit or restrict import or export of any animal or related material if necessary, to prevent the spread of any disease. The U.S. Department of Agriculture has a duty under section 8219 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 to collaborate and coordinate with the Department of Health and Human Services partners in the surveillance of zoonoses disease. Collection and dissemination of animal and poultry health data and information is mandated by 7 U.S.C. 391, the Animal Industry Act of 1884, which established the Bureau of Animal Industry, which was the precursor of the Animal and Plant Health Inspection Service's (APHIS') Veterinary Services. Legal requirements for examining and reporting on animal disease control methods were further mandated by 21 U.S.C. 119, ''Agents to Examine and Report on Methods of Treatment of Animals, and Means for Suppression of Diseases,'' amended February 7, 1928.

Collection, analysis, and dissemination of animal and poultry health information is consistent with the APHIS mission of protecting and improving American agriculture's productivity and competitiveness. APHIS uses the National Animal Health Reporting System (NAHRS) for reporting and tracking the emergence, prevalence, epidemiology, and economic importance of diseases in livestock, poultry, and other animals. The system facilitates standardization of disease information throughout the United States, provides a central point for the collection of national data, and assists APHIS in meeting its animal disease reporting obligations to the World Organization for Animal Health (OIE).

To better meet its reporting requirements about emerging diseases to the OIE, APHIS is interested in collecting information as to the detection of severe acute respiratory syndrome coronavirus 2 (SARS–CoV–2) in animals. To accomplish this, APHIS will distribute a request for information to U.S. laboratories engaged in the testing of animals for SARS–CoV–2, develop a questionnaire in NAHRS, and request that State animal health officials and U.S. laboratories provide SARS–CoV–2 animal testing data on a monthly basis.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 1.72 hours per response.

Respondents: State animal scientists, U.S. laboratory personnel, and veterinarians.

Estimated annual number of respondents: 77.

Estimated annual number of responses per respondent: 12.

Estimated annual number of responses: 949.

Estimated total annual burden on respondents: 1,626 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020–29014 Filed 12–31–20; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—FNS 245—SNAP Quality Control Regulations

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is a revision of a currently approved information collection request.

DATES: Written comments must be received on or before March 4, 2021.

ADDRESSES: Comments may be sent to Stephanie Proska, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Room 05.5040, Alexandria, VA 22314. Comments may also be submitted via email to *SNAPHQ-WEB@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Stephanie Proska at 703–305–2437.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Supplemental Nutrition Assistance Program (SNAP).

OMB Number: 0584–0034.

Expiration Date: April 30, 2021.

Type of Request: Revision of a currently approved collection.

Abstract: The FNS–245, Negative Case Action Review Schedule, is designed to collect quality control (QC) data and serve as the data entry form for negative case action QC reviews in the Supplemental Nutrition Assistance Program (SNAP). State agencies complete the FNS–245 for each negative case in their QC sample. The reporting and recordkeeping burden associated with the completion of the FNS–245 has decreased from approximately 115,514.87 hours to 102,001 hours. The 13,513.87 hour decrease in the total burden is largely a result of the decrease in total SNAP negative case selections from 38,970 cases in FY 2015 to 34,322 cases in FY 2018.

Reg. section	Affected public	Description of activity	Estimated number of respondents	Estimated responses per respondent	Total annual responses	Number of burden hours per response	Estimated total burden hours
Reporting Burden **Reporting Burden for State Agencies FNS 245, OMB 0584–0034**							
275.13 (b)	State Agencies	Household Case Record Review.	53	647.5849	34,322.00	1.75	60,063.50
275.12 (b)	State Agencies	Variance identification.	53	647.5849	34,322.00	0.6906	23,702.77
275.13 (c)	State Agencies	Error analysis	53	647.5849	34,322.00	0.5	17,161.00
Grand Totals Reporting Burden			53.00		102,966.00	2.9406	100,927.27
Record Keeping Burden **Recordkeeping Burden for State Agencies FNS 245, OMB 0584–0034**							
275.4	State Agencies	Record Retention	53	647.5849	34,322	0.0236	1,073.73
Overall Grand Total Reporting and Recordkeeping			53.00		137,288.00	2.96	102,001.00

Affected Public: State, Local and Tribal Government.

Estimated Number of Respondents: 53 State Agencies.

Estimated Number of Responses per Respondent: 647.59.

Estimated Total Annual Responses: 102,966.

Estimated Time per Response: 2.9406 hours.

Estimated Total Burden Hours: 100,927.27.

Number of Record Keepers: 53.

Number of Records per Record Keeper: 647.59 Records.

Estimated Number of Records/Response to Keep: 34,322 Records.

Recordkeeping Time per Response: .0236 hours.

Total Estimated Recordkeeping Burden Hours: 1,073.73 hours.

Estimated Total Annual Reporting and Recordkeeping Burden on Respondents: 137,288 hours.

Pamilyn Miller,

Administrator, Food and Nutrition Service.

[FR Doc. 2020–29005 Filed 12–31–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Supplemental Nutrition Assistance Program (SNAP) Requirement for National Directory of New Hires Employment Verification

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection.

DATES: Written comments must be received on or before March 5, 2021.

ADDRESSES: Comments may be sent to: Maribelle Balbes, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, Virginia 22314. Comments may also be submitted via email to *SNAPSAB@FNS.USDA.GOV.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Evan Sieradzki at 703–605–3212.

SUPPLEMENTARY INFORMATION: This collection is a revision of an expired collection at 84 FR 11928. In 2016, an Interim Final Rule titled ''Supplemental Nutrition Assistance Program: Requirement for National Directory of New Hires Employment Verification and Annual Program Activity Reporting,'' was published in the **Federal Register**. This rule codified section 4013 of the Agricultural Act of 2014, requiring State agencies to access employment data through the National Directory of New Hires (NDNH) at the time of certification, including recertification, to determine eligibility

status and correct benefit amount for SNAP applicants. The rule also amended regulations to increase the frequency of the requirement for State agency submission of the Program Activity Statement from an annual requirement based on the State fiscal year to a quarterly requirement. The burden hours for the increase in submission frequency for the Program Activity Statement, form FNS–366B, have been merged into the Food Programs Reporting System (FPRS) information collection, OMB #0584–0594 (expiration 7/31/2023). Therefore, this notice seeks to renew the burden hours associated with the National Directory of New Hires portion of this information collection only and removes burden hours and references for the Program Activity Statement, form FNS–366B.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: SNAP Requirement for National Directory of New Hires Employment Verification.

Form Number: N/A.

OMB Number: 0584–0608.

Expiration Date: 5/31/2019.

Type of Request: Revision of a currently approved collection.

Abstract: Supplemental Nutrition Assistance Program (SNAP) regulations at 7 CFR 272.16 require that each State agency must establish a system to compare identifiable information about each adult household member against data from the U.S. Department of Health and Human Services' (HHS) National Directory of New Hires (NDNH). This comparison will be used to determine the eligibility status of the household and determine the correct benefit amount the household should receive.

Applicant and Recipient Screening: The State agency must compare identifiable information about each adult household member against information from the NDNH. States must make the comparison of matched data at the time of application and recertification and must independently verify any positive match results. Verification of Match: The State agency must independently verify the information prior to taking any adverse action against an individual. Should the State agency receive employment information via the NDNH that was previously unreported by the household, the State agency may issue a Request for Contact to the household to verify the information or contact the employer directly, depending upon applicable reporting requirements as defined at 7 CFR 273.12.

Notice: The Notice of Adverse Action or Notice of Denial is issued by State agencies to participating households whose benefits will be reduced or terminated as the result of a change in household circumstances. Should the State agency independently verify unreported or underreported income discovered through NDNH, and that income results in a reduction of benefits or change in eligibility, the State agency must take action by issuing the household a Notice of Adverse Action or Notice of Denial and adjusting benefits accordingly.

Burden Estimates: The previous burden for this collection was 252,432 reporting hours (209,899 reporting burden hours for State agencies + 41,583 reporting burden hours for households). The requested burden is 521,719.02 (482,290.88 reporting burden hours for State agencies + 39,428.14 reporting burden hours for households), which represents an increase of 269,287.02 hours due to program adjustments. There are no recordkeeping requirements associated with this collection.

Affected Public: State and local agencies, households.

Estimated Number of Respondents: 1,180,536.20.

Estimated Number of Responses per Respondent: 8.8567.

Estimated Total Annual Responses: 10,455,713.40.

Estimated Time per Response: 0.04989.

Estimated Total Annual Burden on Respondents: 521,719.02 hours. See the table below for estimated total annual burden for each type of respondent.

Regulation	Burden activity	Estimated number of respondents	Estimated responses per respondent	Estimated total annual responses	Estimated hours per response	Estimated total annual hours
State Agency Reporting Burden						
272.2	Program Activity Statement	0	0	0	0	0
272.15	NDNH—Applicant/Recipient Screening	53	147,162.75	7,799,626.00	0.0501	390,761.26
272.15	NDNH—Verification of Match	53	19,886.85	1,054,003.00	0.0668	70,407.40
272.15	NDND—Notice of Adverse Action or Notice of Denial.	53	7,954.74	421,601.20	0.0501	21,122.22
State Agency Total		53	175,004.34	9,275,230.20	0.051997726	482,290.88
Household Reporting Burden						
272.15	NDNH—Response to Request for Contact	758,882.00	1.00	758,882.00	0.0334	25,346.66
272.15	NDNH—Response to Notice of Adverse Action or Notice of Denial.	421,601.20	1.00	421,601.20	0.0334	14,081.48
Household Reporting Total		1,180,483.20	1	1,180,483.20	0.0334	39,428.14
Grand Totals		1,180,536.20	8.856749501	10,455,713.40	0.049897984	521,719.02

Pamilyn Miller,

Administrator, Food and Nutrition Service.

[FR Doc. 2020–29007 Filed 12–31–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Privacy Act of 1974; Computer Matching Program

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice of reestablished matching program.

SUMMARY: In accordance with the Privacy Act of 1974, the U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) is providing notice of a reestablished computer matching program between FNS and the State agencies that administer the Supplemental Nutrition Assistance Program (SNAP). The matching program allows State agencies access to the Electronic Disqualified Recipient System (eDRS), a national database operated by FNS. The system maintains records of SNAP disqualifications imposed by State agencies on individuals who have been found to have committed an intentional program violation (IPV). State agencies need access to nationwide disqualification information to meet program integrity requirements because a disqualification in any State applies to SNAP nationally. Matches against eDRS enhance program integrity by providing State agencies assistance in determining eligibility for SNAP benefits and the proper disqualification length when imposing a new disqualification.

DATES: The deadline for comments on this notice is February 3, 2021. The effective date of the reestablished matching program will be not sooner than 30 days from the publication of this notice, provided no comments are received that result in a contrary determination. The matching program will be conducted for an initial term of 18 months and, within three months of expiration, may be renewed for one additional year if the parties make no change to the matching program and certify that the program has been conducted in compliance with the agreement.

ADDRESSES: Interested parties may submit written comments on this notice to Maribelle Balbes, Chief, State Administration Branch, Program Accountability and Administration Division, SNAP, by email at *SM.FN.SNAPSAB@usda.gov,* or by mail at 1320 Braddock Place, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: If you have questions about the matching program, you may contact Maribelle Balbes, (703) 605–4272.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, as amended, 5 U.S.C. 552a, provides certain protections for individuals applying for and receiving federal benefits. The law governs the use of computer matching by federal agencies when records in a system of records, which contains information about individuals that are retrieved by name or other personal identifier, are matched with records of other Federal, State, or local government records. The Privacy Act requires agencies involved in a matching program to:

1. Obtain approval of a Computer Matching Agreement, prepared in accordance with the Privacy Act, by the Data Integrity Board of any Federal agency participating in a matching program.
2. Enter into a written Computer Matching Agreement.
3. Provide a report of the matching program to Congress and the Office of Management and Budget (OMB), and make it available to the public, as required by 5 U.S.C. 552a(o), (u)(3)(A), and (u)(4).
4. Publish a notice of the matching program in the **Federal Register** as required by 5 U.S.C. 552a(e)(12) after OMB and Congress complete their review of the report, as provided by OMB Circular A–108, Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act.
5. Notify the individuals whose information will be used in the matching program that the information they provide is subject to verification through matching, as required by 5 U.S.C. 552a(o)(1)(D).
6. Verify match findings before suspending, terminating, reducing, or making a final denial of an individual's benefits or payments or taking other adverse action against the individual, as required by 5 U.S.C. 552a(p).

This matching program meets these requirements.

Participating Agencies: FNS and the State agencies that administer SNAP to include all 50 States, the District of Columbia, and the territories of Guam and the U.S. Virgin Islands.

Authority for Conducting the Matching Program: The Food and Nutrition Act of 2008 (the Act), as amended, 7 U.S.C. 2015(b), provides the legal authority for conducting the matching program. Section 6(b) of the Act, prescribes mandatory periods of ineligibility for persons found to have committed an IPV such as fraud, misrepresentation, or other violation of statute or regulation in connection with SNAP. Section 6(b)(4) prescribes regulations to ensure that appropriate State and Federal entities forward information concerning determinations arising out of such proscribed activity by a specific individual.

Purpose: The eDRS matching program maintains program integrity and reduces payment errors by providing information to assist State agencies with establishing or verifying the eligibility of individuals for SNAP benefits and determining the appropriate disqualification period to be imposed for a new IPV as required in regulations at 7 CFR 273.16, Disqualification for intentional Program violation. Each State agency must submit information about individuals who have been disqualified from SNAP within their State to eDRS. As a participant in this matching program, each State agency has access to this national system to both submit the required information for their State and perform the required matches against information provided by all State agencies.

Categories of Individuals: SNAP applicants and new household members are matched against eDRS as part of the eligibility determination process to ensure the individual is not currently disqualified from receiving benefits due to an IPV. Individuals who are being disqualified by a State agency due to a new IPV finding are matched against eDRS to assist the State agency in determining the appropriate duration of the new disqualification.

Categories of Records: The data elements in eDRS provide information about individuals who have been disqualified, the disqualification details, and the agency that imposed the disqualification. State agencies submit this information about disqualifications imposed in their State and this information is then available to all participating State agencies with access to eDRS. State agencies use personally identifying information to search eDRS for the individual being matched.

1. Information about the disqualified individual:
   - Name
   - Social security number or alternative ID
   - Date of birth
   - Gender
   - Alias
2. Disqualification details:
   - Disqualification number
   - Disqualification decision date

- Disqualification start date
- Duration of disqualification period
- Offense code

3. Agency information:
   - Locality code
   - Locality contact name, title, location, and phone number

System of Records: The system of records for this data exchange comprising eDRS is USDA/FNS–5, Information on Persons Disqualified from the Supplemental Nutrition Assistance Program, 75 FR 81205 (Dec. 27, 2010). This data exchange is authorized under routine uses.

Pamilyn Miller,

Administrator, Food and Nutrition Service.

[FR Doc. 2020–29004 Filed 12–31–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket No. RBS–20–BUSINESS–0045]

Inviting Applications for Value-Added Producer Grants and Solicitation of Grant Reviewers; Correction

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Rural Business-Cooperative Service (Agency), USDA published a notice in the **Federal Register** of December 21, 2020 regarding acceptance of applications for the Value-Added Producer Grant (VAPG) Program. This document inadvertently listed two incorrect amounts of available funds and omitted the option for the applicants to submit applications via electronic mail. This notice corrects these errors.

FOR FURTHER INFORMATION CONTACT: Greg York at (202) 281–5289, *gregory.york@usda.gov* or Mike Daniels at (715) 345–7637, *mike.daniels@usda.gov,* Program Management Division, Rural Business-Cooperative Service, United States Department of Agriculture, 1400 Independence Ave. SW, Mails STOP 3226, Room 5801–S, Washington, DC 20250–3226, Telephone (202) 720–1400, or email *CPgrants@usda.gov.*

SUPPLEMENTARY INFORMATION:

Correction

(1) In the **Federal Register** of December 21, 2020, in FR Doc. 2020–27986, on page 83038, in the first column, under the **SUMMARY**, correct the second sentence to read: Approximately $33 million is currently available.

(2) In the **Federal Register** of December 21, 2020, in FR Doc. 2020–27986, on page 83039, in the second column, under B. Federal Award Information, correct *Available Total Funding* to read: $33 million.

(3) In the **Federal Register** of December 21, 2020, in FR Doc. 2020–27986, on page 83038, in the first column, correct the **DATES** caption to read: Applications must be submitted to the USDA Rural Development State Office for the state where the project is located. Applications may be submitted in paper through hand delivery or electronic mail format to the appropriate Rural Development State Office and must be received by 4:30 p.m. local time on March 22, 2021. Mailed applications must be postmarked, shipped or sent by March 22, 2021. Electronic applications via *http://www.grants.gov* must be received before Midnight Eastern time on March 16, 2021. Follow the instructions for the VAPG funding announcement on *http://www.grants.gov.* Please review the *Grants.gov* website at *https://www.grants.gov/web/grants/applicants/registration.html* for instructions on the process of registering your organization as soon as possible to ensure you are able to meet the electronic application deadline. Late applications are not eligible for grant funding under this Notice. Applicants are encouraged to contact their respective Rural Development State Office for an email contact to submit an electronic application prior to the submission deadline date(s). A list of the USDA Rural Development State Office contacts can be found at: *https://www.rd.usda.gov/page/state-offices.*

(4) In the **Federal Register** of December 21, 2020, in FR Doc. 2020–27986, on page 83038, in the third column, under Overview, correct *Dates* to read: Application Deadline. You must submit your complete paper or electronic mail application by March 22, 2021, or it will not be considered for funding. Electronic applications must be received by *http://www.grants.gov* no later than midnight Eastern time on March 16, 2021, or it will not be considered for funding.

(5) In the **Federal Register** of December 21, 2020, in FR Doc. 2020–27986, on page 83041, in the first column, under D. Application and Submission Information, under 2. *Content and Form of Application Submission,* correct the first paragraph to read: You may submit your application in paper, in electronic mail form, or electronically through *Grants.gov.* Your application must contain all required information.

(6) In the **Federal Register** of December 21, 2020, in FR Doc. 2020–27986, on page 83041, in the second column, correct the sixth full paragraph to read: If you want to submit a paper or electronic mail application, send it to the State Office located in the state where your project will primarily take place. You can find State Office contact information at *https://www.rd.usda.gov/page/state-offices.* An optional-use Agency application template is available online at *http://www.rd.usda.gov/programs-services/value-added-producer-grants.*

(7) In the **Federal Register** of December 21, 2020, in FR Doc. 2020–27986, on page 83042, in the first column, under 4. Submission Dates and Times, under *Explanation of Deadlines:,* correct the first paragraph to read: Paper applications must be postmarked and mailed, shipped, or sent overnight by March 22, 2021. The Agency will determine whether your application is late based on the date shown on the postmark or shipping invoice. You may also hand deliver or electronic mail your application to one of our field offices, but it must be received by close of business on the deadline date. If the due date falls on a Saturday, Sunday, or Federal holiday, the application is due the next business day. Late applications will automatically be considered ineligible and will not be evaluated further.

Mark Brodziski,

Deputy Administrator, Rural Business-Cooperative Service.

[FR Doc. 2020–29010 Filed 12–31–20; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–202–2020]

Approval of Expansion of Subzone 18F, Lam Research Corporation, Fremont, California

On November 12, 2020, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the City of San Jose, grantee of FTZ 18, requesting an expansion of Subzone 18F, subject to the existing activation limit of FTZ 18, on behalf of Lam Research Corporation, in Fremont, California.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (85 FR 73458–73459, November 18, 2020). The FTZ staff examiner reviewed the application and determined that it meets the criteria for

approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to expand Subzone 18F was approved on December 29, 2020, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 18's 2,000-acre activation limit.

Dated: December 29, 2020.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2020–29115 Filed 12–31–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–136]

Certain Chassis and Subassemblies Thereof From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain chassis and subassemblies thereof (chassis) from the People's Republic of China (China). The period of investigation is January 1, 2019 through December 31, 2019. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable January 4, 2021.

FOR FURTHER INFORMATION CONTACT: William Langley or Nicholas Czajkowski, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3681 or (202) 482–1395, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Trade Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on August 26, 2020.[1] On October 1, 2020, Commerce postponed the preliminary determination of this investigation and the revised deadline is now December 28, 2020.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are certain chassis and subassemblies thereof from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* Because this investigation is not currently aligned with the companion AD investigation, Commerce intends to issue its preliminary decision regarding comments concerning the scope of the AD and CVD investigations no later than 30 days after the publication of this notice.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[6]

Commerce notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[7] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. The rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any rates that are zero, *de minimis,* or rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily calculated a rate for Qingdao CIMC Special Vehicles Co., Ltd. and Dongguan CIMC Vehicle Co., Ltd. (collectively, CIMC), the only mandatory respondent. The only rate that is not zero, *de minimis,* or based entirely on facts otherwise available is the rate calculated for CIMC. Consequently, the rate calculated for CIMC is also assigned as the rate for all other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

[1] *See Certain Chassis and Subassemblies Thereof from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 85 FR 52549 (August 26, 2020) (*Initiation Notice*).

[2] *See Certain Chassis and Subassemblies Thereof from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 85 FR 63251 (October 7, 2020).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Certain Chassis and Subassemblies Thereof from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[7] *See* sections 776(a) and (b) of the Act.

Company	Subsidy rate (percent)
Qingdao CIMC Special Vehicles Co., Ltd. and Dongguan CIMC Vehicle Co., Ltd [8]	38.52
All Others	38.52

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID–19 pandemic, Commerce is unable to conduct on-site verification in this investigation. Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Commerce will notify interested parties of the deadline for the submission of case briefs. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[9] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date and time of the hearing two days before the scheduled date.

Parties are reminded that briefs and hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[10]

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: December 28, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation are chassis and subassemblies thereof, whether finished or unfinished, whether assembled or unassembled, whether coated or uncoated, regardless of the number of axles, for carriage of containers, or other payloads (including self-supporting payloads) for road, marine roll-on/roll-off (RORO) and/or rail transport. Chassis are typically, but are not limited to, rectangular framed trailers with a suspension and axle system, wheels and tires, brakes, a lighting and electrical system, a coupling for towing behind a truck tractor, and a locking system or systems to secure the shipping container or containers to the chassis using twistlocks, slide pins or similar attachment devices to engage the corner fittings on the container or other payload.

Subject merchandise includes, but is not limited to, the following subassemblies:

- Chassis frames, or sections of chassis frames, including kingpins or kingpin assemblies, bolsters consisting of transverse beams with locking or support mechanisms, goosenecks, drop assemblies, extension mechanisms and/or rear impact guards;
- Running gear assemblies or axle assemblies for connection to the chassis frame, whether fixed in nature or capable of sliding fore and aft or lifting up and lowering down, which may or may not include suspension(s) (mechanical or pneumatic), wheel end components, slack adjusters, axles, brake chambers, locking pins, and tires and wheels;
- Landing gear (legs) or landing gear assemblies, for connection to the chassis frame, capable of supporting the chassis when it is not engaged to a tractor; and
- Assemblies and/or components that connect to the chassis frame or a section of the chassis frame, such as, but not limited to, pintle hooks or B-trains (which include a fifth wheel), which are capable of connecting a chassis to a converter dolly or another chassis.

Importation of any of these subassemblies, whether assembled or unassembled,

[8] Commerce preliminarily finds the following companies to be cross-owned with Qingdao CIMC Special Vehicles Co., Ltd. and Dongguan CIMC Vehicle Co., Ltd.: CIMC Vehicles (Group) Co., Ltd.; Shenzhen CIMC Vehicle Co., Ltd.; Zhumadian CIMC Huajun Casting Co., Ltd.; China International Marine Containers (Group) Co., Ltd.; Liangshan CIMC Dongyue Vehicles Co., Ltd.; Shandong Wanshida Special Vehicle Manufacturing Co., Ltd.; Yangzhou CIMC Tonghua Special Vehicles Co., Ltd.; Zhumadian CIMC Huajun Vehicle Co., Ltd.; Gansu CIMC Huajun Vehicles Co., Ltd.; CIMC Vehicles (Liaoning) Co., Ltd.; and Zhumadian CIMC Wanjia Axle Co., Ltd.

[9] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements); *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[10] *See Temporary Rule.*

constitutes an unfinished chassis for purposes of this investigation.

Subject merchandise also includes chassis, whether finished or unfinished, entered with or for further assembly with components such as, but not limited to: Hub and drum assemblies, brake assemblies (either drum or disc), axles, brake chambers, suspensions and suspension components, wheel end components, landing gear legs, spoke or disc wheels, tires, brake control systems, electrical harnesses and lighting systems.

Processing of finished and unfinished chassis and components such as trimming, cutting, grinding, notching, punching, drilling, painting, coating, staining, finishing, assembly, or any other processing either in the country of manufacture of the in-scope product or in a third country does not remove the product from the scope. Inclusion of other components not identified as comprising the finished or unfinished chassis does not remove the product from the scope.

This scope excludes dry van trailers, refrigerated van trailers and flatbed trailers. Dry van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer itself. Refrigerated van trailers are trailers with a wholly enclosed cargo space comprised of fixed sides, nose, floor and roof, with articulated panels (doors) across the rear and occasionally at selected places on the sides, with the cargo space being permanently incorporated in the trailer and being insulated, possessing specific thermal properties intended for use with self-contained refrigeration systems. Flatbed (or platform) trailers consist of load-carrying main frames and a solid, flat or stepped loading deck or floor permanently incorporated with and supported by frame rails and cross members.

The finished and unfinished chassis subject to this investigation are typically classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 8716.39.0090 and 8716.90.5060. Imports of finished and unfinished chassis may also enter under HTSUS subheading 8716.90.5010. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Subsidies Valuation
VI. New Subsidy Allegations
VII. Use of Facts Otherwise Available and Adverse Inferences
VIII. Benchmarks and Discount Rates
IX. Analysis of Programs
X. Recommendation

[FR Doc. 2020–29101 Filed 12–31–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–019]

Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on boltless steel shelving units prepackaged for sale (boltless steel shelving) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the ''Final Results of Sunset Review'' section of this notice.

DATES: Applicable January 4, 2021.

FOR FURTHER INFORMATION CONTACT: Nathan James, AD/CVD, Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5305.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 2015, Commerce published in the **Federal Register** the CVD order on boltless steel shelves from China.[1] On September 1, 2020, Commerce published the notice of initiation of the first sunset review of the *Order,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On September 14, 2020, Commerce received a notice of intent to participate from Edsal Manufacturing Company, Inc. (the domestic interested party), within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] The domestic interested party claimed interested party status under section 771(9)(C) of the Act, as a producer of the domestic like product in the United States.

On September 30, 2020, Commerce received a timely and adequate substantive response from the domestic interested party.[4] We received no substantive responses from any other interested parties, including the Government of China, nor was a hearing requested. On October 27, 2020, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.[5] As a result, pursuant to 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the *Order.*

Scope of the Order

The product covered by the *Order* is boltless steel shelving. For a full description of the scope, *see* the Issues and Decision Memorandum.[6]

Analysis of Comments Received

All issues raised in this sunset review are addressed in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice. The issues discussed in the Issues and Decision Memorandum are the likelihood of continuation or recurrence of a countervailable subsidy, the net countervailable subsidy rate likely to prevail if the *Order* were revoked, and the nature of the subsidy programs. A complete list of the issues discussed in the Issues and Decision Memorandum can be found in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines

[1] *See Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 80 FR 63745 (October 21, 2015) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 85 FR 54348 (September 1, 2020).

[3] *See* Domestic Interested Party's Letter, ''Five-Year ('Sunset') Review of Countervailing Duty Order on Boltless Shelving Units Prepackaged for Sale from the People's Republic of China—Petitioner's Notice of Intent to Participate,'' dated September 14, 2020.

[4] *See* Domestic Interested Party's Letter, ''Five-Year (Sunset) Review of the Countervailing Duty Order on Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China—Petitioner's Substantive Response to Notice of Initiation,'' dated September 30, 2020.

[5] *See* Commerce's Letter, ''Sunset Reviews Initiated on September 1, 2020,'' dated October 27, 2020.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Expedited First Five-Year Sunset Review of the Countervailing Duty Order on Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China,'' dated concurrently with this notice (Issues and Decision Memorandum).

that revocation of the *Order* would likely lead to the continuation or recurrence of countervailable subsidies at the rates listed below:

Producer/exporter	Subsidy rate (percent)
Ningbo ETDZ Huixing Trade Co., Ltd	12.40
Nanjing Topsun Racking Manufacturing Co., Ltd	15.05
Dalian Huameilong Metal Products Co., Ltd	80.39
Dongguan Yuan Er Sheng Machinery Source Hardware Co., Ltd	80.39
Dong Rong Metal Products Co., Ltd	80.39
Global Storage Equipment Manufacturer Limited	80.39
Intradin (Shanghai) Import & Export Co., Ltd	80.39
Jinhua Development District Hongfa Tool, Ltd	80.39
Kunshan Jisheng Metal & Plastic Co., Ltd	80.39
Nanjing Huade Warehousing Equipment Manufacturing Co. Ltd	80.39
Nanjing Whitney Metal Products Co., Ltd	80.39
Nanjing Yodoly Logistics Equipments Manufacturing Co., Ltd	80.39
Ningbo Decko Metal Products Trade Co., Ltd	80.39
Ningbo Haifa Metal Works Co., Ltd	80.39
Ningbo HaiFa Office Equipment Co., Ltd	80.39
Ningbo TLT Metal Products Co., Ltd	80.39
All Others	13.73

Administrative Protective Order

This notice also serves as the only reminder to parties subject to an Administrative Protective Order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: December 28, 2020.

Jeffrey I. Kessler,

Assistant Secretary, for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. History of the *Order*
V. Legal Framework
VI. Discussion of the Issues
VII. Final Results of Sunset Review
VIII. Recommendation

[FR Doc. 2020–29106 Filed 12–31–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–018]

Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of this expedited sunset review, the Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on boltless steel shelving units prepackaged for sale (boltless steel shelving) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Review'' section of this notice.

DATES: Applicable January 4, 2021.

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2593.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 2015, Commerce issued the AD order on boltless steel shelving from China.[1] On September 1, 2020, Commerce published the *Notice of Initiation* of the first sunset review of the antidumping duty order on boltless steel shelving from China pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On September 14, 2020, Commerce received a notice of intent to participate from Edsal Manufacturing Company Inc. (the petitioner), a domestic producer of boltless steel shelving and the petitioner in the underlying investigation, within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] The petitioner claimed domestic interested party status under section 771(9)(C) of the Act, as a manufacturer of a domestic like product in the United States.[4] On September 30, 2020, the petitioner filed its timely substantive response within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[5] Commerce received no substantive responses from any other interested parties with respect to the *Order* covered by this sunset review, nor was a hearing requested. Commerce received no comments on the adequacy of responses in this sunset review. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting an expedited (120-day) sunset review of the *Order.*

Scope of the Order

The scope of the *Order* covers boltless steel shelving units prepackaged for

[1] *See Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China: Antidumping Duty Order,* 80 FR 63741 (October 21, 2015) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 85 FR 54348 (September 1, 2020) (*Notice of Initiation*).

[3] *See* Petitioner's Letter, ''Petitioner's Notice of Intent to Participate,'' dated September 14, 2020 at 2.

[4] *See* Petitioner's Letter, ''Petitioner's Substantive Response to Notice of Initiation,'' dated September 30, 2020.

[5] *Id.*

sale, with or without decks (boltless steel shelving). The term ''prepackaged for sale'' means that, at a minimum, the steel vertical supports (*i.e.,* uprights and posts) and steel horizontal supports (*i.e.,* beams, braces) necessary to assemble a completed shelving unit (with or without decks) are packaged together for ultimate purchase by the end user.

Subject boltless steel shelving enters the United States through Harmonized Tariff Schedule of the United States (HTSUS) statistical subheadings 9403.20.0018, 9403.20.0020, 9403.20.0025, and 9403.20.0026, but may also enter through HTSUS 9403.10.0040. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.[6]

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. The issues discussed in the Issues and Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins of dumping likely to prevail if the *Order* were revoked. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* A list of topics discussed in the Issues and Decision Memorandum is included as an Appendix to this notice. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the antidumping duty order on boltless steel shelving from China would be likely to lead to continuation or recurrence of dumping, and that the margins of dumping likely to prevail would be weighted-average margins of up to 112.68 percent.

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely notification of the destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notifications to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, and 19 CFR 351.221(c)(5)(ii).

Dated: December 28, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. History of the Order
V. Legal Framework
VI. Discussion of the Issues
  Comment 1: Likelihood of Continuation or Recurrence of Dumping
  Comment 2: Magnitude of the Margins Likely to Prevail
VII. Final Results of Sunset Review
VIII. Recommendation

[FR Doc. 2020–29097 Filed 12–31–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (Sunset) Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with the Tariff Act of 1930, as amended (the Act), the Department of Commerce (Commerce) is automatically initiating the five-year reviews (Sunset Reviews) of the antidumping and countervailing duty (AD/CVD) order(s) and suspended investigation(s) listed below. The International Trade Commission (ITC) is publishing concurrently with this notice its notice of *Institution of Five-Year Reviews* which covers the same order(s) and suspended investigation(s).

DATES: Applicable (January 1, 2021).

FOR FURTHER INFORMATION CONTACT: Commerce official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. For information from the ITC, contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

Commerce's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to Commerce's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with section 751(c) of the Act and 19 CFR 351.218(c), we are initiating the Sunset Reviews of the following antidumping and countervailing duty order(s) and suspended investigation(s):

DOC case No.	ITC case No.	Country	Product	Commerce contact
A–570–954	731–TA–1166	China	Magnesia Carbon Bricks (2nd Review)	Mary Kolberg, (202) 482–1785.
C–570–955	701–TA–468	China	Magnesia Carbon Bricks (2nd Review)	Jacqueline Arrowsmith, (202) 482–5255.
A–201–837	731–TA–1167	Mexico	Magnesia Carbon Bricks (2nd Review)	Mary Kolberg, (202) 482–1785.

[6] *See* Memorandum, ''Issues and Decisions Memorandum for the Final Results of the Antidumping Duty Administrative Review: Boltless Steel Shelving Units Prepackaged for Sale from the People's Republic of China'' dated concurrently with this notice (Issues and Decisions Memorandum).

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Commerce's regulations, Commerce's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on Commerce's website at the following address: *https://enforcement.trade.gov/sunset/.* All submissions in these Sunset Reviews must be filed in accordance with Commerce's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), can be found at 19 CFR 351.303.[1]

Any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[2] Parties must use the certification formats provided in 19 CFR 351.303(g).[3] Commerce intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

On April 10, 2013, Commerce modified two regulations related to AD/CVD proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301).[4] Parties are advised to review the final rule, available at *https://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in these segments. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied. Parties are also advised to review the final rule concerning the extension of time limits for submissions in AD/CVD proceedings, available at *https://enforcement.trade.gov/frn/2013/1309frn/2013-22853.txt,* prior to submitting factual information in these segments.[5]

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), Commerce will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d)). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation. Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (APO) to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. Commerce's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[6]

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with Commerce's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, Commerce will automatically revoke the order without further review.[7]

If we receive an order-specific notice of intent to participate from a domestic interested party, Commerce's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that Commerce's information requirements are distinct from the ITC 's information requirements. Consult Commerce's regulations for information regarding Commerce's conduct of Sunset Reviews. Consult Commerce's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at Commerce.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: December 18, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020–29123 Filed 12–31–20; 8:45 am]

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[1] *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* section 782(b) of the Act.

[3] *See also Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[4] *See Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013).

[5] *See Extension of Time Limits,* 78 FR 57790 (September 20, 2013).

[6] *See Temporary Rule Modifying AD/CVD Service Requirements Due to* COVID–19, 85 FR 41363 (July 10, 2020).

[7] *See* 19 CFR 351.218(d)(1)(iii).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–803]

Uncovered Innerspring Units From the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has completed the administrative review of the antidumping duty order on uncovered innerspring units (innersprings) from the Socialist Republic of Vietnam (Vietnam) covering the period of review (POR) December 1, 2018 through November 30, 2019. We continue to find that Angkor Spring Co., Ltd. (Angkor Spring) did not demonstrate eligibility for a separate rate; therefore, it is part of the Vietnam-wide entity.

DATES: Applicable January 4, 2021.

FOR FURTHER INFORMATION CONTACT: Brendan Quinn, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave. NW, Washington, DC 20230; telephone: (202) 482–5848.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2020, Commerce published the *Preliminary Results* of this review and gave interested parties an opportunity to comment.[1] We received no comments. These final results cover one company for which an administrative review was requested and not rescinded: Angkor Spring.[2] This review was conducted in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act).[3]

Scope of the Order

The merchandise subject to this order is uncovered innerspring units composed of a series of individual metal springs joined together in sizes corresponding to the sizes of adult mattresses (*e.g.,* twin, twin long, full, full long, queen, California king and king) and units used in small constructions, such as crib and youth mattresses. All uncovered innerspring units are included in the scope regardless of width and length. Including within this definition are innersprings typically ranging from 30.5 inches to 76 inches in width and 68 inches to 84 inches in length. Innerspring for crib mattresses typically range from 25 inches to 27 inches in width and 50 inches to 52 inches in length.

Uncovered innerspring units are suitable for use as the innerspring component in the manufacture of innerspring mattresses, including mattresses that incorporate a foam encasement around the innerspring.

Pocketed and non-pocketed innerspring units are included in this definition. Non-pocketed innersprings are typically joined together with helical wire and border rods. Non-pocketed innersprings are included in this definition regardless of whether they have border rods attached to the perimeter of the innerspring. Pocketed innersprings are individual coils covered by a ''pocket'' or ''sock'' of a nonwoven synthetic material or woven material and then glued together in a linear fashion.

Uncovered innersprings are classified under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 9404.29.9005, 9404.29.9011, 7326.20.0070, 7326.20.0090, 7320.20.5010, 7320.90.5010, or 7326.20.0071 of the Harmonized Tariff Schedule of the United States (HTSUS).[4] The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.

Final Results of Review

Commerce preliminarily determined that the company subject to this review did not demonstrate eligibility for separate rate status and, thus, Commerce found it to be part of the Vietnam-wide entity.[5] As noted above, Commerce received no comments concerning the *Preliminary Results* of this review. We find that there is no reason to modify our analysis. Accordingly, no decision memorandum accompanies this **Federal Register** notice. For further details regarding the issues addressed in this proceeding, *see* the *Preliminary Results*.[6]

In these final results of review, we continue to treat the sole exporter subject to this review as part of the Vietnam-wide entity.[7] The Vietnam-wide rate is 116.31 percent.

Vietnam-Wide Entity

Commerce's policy regarding the conditional review of the Vietnam-wide entity applies to this administrative review.[8] Under this policy, the Vietnam-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the Vietnam-wide entity, and Commerce did not self-initiate a review, the entity is not under review and the entity's rate is not subject to change (*i.e.,* 116.31 percent).

Assessment Rates

Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries in this review, in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1). We intend to issue assessment instructions directly to CBP 15 days after publication in the **Federal Register** or these final results of this administrative review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed Vietnamese and non-Vietnamese exporters not under review in this segment of the proceeding, but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (2) for all Vietnamese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the Vietnam-wide entity rate (*i.e.,* 116.31 percent); and (3) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnamese exporter that supplied that non-Vietnamese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

[1] *See Uncovered Innerspring Units from the Socialist Republic of Vietnam: Preliminary Results of the Administrative Review; 2018–2019,* 85 FR 39524 (July 1, 2020) (*Preliminary Results*).

[2] *Id.*

[3] On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days. The deadline for the final results of this review is now December 28, 2020. *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

[4] Based on a recommendation by CBP, on September 15, 2017, Commerce added HTS 7326.20.0090 to the scope. *See* Memorandum, ''Request from Customs and Border Protection to Update the ACE AD/CVD Case Reference File,'' dated September 15, 2017 (Barcode 3622582–01).

[5] *See Preliminary Results.*

[6] *Id.*

[7] In the *Preliminary Results,* we found the sole exporter subject to this review to be part of the Vietnam-wide entity, as it failed to submit a separate rate application and/or a separate rate certification to establish its eligibility for separate rate status.

[8] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

Failure to comply with the regulations and terms of an APO is a violation, which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with section 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h).

Dated: December 28, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–29110 Filed 12–31–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–117]

Wood Mouldings and Millwork Products From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of wood mouldings and millwork products (millwork products) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is July 1, 2019 through December 31, 2019.

DATES: Applicable January 4, 2021.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Michael Bowen, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–0768, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 2020, Commerce published the *Preliminary Determination* in the LTFV investigation of millwork products from China.[1] For a complete description of the events that followed the *Preliminary Determination, see* the Issues and Decision Memorandum.[2]

Scope of the Investigation

The products covered by this investigation are millwork products from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

On August 5, 2020, we issued a Preliminary Scope Memorandum.[3] Several interested parties submitted case and rebuttal briefs concerning the scope of this investigation. For a summary of the product coverage comments and rebuttal comments submitted to the record for this final determination, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Memorandum.[4] Based on the comments received from interested parties, we are revising the scope of this investigation as it appeared in the *Preliminary Determination.* The scope in Appendix I reflects these changes.

Verification

Commerce normally verifies information relied upon in making its final determination, pursuant to section 782(i)(1) of the Tariff Act of 1930, as amended (the Act). However, during the course of this investigation, Commerce was unable to conduct on-site verification due to travel restrictions.[5] Consistent with section 776(a)(2)(D) of the Act, Commerce relied on the information submitted on the record, where appropriate, which we used in making our *Preliminary Determination,* as facts available in making our final determination.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. For a list of the issues raised by interested parties and addressed in the Issues and Decision Memorandum, *see* Appendix II to this notice. The Issues and Decision Memorandum is a public document and is made available to the public 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.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

China-Wide Entity and Use of Adverse Facts Available

Commerce continues to find that the use of facts available is warranted in determining the rate of the China-wide entity pursuant to sections 776(a)(1) and (a)(2)(A)–(C) of the Act. As discussed in the Issues and Decision Memorandum, Commerce finds that the use of facts available is also warranted with respect to Bel Trade Wood Industrial Co., Ltd. Youxi Fujian (Bel Trade) pursuant to sections 776(a)(1) and (a)(2)(A)–(C) of the Act. Furthermore, we find that the use of adverse facts available (AFA) is warranted because the China-wide entity, including Bel Trade, did not cooperate to the best of its ability to comply with our requests for information and, accordingly, we applied adverse inferences in selecting from the facts available, pursuant to section 776(b) of the Act and 19 CFR 351.308(a). For the final determination, as AFA, we are assigning the China-wide entity, including Bel Trade, the rate of 230.36 percent, which is the highest calculated transaction-specific margin on the record.[6]

Separate Rates

We preliminarily granted 43 companies, including the two mandatory respondents, Fujian Yinfeng Imp & Exp Trading Co., Ltd./Fujian Province Youxi City Mangrove Wood Machining Co., Ltd. (Yinfeng/Mangrove)[7] and Bel Trade, and 41 non-

[1] *See Wood Mouldings and Millwork Products from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 85 FR 48669 (August, 12, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Wood Mouldings and Millwork Products from the People's Republic of China: Issues and Decision Memorandum for the Final Affirmative Determination of Sales at Less Than Fair Value,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Preliminary Scope Decision Memorandum,'' dated August 5, 2020 (Preliminary Scope Memorandum).

[4] *See* Memorandum, ''Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Scope Comments Decision Memorandum for the Final Determinations,'' dated concurrently with, and hereby adopted by, this notice (Final Scope Memorandum).

[5] *See* Memorandum, ''Antidumping Duty Investigation of Wood Mouldings and Millwork Products from the People's Republic of China: Cancellation of Verification and Establishment of Briefing Schedule,'' dated October 23, 2020.

[6] *See* Issues and Decision Memorandum at ''Application of Facts Available and Use of Facts Available'' section for a full discussion.

[7] Commerce preliminarily determined that the exporter Yinfeng, and its affiliated producer, Mangrove, are a single entity. *See Preliminary Determination* PDM. No new facts have been presented on the record of this investigation since

Continued

individually examined respondents, a separate rate in the *Preliminary Determination* based on their eligibility.[8] As discussed in the Issues and Decision Memorandum, we continue to find that Yinfeng/Mangrove is eligible for a separate rate in the final determination.[9] Because we find that AFA is warranted for Bel Trade in the final determination, it is no longer eligible for a separate rate and is considered part of the China-wide entity.[10]

No party commented on our preliminary separate rate determinations with respect to the 41 non-individually examined companies; thus, there is no basis to reconsider our preliminary determinations with respect to these companies, and we have continued to grant them a separate rate in this final determination. Finally, with respect to Lanzhou Xinyoulian Industrial Co., Ltd. (Lanzhou Xinyoulian), a company to which we preliminarily denied a separate rate, we find Lanzhou Xinyoulian is also entitled to a separate rate after careful consideration of its timely submitted information requested after the *Preliminary Determination*.[11]

In determining the rate for non-individually examined separate rate respondents in a non-market economy antidumping duty (AD) investigation, Commerce normally takes guidance from section 735(c)(5)(A) of the Act, which governs the calculation of the all-others rate in a market economy AD investigation. Generally, under section 735(c)(5)(A) of the Act, this rate shall be an amount equal to the weighted average of the estimated AD rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

The sole calculated AD rate for this final determination is the margin calculated for Yinfeng/Mangrove. Therefore, for the final determination, we assigned the rate calculated for Yinfeng/Mangrove as the separate rate for the non-individually examined companies which established their eligibility for a separate rate, consistent with our practice.[12]

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from interested parties, we made changes to the margin calculations for Yinfeng/Mangrove.[13] As a result of these changes, Commerce also revised the China-wide entity rate and the rate for those companies entitled to a separate rate. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Combination Rates

Consistent with the *Preliminary Determination*[14] and Policy Bulletin 05.1,[15] Commerce calculated combination rates for the respondents that are eligible for a separate rate in this investigation.

Final Determination

Commerce determines that the following weighted-average dumping margins exist for the companies under investigation:

Exporter	Producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) (percent)
Fujian Yinfeng Imp & Exp Trading Co., Ltd/Fujian Province Youxi City Mangrove Wood Machining Co., Ltd.[16].	Fujian Yinfeng Imp & Exp Trading Co., Ltd/Fujian Province Youxi City Mangrove Wood Machining Co., Ltd.	44.60	33.87
Anji Golden Elephant Bamboo Wooden Industry Co., Ltd.	Anji Golden Elephant Bamboo Wooden Industry Co., Ltd.	44.60	33.87
Anji Huaxin Bamboo & Wood Products Co., Ltd	Anji Huaxin Bamboo & Wood Products Co., Ltd	44.60	33.87
Cao County Hengda Wood Products Co., Ltd	Cao County Hengda Wood Products Co., Ltd	44.60	33.87
Evermark (Yantai) Co., Ltd	Evermark (Yantai) Co., Ltd	44.60	33.87
Fujian Hongjia Craft Products Co., Ltd	Fujian Hongjia Craft Products Co., Ltd	44.60	33.87
Fujian Jinquan Trade Co., Ltd	Fujian Province Youxi County Baiyuan Wood Machining Co., Ltd.	44.60	33.87
Fujian Nanping Yuanqiao Wood Industry Co., Ltd	Fujian Nanping Yuanqiao Wood Industry Co., Ltd	44.60	33.87
Fujian Province Youxi County Chang Sheng Wood Machining Co., Ltd.	Fujian Province Youxi County Chang Sheng Wood Machining Co., Ltd.	44.60	33.87
Fujian Sanming City Donglai Wood Co., Ltd	Fujian Sanming City Donglai Wood Co., Ltd	44.60	33.87
Fujian Shunchang Shengsheng Wood Industry Limited Company.	Fujian Shunchang Shengsheng Wood Industry Limited Company.	44.60	33.87
Fujian Wangbin Decorative Material Co., Ltd	Fujian Wangbin Decorative Material Co., Ltd	44.60	33.87
Fujian Youxi Best Arts & Crafts Co., Ltd	Fujian Ruisen International Industrial Co., Ltd	44.60	33.87
Fujian Zhangping Kimura Forestry Products Co., Ltd	Fujian Zhangping Kimura Forestry Products Co., Ltd	44.60	33.87
Heze Huasheng Wooden Co., Ltd	Heze Huasheng Wooden Co., Ltd	44.60	33.87
Huaan Longda Wood Industry Co., Ltd	Huaan Longda Wood Industry Co., Ltd	44.60	33.87
Jiangsu Chen Sheng Forestry Development Co., Ltd	Jiangsu Chen Sheng Forestry Development Co., Ltd	44.60	33.87
Jiangsu Wenfeng Wood Co., Ltd	Jiangsu Wenfeng Wood Co., Ltd	44.60	33.87
Lanzhou Xinyoulian Industrial Co., Ltd	Lanzhou Xinyoulian Industrial Co., Ltd	44.60	33.87

the *Preliminary Determination* warranting reconsideration of this decision in the final determination.

[8] *See Preliminary Determination* PDM at 12–13.

[9] *See* Issues and Decision Memorandum at Comment 1 for further discussion.

[10] *Id.* at ''Application of Facts Available and Use of Facts Available'' section.

[11] *Id.* at ''Separate Rates'' section.

[12] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

[13] *See* Issues and Decision Memorandum.

[14] *See Preliminary Determination.*

[15] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' dated April 5, 2005 (Policy Bulletin 05.1), available on Commerce's website at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

[16] As mentioned above, Commerce determined that Yinfeng/Mangrove is a single entity.

Exporter	Producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) (percent)
Lianyungang Tianke New Energy Technology Co., Ltd	Lianyungang Tianke New Energy Technology Co., Ltd	44.60	33.87
Longquan Jiefeng Trade Co., Ltd	Zhejiang Senya Board Industry Co., Ltd	44.60	33.87
Nanping Huatai Wood & Bamboo Co., Ltd	Nanping Huatai Wood & Bamboo Co., Ltd	44.60	33.87
Nanping Qiangmei Import & Export Co., Ltd	Pucheng County Qiangmei Wood Company, Ltd	44.60	33.87
Oppein Home Group Inc	Oppein Home Group Inc.	44.60	33.87
Putian Yihong Wood Industry Co., Ltd	Putian Yihong Wood Industry Co., Ltd	44.60	33.87
Qimen Jianxing Bamboo and Wood Goods Co., Ltd	Qimen Jianxing Bamboo and Wood Goods Co., Ltd	44.60	33.87
Qingdao Sanhe Dacheng International Trade Co., Ltd	Yongan Tenlong Bamboo & Wood Products Co., Ltd	44.60	33.87
Rizhao Duli Trade Co., Ltd	Rizhao Jiayue Industry & Trading Co., Ltd	44.60	33.87
Rizhao Guantong Woodworking Co., Ltd	Shouguang Luli Wood Industry Co., Ltd/Rizhao Forest International Trading Co., Ltd/Xiamen Oubai Industry & Trade Co., Ltd.	44.60	33.87
Sanming Lingtong Trading Co., Ltd	Sanming Shitong Wood Industry Co., Ltd	44.60	33.87
Shandong Miting Household Co., Ltd	Shandong Jicheng Decorative Material Co., Ltd	44.60	33.87
Shaxian Hengtong Wood Industry Co., Ltd	Shaxian Hengtong Wood Industry Co., Ltd	44.60	33.87
Shaxian Shiyiwood, Ltd	Shaxian Shiyiwood, Ltd	44.60	33.87
Shuyang Kevin International Co., Ltd	Shuyang Zhongding Decoration Materials Co., Ltd	44.60	33.87
Suqian Sulu Import & Export Trading Co., Ltd	Suqian Sulu Import & Export Trading Co., Ltd	44.60	33.87
The Ancientree Cabinet Co., Ltd	The Ancientree Cabinet Co., Ltd	44.60	33.87
Xiamen Jinxi Building Material Co., Ltd	Zhangzhou City Jinxi Building Material Co., Ltd	44.60	33.87
Xuzhou Goodwill Resource Co., Ltd	Pucheng County Qiangmei Wood Company, Ltd/Lianyungang Tianke New Energy Technology Co., Ltd/Fujian Sanming City Donglai Wood Co., Ltd/Zhangzhou Fukangyuan Industry and Trade Co., Ltd.	44.60	33.87
Xuzhou Hexi Wood Co., Ltd	Xuzhou Hexi Wood Co., Ltd	44.60	33.87
Zhangping San Chuan Industrial & Trade Co., Ltd	Zhangping San Chuan Industrial & Trade Co., Ltd	44.60	33.87
Zhangzhou Green Wood Industry and Trade Co., Ltd	Zhangzhou Green Wood Industry and Trade Co., Ltd	44.60	33.87
Zhangzhou Wangjiamei Industry and Trade Co., Ltd	Zhangzhou Wangjiamei Industry and Trade Co., Ltd	44.60	33.87
Zhangzhou Yihong Industrial Co., Ltd	Zhangzhou Yihong Industrial Co., Ltd	44.60	33.87
China-Wide Entity		230.36	219.63

Disclosure

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of millwork products from China, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after August 12, 2020, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act, upon the publication of this notice, Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which the normal value exceeds U.S. price as follows: (1) The cash deposit rate for the exporter/producer combinations listed in the table above will be the rate identified in the table; (2) for all combinations of Chinese exporters/producers of subject merchandise that have not received their own separate rate above, the cash deposit rate will be the cash deposit rate established for the China-wide entity; and (3) for all non-Chinese exporters of subject merchandise which have not received their own separate rate above, the cash deposit rate will be the cash deposit rate applicable to the Chinese exporter/producer combination that supplied that non-Chinese exporter. These suspension of liquidation instructions will remain in effect until further notice.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion countervailing duty (CVD) proceeding where appropriate. Accordingly, because Commerce made a final affirmative determination for export subsidies in the companion CVD investigation, we offset the calculated estimated weighted-average dumping margins by the appropriate export subsidy rates [17] as indicated in the above chart. However, suspension of liquidation for provisional measures in the companion CVD case has been discontinued effective October 10, 2020; therefore, we are not instructing CBP to collect cash deposits based upon the adjusted estimated weighted-average dumping margin for those export subsidies at this time.

For this final determination, we made no adjustment for domestic subsidy pass-through because we found no basis upon which to make such an adjustment.[18]

[17] The export subsidy rate determined in the final determination of the companion CVD investigation is 10.73 percent. *See Wood Mouldings and Millwork Products from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination* (unpublished and dated concurrently with this memorandum); unchanged from *Wood Mouldings and Millwork Products from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 85 FR 35900 (June 12, 2020), and accompanying PDM at 33–52.

[18] *See* Issues and Decision Memorandum at Comment 5 for further discussion.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our final affirmative determination of sales at LTFV. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise from China no later than 45 days after our final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an AD order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice will serve as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: December 28, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise subject to this investigation consists of wood mouldings and millwork products that are made of wood (regardless of wood species), bamboo, laminated veneer lumber (LVL), or of wood and composite materials (where the composite materials make up less than 50 percent of the total merchandise), and which are continuously shaped wood or finger-jointed or edge-glued moulding or millwork blanks (whether or not resawn). The merchandise subject to this investigation can be continuously shaped along any of its edges, ends, or faces.

The percentage of composite materials contained in a wood moulding or millwork product is measured by length, except when the composite material is a coating or cladding. Wood mouldings and millwork products that are coated or clad, even along their entire length, with a composite material, but that are otherwise comprised of wood, LVL, or wood and composite materials (where the non-coating composite materials make up 50 percent or less of the total merchandise) are covered by the scope.

The merchandise subject to this investigation consists of wood, LVL, bamboo, or a combination of wood and composite materials that is continuously shaped throughout its length (with the exception of any endwork/dados), profiled wood having a repetitive design in relief, similar milled wood architectural accessories, such as rosettes and plinth blocks, and finger-jointed or edge-glued moulding or millwork blanks (whether or not resawn). The scope includes continuously shaped wood in the forms of dowels, building components such as interior paneling and jamb parts, and door components such as rails, stiles, interior and exterior door frames or jambs (including split, flat, stop applied, single- or double-rabbeted), frame or jamb kits, and packaged door frame trim or casing sets, whether or not the door components are imported as part of a door kit or set.

The covered products may be solid wood, laminated, finger-jointed, edge-glued, face-glued, or otherwise joined in the production or remanufacturing process and are covered by the scope whether imported raw, coated (*e.g.,* gesso, polymer, or plastic), primed, painted, stained, wrapped (paper or vinyl overlay), any combination of the aforementioned surface coatings, treated, or which incorporate rot-resistant elements (whether wood or composite). The covered products are covered by the scope whether or not any surface coating(s) or covers obscure the grain, textures, or markings of the wood, whether or not they are ready for use or require final machining (*e.g.,* endwork/dado, hinge/strike machining, weatherstrip or application thereof, mitre) or packaging.

All wood mouldings and millwork products are included within the scope even if they are trimmed; cut-to-size; notched; punched; drilled; or have undergone other forms of minor processing.

Subject merchandise also includes wood mouldings and millwork products that have been further processed in a third country, including but not limited to trimming, cutting, notching, punching, drilling, coating, or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the in-scope product.

Excluded from the scope of this investigation are countertop/butcherblocks imported as a full countertop/butcherblock panel, exterior fencing, exterior decking and exterior siding products (including solid wood siding, non-wood siding (*e.g.,* composite or cement), and shingles) that are not LVL or finger jointed; finished and unfinished doors; flooring; parts of stair steps (including newel posts, balusters, easing, gooseneck, risers, treads, rail fittings and stair stringers); picture frame components three feet and under in individual lengths; and lumber whether solid, finger-jointed, or edge-glued. To be excluded from the scope, finger-jointed or edge-glued lumber must have a nominal thickness of 1.5 inches or greater and a certification stamp from an American Lumber Standard Committee-certified grading agency. The exclusion for lumber whether solid, finger-jointed, or edge-glued does not apply to screen/''surfaced on 4 sides'' (S4S) and/or ''surface 1 side, 2 edges'' (SlS2E) stock (also called boards) that are finger-jointed and/or edge-glued, or to finger-jointed and/or edge-glued moulding or millwork blanks (whether or not resawn). Accordingly, S4S and S1S2E stock/boards that are not finger-jointed or edge-glued are excluded from the scope of this investigation.

Excluded from the scope of this investigation are all products covered by the scope of the antidumping duty order on *Hardwood Plywood from the People's Republic of China. See Certain Hardwood Plywood Products from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order*, 83 FR 504 (January 4, 2018).

Excluded from the scope of this investigation are all products covered by the scope of the antidumping duty order on *Multilayered Wood Flooring from the People's Republic of China. See Multilayered Wood Flooring from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 76 FR 76690 (December 8, 2011).

Excluded from the scope of this investigation are all products covered by the scope of the antidumping duty order on *Wooden Cabinets and Vanities from the People's Republic of China. See Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Antidumping Duty Order,* 85 FR 22126 (April 21, 2020).

Excluded from the scope of this investigation are all products covered by the scope of the antidumping duty order on *Wooden Bedroom Furniture from the People's Republic of China. See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture from the People's Republic of China,* 70 FR 329 (January 4, 2005).

Imports of wood mouldings and millwork products are primarily entered under the following Harmonized Tariff Schedule of the United States (HTSUS) numbers: 4409.10.4010, 4409.10.4090, 4409.10.4500,

4409.10.5000, 4409.22.4000, 4409.22.5000,4409.29.4100, and 4409.29.5100. Imports of wood mouldings and millwork products may also enter under HTSUS numbers: 4409.10.6000,4409.10.6500, 4409.22.6000, 4409.22.6500, 4409.29.6100, 4409.29.6600, 4418.20.4000, 4418.20.8030, 4418.20.8060, 4418.99.9095 and 4421.99.9780. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Application of Facts Available and Use of Adverse Inference
IV. China-Wide Rate
V. Separate Rates
VI. Adjustments for Countervailable Export Subsidies
VII. Changes From the Preliminary Determination
VIII. Discussion of the Issues
Comment 1: Whether to Deny Yinfeng/Mangrove a Separate Rate
Comment 2: Whether to Deny Wuxi Boda a Separate Rate
Comment 3: Primary Surrogate Country Selection
Comment 4: Surrogate Value Selection for Laminated Veneer Lumber/Plywood/Tray Material Inputs
Comment 5: Domestic Subsidy Offset
IX. Recommendation

[FR Doc. 2020–29104 Filed 12–31–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–118]

Wood Mouldings and Millwork Products From the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of wood mouldings and millwork products (millwork products) from the People's Republic of China (China).

DATES: Applicable January 4, 2021.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik or Faris Montgomery, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6905 or (202) 482–1537, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 12, 2020, Commerce published in the **Federal Register** the *Preliminary Determination.*[1] On August 20, 2020, Commerce published its *Amended Preliminary Determination* to revise the scope of the investigation.[2] The selected mandatory respondents in this investigation are Fujian Yinfeng Imp & Exp Trading Co., Ltd. (Yinfeng) and Fujian Nanping Yuanqiao Wood-Industry Co., Ltd. (Yuanqiao). In the *Preliminary Determination,* in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4), Commerce aligned the final countervailing duty (CVD) determination with the final antidumping duty (AD) determination. The revised deadline for the final determination of this investigation is now December 28, 2020. On October 19, 2020, Commerce issued its Post-Preliminary Analysis.[3]

A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum which is hereby adopted by this notice.[4] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Period of Investigation

The period of investigation (POI) is January 1, 2019 through December 31, 2019.

Scope of the Investigation

The products covered by this investigation are millwork products from China. For a full description of the scope of this investigation, *see* Appendix I.

Scope Comments

On August 5, 2020, we issued a Preliminary Scope *Memorandum.*[5] Several interested parties submitted case and rebuttal briefs concerning the scope of this investigation. For a summary of the product coverage comments and rebuttal comments submitted to the record for this final determination, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Memorandum.[6] Based on the comments received from interested parties, we are revising the scope of this investigation as it appeared in the *Amended Preliminary Determination.* The scope in Appendix I reflects these changes.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a

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[1] *See Wood Mouldings and Millwork Products from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 85 FR 35900 (June 12, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See Wood Mouldings and Millwork Products from the People's Republic of China: Amended Preliminary Countervailing Duty Determination,* 85 FR 51410 (August 20, 2020) (*Amended Preliminary Determination*).

[3] *See* Memorandum, ''Post-Preliminary Analysis of the Countervailing Duty Investigation of Wood Mouldings and Millwork Products from the People's Republic of China,'' dated October 19, 2020; *see also* Memorandum, ''Countervailing Duty Investigation of Wood Mouldings and Millwork Products from the People's Republic of China: Preliminary Creditworthiness Determination for Fujian Province Youxi City Mangrove Wood Machining Co., Ltd.,'' dated October 19, 2020; and Memorandum, ''Countervailing Duty Investigation of Wood Mouldings and Millwork Products from the People's Republic of China: Post-Prelim Calculations for Fujian Yinfeng Imp & Exp Trading Co., Ltd.,'' dated October 19, 2020.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination of the Countervailing Duty Investigation of Wood Mouldings and Millwork Products from the People's Republic of China,'' dated concurrently with, and hereby adopted, by this notice (Issues and Decision Memorandum).

[5] *See* Memorandum, ''Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Preliminary Scope Decision Memorandum,'' dated August 5, 2020 (Preliminary Scope Memorandum).

[6] *See* Memorandum, ''Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Scope Comments Decision Memorandum for the Final Determinations,'' dated concurrently with, and hereby adopted by, this notice (Final Scope Memorandum).

subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[7] For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making this final determination, Commerce relied, in part, on facts available pursuant to section 776(a) of the Act. Additionally, as discussed in the Issues and Decision Memorandum, because one or more respondents did not act to the best of their ability in responding to our requests for information, we drew adverse inferences, where appropriate, in selecting from among the facts otherwise available, pursuant to section 776(b) of the Act. For further information, *see* the section ''Use of Facts Otherwise Available and Adverse Inferences'' in the accompanying Issues and Decision Memorandum.

Verification

Commerce normally verifies information relied upon in making its final determination, pursuant to section 782(i)(1) of the Act. However, during the course of this investigation, Commerce was unable to conduct on-site verification due to travel restrictions.[8] Consistent with section 776(a)(2)(D) of the Act, Commerce relied on the information submitted on the record, where appropriate, which we used in making our *Preliminary Determination,* as facts available in making our final determination.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, we made certain changes to Yinfeng's subsidy rate calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Determination

In accordance with section 705(c)(l)(B)(i) of the Act, we calculated a rate for Yinfeng, a producer/exporter of subject merchandise selected for individual examination in this investigation. Commerce assigned rates based entirely on facts otherwise available with adverse inferences pursuant to section 776 of the Act to Yuanqiao, a producer/exporter of subject merchandise selected for individual examination which failed to participate on this investigation.

Section 705(c)(5)(A) of the Act provides that in the final determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce assigned a rate based entirely on facts available for Yuanqiao. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Yinfeng. Consequently, we assigned the rate calculated for Yinfeng as the all-others rate applicable to producers and exporters not individually examined.

Commerce determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent)
Fujian Yinfeng Imp & Exp Trading Co., Ltd.[9]	20.56
Fujian Nanping Yuanqiao Wood Industry Co., Ltd	252.29
All Others	20.56

Disclosure

Commerce intends to disclose to interested parties the calculations and analysis performed in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of the publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the ''Scope of the Investigation'' section entered, or withdrawn from warehouse, for consumption, effective June 12, 2020, which is the date of publication of the *Preliminary Determination* in the **Federal Register**. In the *Amended Preliminary Determination,* we revised the scope of the investigation, notifying parties that because certain products were henceforth excluded from the scope of the investigation, Commerce instructed CBP to terminate suspension of liquidation of those excluded products, and to refund any cash deposits previously posted with respect to them.[10] However, we did not revise the estimated cash deposit rates published in the *Preliminary Determination.*

In accordance with section 703(d) of the Act, effective October 10, 2020, we instructed CBP to discontinue the suspension of liquidation of all entries at that time, but to continue the suspension of liquidation of all entries between June 12, 2020 and October 9, 2020.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation and require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our affirmative determination that countervailable subsidies are being provided to producers and exporters of millwork products from China. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of millwork products from China no later than 45 days after our final determination. If the ITC determines

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* Memorandum, ''Cancellation of Verification and Establishment of the Briefing Schedule,'' dated October 23, 2020.

[9] As discussed in the *Preliminary Determination,* Commerce found that Yinfeng Fujian Province Youxi City Mangrove Wood Machining Co., Ltd. and Fujian Province Youxi City Mangrove Wood Machining Co., Ltd., Xicheng Branch are cross-owned affiliates of mandatory respondent Yinfeng. *See Preliminary Determination,* 85 FR at 35901, unchanged in the final determination.

[10] *See Amended Preliminary Determination,* 85 FR at 51410.

that material injury or threat of material injury does not exist, this proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, CVDs on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/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.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: December 28, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise subject to this investigation consists of wood mouldings and millwork products that are made of wood (regardless of wood species), bamboo, laminated veneer lumber (LVL), or of wood and composite materials (where the composite materials make up less than 50 percent of the total merchandise), and which are continuously shaped wood or finger-jointed or edge-glued moulding or millwork blanks (whether or not resawn). The merchandise subject to this investigation can be continuously shaped along any of its edges, ends, or faces.

The percentage of composite materials contained in a wood moulding or millwork product is measured by length, except when the composite material is a coating or cladding. Wood mouldings and millwork products that are coated or clad, even along their entire length, with a composite material, but that are otherwise comprised of wood, LVL, or wood and composite materials (where the non-coating composite materials make up 50 percent or less of the total merchandise) are covered by the scope.

The merchandise subject to this investigation consists of wood, LVL, bamboo, or a combination of wood and composite materials that is continuously shaped throughout its length (with the exception of any endwork/dados), profiled wood having a repetitive design in relief, similar milled wood architectural accessories, such as rosettes and plinth blocks, and finger-jointed or edge-glued moulding or millwork blanks (whether or not resawn). The scope includes continuously shaped wood in the forms of dowels, building components such as interior paneling and jamb parts, and door components such as rails, stiles, interior and exterior door frames or jambs (including split, flat, stop applied, single- or double-rabbeted), frame or jamb kits, and packaged door frame trim or casing sets, whether or not the door components are imported as part of a door kit or set.

The covered products may be solid wood, laminated, finger-jointed, edge-glued, face-glued, or otherwise joined in the production or remanufacturing process and are covered by the scope whether imported raw, coated (*e.g.,* gesso, polymer, or plastic), primed, painted, stained, wrapped (paper or vinyl overlay), any combination of the aforementioned surface coatings, treated, or which incorporate rot-resistant elements (whether wood or composite). The covered products are covered by the scope whether or not any surface coating(s) or covers obscure the grain, textures, or markings of the wood, whether or not they are ready for use or require final machining (*e.g.,* endwork/dado, hinge/strike machining, weatherstrip or application thereof, mitre) or packaging.

All wood mouldings and millwork products are included within the scope even if they are trimmed; cut-to-size; notched; punched; drilled; or have undergone other forms of minor processing.

Subject merchandise also includes wood mouldings and millwork products that have been further processed in a third country, including but not limited to trimming, cutting, notching, punching, drilling, coating, or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the in-scope product.

Excluded from the scope of this investigation are countertop/butcherblocks imported as a full countertop/butcherblock panel, exterior fencing, exterior decking and exterior siding products (including solid wood siding, non-wood siding (*e.g.,* composite or cement), and shingles) that are not LVL or finger jointed; finished and unfinished doors; flooring; parts of stair steps (including newel posts, balusters, easing, gooseneck, risers, treads, rail fittings and stair stringers); picture frame components three feet and under in individual lengths; and lumber whether solid, finger-jointed, or edge-glued. To be excluded from the scope, finger-jointed or edge-glued lumber must have a nominal thickness of 1.5 inches or greater and a certification stamp from an American Lumber Standard Committee-certified grading agency. The exclusion for lumber whether solid, finger-jointed, or edge-glued does not apply to screen/''surfaced on 4 sides'' (S4S) and/or ''surface 1 side, 2 edges'' (SlS2E) stock (also called boards) that are finger-jointed and/or edge-glued, or to finger-jointed and/or edge-glued moulding or millwork blanks (whether or not resawn). Accordingly, S4S and S1S2E stock/boards that are not finger-jointed or edge-glued are excluded from the scope of this investigation.

Excluded from the scope of this investigation are all products covered by the scope of the countervailing duty order on *Hardwood Plywood from the People's Republic of China. See Certain Hardwood Plywood Products from the People's Republic of China: Countervailing Duty Order,* 83 FR 513 (January 4, 2018).

Excluded from the scope of this investigation are all products covered by the scope of the countervailing duty order on *Multilayered Wood Flooring from the People's Republic of China. See Multilayered Wood Flooring from the People's Republic of China: Countervailing Duty Order,* 76 FR 76693 (December 8, 2011).

Excluded from the scope of this investigation are all products covered by the scope of the countervailing duty order on *Wooden Cabinets and Vanities from the People's Republic of China. See Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Countervailing Duty Order,* 85 FR 22134 (April 21, 2020).

Imports of wood mouldings and millwork products are primarily entered under the following Harmonized Tariff Schedule of the United States (HTSUS) numbers: 4409.10.4010, 4409.10.4090, 4409.10.4500, 4409.10.5000, 4409.22.4000, 4409.22.5000,4409.29.4100, and 4409.29.5100. Imports of wood mouldings and millwork products may also enter under HTSUS numbers: 4409.10.6000,4409.10.6500, 4409.22.6000, 4409.22.6500, 4409.29.6100, 4409.29.6600, 4418.20.4000, 4418.20.8030, 4418.20.8060, 4418.99.9095 and 4421.99.9780. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Use of Facts Otherwise Available and Adverse Inferences
IV. Subsidies Valuation
V. Analysis of Programs
VI. Analysis of Comments
  Comment 1: Calculation of the All-Others Rate
  Comment 2: Whether To Continue To Apply Adverse Facts Available (AFA) to the Export Buyer's Credit (EBC) Program
  Comment 3: Whether the Provision of Electricity for Less Than Adequate Remuneration (LTAR) Is Countervailable
  Comment 4: Calculation of the Electricity for LTAR Benefit
  Comment 5: Whether Individual-Owned Sawn Wood and Plywood Input Suppliers Are Government Authorities

Comment 6: Whether Commerce Should Countervail Imported Sawn Wood Purchased From Domestic Trading Companies
Comment 7: Whether the Provision of Primer, Including Gesso, for LTAR Program Was Unlawfully Expanded
Comment 8: Whether Zeroing of Negative LTAR Benefits Must Be Eliminated
Comment 9: Whether To Include Land Purchased From an Individual in the Benefits Calculation
Comment 10: Provision of Land-Use Rights for LTAR Benchmarks
Comment 11: Adjustment to Ocean Freight Data
Comment 12: Calculation of Mangrove's Creditworthiness
Comment 13: Benchmark Data
VII. Recommendation

[FR Doc. 2020–29105 Filed 12–31–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–853]

Wood Mouldings and Millwork Products From Brazil: Final Negative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of wood mouldings and millwork products (millwork products) from Brazil are not being, or are not likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2019 through December 31, 2019.

DATES: Applicable January 4, 2021.

FOR FURTHER INFORMATION CONTACT: George Ayache or Suzanne Lam, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2623 or (202) 482–0783, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 2020, Commerce published the *Preliminary Determination* in the LTFV investigation of millwork products from Brazil.[1] For a complete description of the events that followed the *Preliminary Determination,* see the Issues and Decision Memorandum.[2]

Scope of the Investigation

The products covered by this investigation are millwork products from Brazil. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

On August 5, 2020, we issued a Preliminary Scope Memorandum.[3] Several interested parties submitted case and rebuttal briefs concerning the scope of this investigation. For a summary of the product coverage comments and rebuttal comments submitted to the record for this final determination, and accompanying discussion and analysis of all comments timely received, see the Final Scope Memorandum.[4] Based on the comments received from interested parties, we are revising the scope of this investigation as it appeared in the *Preliminary Determination.* The scope in Appendix I reflects these changes.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).[5]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. For a list of the issues raised by interested parties and addressed in the Issues and Decision Memorandum, *see* Appendix II to this notice. The Issues and Decision Memorandum is a public document and is made available to the public 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.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from interested parties, we made certain changes to the margin calculations for Araupel S.A./Braslumber Industria de Molduras Ltda./BrasPine Madeiras Ltda. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Determination

The final estimated weighted-average dumping margin is as follows:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Araupel S.A./Braslumber Industria de Molduras Ltda./BrasPine Madeiras Ltda.[6]	0.00

[1] *See Wood Mouldings and Millwork Products from Brazil: Preliminary Negative Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 85 FR 48667 (August 12, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Negative Determination in the Less-Than-Fair-Value Investigation of Wood Mouldings and Millwork Products from Brazil,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Preliminary Scope Decision Memorandum,'' dated August 5, 2020 (Preliminary Scope Memorandum).

[4] *See* Memorandum, ''Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Scope Comments Decision Memorandum for the Final Determinations,'' dated concurrently with, and hereby adopted by, this notice (Final Scope Memorandum).

[5] *See* Commerce's Letters with attached questionnaire in lieu of verification, dated October 14, 2020; *see also* Araupel S.A.'s Letter, ''Wood Mouldings and Millwork Products from Brazil: Verification Questionnaire Response,'' dated October 22, 2020; and Braslumber Industria de Molduras Ltda. and Braspine Madeiras Ltda.'s Letter, ''Antidumping Duties on Imports of Wood Mouldings and Millwork Products from Brazil: BrasPine/Braslumber's Response to the Department's Questionnaire in Lieu of Verification,'' dated October 22, 2020.

[6] Commerce determines that Araupel S.A., Braslumber Industria de Molduras Ltda., and Braspine Madeiras Ltda. are a single entity. *See* Issues and Decision Memorandum.

Because the weighted-average dumping margin is zero, we determine that millwork products from Brazil are not being, or are not likely to be, sold in the United States at LTFV. Commerce has not calculated an estimated weighted-average dumping margin for all other producers and exporters pursuant to sections 735(c)(1)(B) and (c)(5) of the Act because it has not made a final affirmative determination of sales at LTFV.

Disclosure

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In the *Preliminary Determination,* the weighted-average dumping margin for Araupel S.A./Braslumber Industria de Molduras Ltda./BrasPine Madeiras Ltda. was zero and, therefore, we did not suspend liquidation of entries of millwork products from Brazil.[7] Because Commerce has made a final negative determination of sales at LTFV with regard to the subject merchandise, Commerce will not direct U.S. Customs and Border Protection to suspend liquidation or to require a cash deposit of estimated antidumping duties for entries of millwork products from Brazil.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission of our final determination. As our final determination is negative, this proceeding is terminated in accordance with section 735(c)(2) of the Act.

Notification Regarding Administrative Protective Orders

This notice will serve as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

[7] *See Preliminary Determination,* 85 FR at 48667.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: December 28, 2020.

Jeffrey I. Kessler,

Assistant Secretary, for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise subject to this investigation consists of wood mouldings and millwork products that are made of wood (regardless of wood species), bamboo, laminated veneer lumber (LVL), or of wood and composite materials (where the composite materials make up less than 50 percent of the total merchandise), and which are continuously shaped wood or finger-jointed or edge-glued moulding or millwork blanks (whether or not resawn). The merchandise subject to this investigation can be continuously shaped along any of its edges, ends, or faces.

The percentage of composite materials contained in a wood moulding or millwork product is measured by length, except when the composite material is a coating or cladding. Wood mouldings and millwork products that are coated or clad, even along their entire length, with a composite material, but that are otherwise comprised of wood, LVL, or wood and composite materials (where the non-coating composite materials make up 50 percent or less of the total merchandise) are covered by the scope.

The merchandise subject to this investigation consists of wood, LVL, bamboo, or a combination of wood and composite materials that is continuously shaped throughout its length (with the exception of any endwork/dados), profiled wood having a repetitive design in relief, similar milled wood architectural accessories, such as rosettes and plinth blocks, and finger-jointed or edge-glued moulding or millwork blanks (whether or not resawn). The scope includes continuously shaped wood in the forms of dowels, building components such as interior paneling and jamb parts, and door components such as rails, stiles, interior and exterior door frames or jambs (including split, flat, stop applied, single—or double-rabbeted), frame or jamb kits, and packaged door frame trim or casing sets, whether or not the door components are imported as part of a door kit or set.

The covered products may be solid wood, laminated, finger-jointed, edge-glued, face-glued, or otherwise joined in the production or remanufacturing process and are covered by the scope whether imported raw, coated (*e.g.,* gesso, polymer, or plastic), primed, painted, stained, wrapped (paper or vinyl overlay), any combination of the aforementioned surface coatings, treated, or which incorporate rot-resistant elements (whether wood or composite). The covered products are covered by the scope whether or not any surface coating(s) or covers obscure the grain, textures, or markings of the wood, whether or not they are ready for use or require final machining (*e.g.,* endwork/dado, hinge/strike machining, weatherstrip or application thereof, mitre) or packaging.

All wood mouldings and millwork products are included within the scope even if they are trimmed; cut-to-size; notched; punched; drilled; or have undergone other forms of minor processing.

Subject merchandise also includes wood mouldings and millwork products that have been further processed in a third country, including but not limited to trimming, cutting, notching, punching, drilling, coating, or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the in-scope product.

Excluded from the scope of this investigation are countertop/butcherblocks imported as a full countertop/butcherblock panel, exterior fencing, exterior decking and exterior siding products (including solid wood siding, non-wood siding (*e.g.,* composite or cement), and shingles) that are not LVL or finger jointed; finished and unfinished doors; flooring; parts of stair steps (including newel posts, balusters, easing, gooseneck, risers, treads, rail fittings and stair stringers); picture frame components three feet and under in individual lengths; and lumber whether solid, finger-jointed, or edge-glued. To be excluded from the scope, finger-jointed or edge-glued lumber must have a nominal thickness of 1.5 inches or greater and a certification stamp from an American Lumber Standard Committee-certified grading agency. The exclusion for lumber whether solid, finger-jointed, or edge-glued does not apply to screen/''surfaced on 4 sides'' (S4S) and/or ''surface 1 side, 2 edges'' (SlS2E) stock (also called boards) that are finger-jointed and/or edge-glued, or to finger-jointed and/or edge-glued moulding or millwork blanks (whether or not resawn). Accordingly, S4S and S1S2E stock/boards that are not finger-jointed or edge-glued are excluded from the scope of this investigation.

Imports of wood mouldings and millwork products are primarily entered under the following Harmonized Tariff Schedule of the United States (HTSUS) numbers: 4409.10.4010, 4409.10.4090, 4409.10.4500, 4409.10.5000, 4409.22.4000, 4409.22.5000,4409.29.4100, and 4409.29.5100. Imports of wood mouldings and millwork products may also enter under HTSUS numbers: 4409.10.6000,4409.10.6500, 4409.22.6000, 4409.22.6500, 4409.29.6100, 4409.29.6600, 4418.20.4000, 4418.20.8030, 4418.20.8060, 4418.99.9095 and 4421.99.9780. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Changes From the Preliminary Determination
IV. Discussion of the Issues
Comment 1: Whether Commerce Should Treat All Three Mandatory Respondents

as Affiliates and Collapse Them Into a Single Entity
Comment 2: Whether Commerce Should Revise Its CV Profit Calculation
Comment 3: Whether Araupel's Log Valuations Are Inaccurate and Do Not Reflect an Accurate Market Price
Comment 4: Whether Commerce Should Recalculate the Fair Value Adjustment for Araupel's Costs for Biological Assets Consumed during the POI
Comment 5: Whether Commerce Incorrectly Decreased Araupel's Costs for Biological Assets Not Consumed during the POI
Comment 6: Whether Commerce Should Apply the Major Input Rule to Araupel's Log Purchases
Comment 7: Whether Unreconciled Costs Should Be Allocated to Production Costs
Comment 8: Whether Araupel's Non-Prime Merchandise Should Be Assigned Full Production Costs
Comment 9: Whether Commerce Should Use the Federal Reserve's Small Business Lending Survey Short-Term Interest Rate To Calculate Araupel's Credit Expenses
Comment 10: Whether Commerce Should Use the Earlier of the Shipment Date or Commercial Invoice as Braslumber/BrasPine's Date of Sale
Comment 11: Whether the Date of Sale Should Be Consistent Between the Mandatory Respondents
Comment 12: Whether Commerce Should Include Araupel's Reported Other Revenue
V. Recommendation

[FR Doc. 2020–29103 Filed 12–31–20; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–937, C–570–938]

Citric Acid and Certain Citrate Salts From the People's Republic of China: Continuation of Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping (AD) and countervailing duty (CVD) orders on citric acid and certain citrate salts from the People's Republic of China (China) would likely lead to a continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the AD and CVD orders.

DATES: Applicable January 4, 2021.

FOR FURTHER INFORMATION CONTACT: Ian Hamilton, AD/CVD Operations, Office II, or Zachary Shaykin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4798 and (202) 482–2638, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 29, 2009, Commerce published in the **Federal Register** a notice of the AD and CVD orders on citric acid and certain citrate salts from China.[1] On May 1, 2020, Commerce initiated,[2] and the ITC instituted,[3] the second sunset review of the *Orders,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).

As a result of its reviews, Commerce determined, pursuant to sections 751(c)(1) and 752(c) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of dumping and countervailable subsidies. Commerce therefore notified the ITC of the magnitude of the margins of dumping and subsidy rates likely to prevail should these *Orders* be revoked.[4] On December 21, 2020, the ITC published its determination that revocation of the *Orders* would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, pursuant to sections 751(c) and 752(a) of the Act.[5]

[1] *See Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Antidumping Duty Orders,* 74 FR 25703 (May 29, 2009); *see also Citric Acid and Certain Citrate Salts from the People's Republic of China: Notice of Countervailing Duty Order,* 74 FR 25705 (May 29, 2009) (collectively, *Orders*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 85 FR 25386 (May 1, 2020).

[3] *See Citric Acid and Certain Citrate Salts from Canada and China; Institution of Five-Year Reviews,* 85 FR 25475 (May 1, 2020).

[4] *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Second Expedited Sunset Review of Antidumping Duty Order,* 85 FR 50009 (August 17, 2020), and accompanying Issues and Decision Memorandum; *see also Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of the Expedited Second Five-Year Sunset Review of the Countervailing Duty Order,* 85 FR 54536 (September 2, 2020), and accompanying Issues and Decision Memorandum.

[5] *See Citric Acid and Certain Citrate Salts from China (Inv. Nos. 701–TA–456 and 731–TA–1152 (Second Review)),* 85 FR 84371 (December 28, 2020); *see also Citric Acid and Certain Citrate Salts from China (Inv. Nos. 701–TA–456 and 731–TA–1152 (Second Review)),* USITC Pub. 5147 (December 2020).

Scope of the Orders

The scope of the orders includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend. The scope of the order also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate. The scope of the order does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product. The scope of the order includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate, which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively. Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and 3824.90.9290 of the HTSUS, respectively. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.90.9290 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to a continuation or recurrence of dumping, countervailable subsidies and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), Commerce hereby orders the continuation of the *Orders.* U.S. Customs and Border Protection will

continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year (sunset) reviews of these *Orders* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to APO of their responsibility concerning the return, destruction, or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

Notification to Interested Parties

These five-year sunset reviews and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: December 28, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–29114 Filed 12–31–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA715]

Nominations for the Western and Central Pacific Fisheries Commission Permanent Advisory Committee

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

ACTION: Notice of request for nominations.

SUMMARY: NMFS, on behalf of the Secretary of Commerce, is seeking nominations for the advisory committee established under the Western and Central Pacific Fisheries Convention Implementation Act (Act). The Permanent Advisory Committee, composed of individuals from groups concerned with the fisheries covered by the Western and Central Pacific Fisheries Convention (Convention), will be given the opportunity to provide input to the U.S. Commissioners to the Western and Central Pacific Fisheries Commission (Commission) regarding the deliberations and decisions of the Commission.

DATES: Nominations must be received no later than February 18, 2021. Nominations received after the deadline will not be accepted.

ADDRESSES: Nominations should be directed to Michael Tosatto, Regional Administrator, NMFS Pacific Islands Regional Office, and may be submitted by any of the following means:

- *Email: pir.wcpfc@noaa.gov.* Include in the subject line the following document identifier: ''Permanent Advisory Committee nominations''. Email comments, including attachments, are limited to 5 megabytes.
- *Mail or hand delivery:* 1845 Wasp Boulevard, Bldg 176, Honolulu, HI 96818.
- *Facsimile:* 808–725–5215.

FOR FURTHER INFORMATION CONTACT: Emily Reynolds, NMFS Pacific Islands Regional Office; telephone: 808–725–5039; facsimile: 808–725–5215; email: *emily.reynolds@noaa.gov.*

SUPPLEMENTARY INFORMATION:

The Convention and the Commission

The objective of the Convention is to ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean in accordance with the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS) and the Agreement for the Implementation of the Provisions of the UNCLOS Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. The Convention establishes the Commission, the secretariat of which is based in Pohnpei, Federated States of Micronesia.

The Convention applies to all highly migratory fish stocks (defined as all fish stocks of the species listed in Annex I of the UNCLOS occurring in the Convention Area, and such other species of fish as the Commission may determine), except sauries.

The United States actively supported the negotiations and the development of the Convention and signed the Convention when it was opened for signature in 2000. It participated as a cooperating non-member of the Commission since it became operational in 2005. The United States became a Contracting Party to the Convention and a full member of the Commission when it ratified the Convention in January 2007. Under the Act, the United States is to be represented on the Commission by five U.S. Commissioners, appointed by the President.

Permanent Advisory Committee

The Act (16 U.S.C. 6902) provides (in section 6902(d)) that the Secretary of Commerce, in consultation with the U.S. Commissioners to the Commission, will appoint individuals as members of the advisory committee established under the Act, referred to here as the ''Permanent Advisory Committee''.

The appointed members of the Permanent Advisory Committee are to include not less than 15 nor more than 20 individuals selected from the various groups concerned with the fisheries covered by the Convention, providing, to the extent practicable, an equitable balance among such groups. On behalf of the Secretary of Commerce, NMFS is now seeking nominations for these appointments.

In addition to the 15–20 appointed members, the Permanent Advisory Committee includes the chair of the Western Pacific Fishery Management Council's Advisory Committee (or designee), and officials of the fisheries management authorities of American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (or their designees).

Members of the Permanent Advisory Committee will be invited to attend all non-executive meetings of the U.S. Commissioners to the Commission and at such meetings will be given opportunity to examine and be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

Each appointed member of the Permanent Advisory Committee will serve for a term of 2 years and is eligible for reappointment. This request for nominations is for the term to begin on August 3, 2021, and is for a term of 2 consecutive years.

The Secretaries of Commerce and State will furnish the Permanent Advisory Committee with relevant information concerning fisheries and international fishery agreements.

NMFS, on behalf of the Secretary of Commerce, will provide to the Permanent Advisory Committee administrative and technical support services as are necessary for its effective functioning.

Appointed members of the Permanent Advisory Committee will serve without pay, but while away from their homes or regular places of business in the performance of services for the advisory committee will be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as

persons employed intermittently in the Government service are allowed expenses under 5 U.S.C. 5703. They will not be considered Federal employees while performing service as members of the advisory committee except for the purposes of injury compensation or tort claims liability as provided in 5 U.S.C. 81 and 28 U.S.C. 171.

Procedure for Submitting Nominations

Nominations for the Permanent Advisory Committee should be submitted to NMFS (see **ADDRESSES**). This request for nominations is for first-time nominees as well as previous and current Permanent Advisory Committee members. Self nominations are acceptable. Nominations should include the following information: (1) Full name, address, telephone, and email address of nominee; (2) nominee's organization(s) or professional affiliation(s) serving as the basis for the nomination, if any; and (3) a background statement, not to exceed one page in length, describing the nominee's qualifications, experience and interests, specifically as related to the fisheries covered by the Convention.

Authority: 16 U.S.C. 6902.

Dated: December 29, 2020.

Jennifer M. Wallace,

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

[FR Doc. 2020–29075 Filed 12–31–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

Submission of Data by State Educational Agencies; Submission Dates for State Revenue and Expenditure Reports for Fiscal Year 2020, Revisions to Those Reports, and Revisions to Prior Fiscal Year Reports

AGENCY: National Center for Education Statistics, Institute of Education Sciences, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary announces dates for State educational agencies (SEAs) to submit expenditure and revenue data and average daily attendance statistics on ED Form 2447 (the National Public Education Financial Survey (NPEFS)) for fiscal year (FY) 2020, revisions to those reports, and revisions to reports for previous fiscal years. The Secretary sets these dates to ensure that data are available to serve as the basis for timely distribution of Federal funds. The U.S. Census Bureau is the data collection agent for this request of the Department of Education's (the Department's) National Center for Education Statistics (NCES). The data will be published by NCES and will be used by the Secretary in the calculation of allocations for FY 2022 appropriated funds.

DATES: SEAs can begin submitting data on Friday, January 29, 2021. SEAs are urged to submit accurate and complete data by Friday, March 26, 2021, to facilitate timely processing.

The deadline for the final submission of all data, including any revisions to previously submitted data for FY 2019 and FY 2020, is Friday, August 13, 2021. Any resubmissions of FY 2019 or FY 2020 data by SEAs in response to requests for clarification or reconciliation or other inquiries by NCES or the Census Bureau must be completed as soon as possible, but no later than Tuesday, September 7, 2021. All outstanding data issues must be reconciled or resolved by the SEAs, NCES, and the Census Bureau as soon as possible, but no later than September 7, 2021.

ADDRESSES: SEAs are encouraged to submit data online using the interactive survey form on the NPEFS data collection website at: *http://surveys.nces.ed.gov/ccdnpefs.* The NPEFS interactive survey includes a digital confirmation page where a personal identification number (PIN) may be entered. A successful entry of the PIN serves as a signature by the authorizing official. Alternatively, a certification form also may be printed from the website, signed by the authorizing official, and mailed to the Economic Reimbursable Surveys Division of the Census Bureau at the Washington, DC, address provided above, within five business days after submission of the NPEFS web interactive form.

In the alternative, SEAs may mail ED Form 2447 to: U.S. Census Bureau, ATTENTION: Economic Reimbursable Surveys Division, 4600 Silver Hill Road, Suitland, MD 20746.

If an SEA's submission is received by the Census Bureau after August 13, 2021, the SEA must show one of the following as proof that the submission was mailed on or before that date:

1. A legibly dated U.S. Postal Service postmark.
2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
3. A dated shipping label, invoice, or receipt from a commercial carrier.
4. Any other proof of mailing acceptable to the Secretary.

If the SEA mails ED Form 2447 through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

1. A private metered postmark.
2. A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an SEA should check with its local post office.

FOR FURTHER INFORMATION CONTACT: Stephen Q. Cornman, NPEFS Project Director, National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 245–7753. Email: *stephen.cornman@ed.gov.* You may also contact an NPEFS team member at the Census Bureau. Telephone: 1–800–437–4196 or (301) 763–1571. Email: *erd.npefs.list@census.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Under section 153(a)(1)(I) of the Education Sciences Reform Act of 2002, 20 U.S.C. 9543(a)(1)(I), which authorizes NCES to gather data on the financing and management of education, NCES collects data annually from SEAs through ED Form 2447. The report from SEAs includes attendance, revenue, and expenditure data from which NCES determines a State's ''average per-pupil expenditure'' (SPPE) for elementary and secondary education, as defined in section 8101(2) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7801(2)).

In addition to using the SPPE data as general information on the financing of elementary and secondary education, the Secretary uses these data directly in calculating allocations for certain formula grant programs, including, but not limited to, title I, part A, of the ESEA, Impact Aid, and Indian Education programs. Other programs, such as the Education for Homeless Children and Youth program under title VII of the McKinney-Vento Homeless Assistance Act, and the Student Support and Academic Enrichment Grants under title IV, part A of the ESEA make use of SPPE data indirectly because their formulas are based, in whole or in part, on State title I, part A, allocations.

In January 2021, the Census Bureau, acting as the data collection agent for NCES, will email ED Form 2447 to SEAs, with instructions, and will request that SEAs commence submitting FY 2020 data to the Census Bureau on Thursday, January 29, 2021. SEAs are urged to submit accurate and complete

data by Friday, March 26, 2021, to facilitate timely processing.

Submissions by SEAs to the Census Bureau will be analyzed for accuracy and returned to each SEA for verification. SEAs must submit all data, including any revisions to FY 2019 and FY 2020 data, to the Census Bureau no later than Friday, August 13, 2021. Any resubmissions of FY 2019 or FY 2020 data by SEAs in response to requests for clarification or reconciliation or other inquiries by NCES or the Census Bureau must be completed by Tuesday, September 7, 2021. Between August 13, 2021, and September 7, 2021, SEAs may also, on their own initiative, resubmit data to resolve issues not addressed in their final submission of NPEFS data by August 13, 2021. All outstanding data issues must be reconciled or resolved by the SEAs, NCES, and the Census Bureau as soon as possible, but no later than September 7, 2021.

In order to facilitate timely submission of data, the Census Bureau will send reminder notices to SEAs in June and July of 2021.

Having accurate, consistent, and timely information is critical to an efficient and fair allocation process and to the NCES statistical process. The Department establishes Friday, August 13, 2021, as the final date by which the SEAs must submit data using either the interactive survey form on the NPEFS data collection website at: *https://surveys.nces.ed.gov/ccdnpefs* or ED Form 2447. This date is established to ensure that the best, most accurate data will be available to support timely distribution of Federal education funds.

Any resubmissions of FY 2019 or FY 2020 data by SEAs in response to requests for clarification or reconciliation or other inquiries by NCES or the Census Bureau must be completed through the interactive survey form on the NPEFS data collection website or ED Form 2447 by Tuesday, September 7, 2021. If an SEA submits revised data after the final deadline that result in a lower SPPE figure, the SEA's allocations may be adjusted downward, or the Department may direct the SEA to return funds. SEAs should be aware that all of these data are subject to audit and that, if any inaccuracies are discovered in the audit process, the Department may seek recovery of overpayments for the applicable programs.

Note: The following are important dates in the data collection process for FY 2020 data and revisions to reports for previous fiscal years:

Date	Activity
January 29, 2021	SEAs can begin to submit accurate and complete data for FY 2020 and revisions to previously submitted data for FY 2019.
March 26, 2021	Date by which SEAs are urged to submit accurate and complete data for FY 2020 and FY 2019.
August 13, 2021	Mandatory final submission date for FY 2019 and FY 2020 data to be used for program funding allocation purposes.
September 7, 2021	Mandatory final deadline for responses by SEAs to requests for clarification or reconciliation or other inquiries by NCES or the Census Bureau. Between August 13, 2021, and September 7, 2021, SEAs may also, on their own initiative, re-submit data to resolve issues not addressed in their final submission of NPEFS data by August 13, 2021. All data issues must be resolved.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* 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 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. 9543.)

Craig Stanton,

Deputy Director of Administration and Policy, Institute of Education Sciences.

[FR Doc. 2020–29112 Filed 12–31–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Case Number 2020–002; EERE–2020–BT–WAV–0009]

Energy Conservation Program: Decision and Order Granting a Waiver to Senneca Holdings From the Department of Energy Walk-in Cooler and Walk-in Freezer Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notification of decision and order.

SUMMARY: The Department of Energy (''DOE'') gives notification of a Decision and Order (Case Number 2020–002) that grants to Senneca Holdings (''Senneca'') a waiver from specified portions of the DOE test procedure for determining the energy consumption of specified walk-in cooler and walk-in freezer door (''walk-in door'') basic models. Under the Decision and Order, Senneca is required to test and rate the specified basic models of its walk-in doors in accordance with the alternate test procedure specified in the Decision and Order.

DATES: The Decision and Order is effective on January 4, 2021. The Decision and Order will terminate upon the compliance date of any future amendment to the test procedure for walk-in cooler and walk-in freezer doors located at title 10 of the Code of Federal Regulations (''CFR''), part 431, subpart R, appendix A that addresses the issues presented in this waiver. At such time, Senneca must use the relevant test procedure for this equipment for any testing to demonstrate compliance with the applicable standards, and any other representations of energy use.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *AS_Waiver_Requests@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103.

Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

In accordance with Title 10 of the Code of Federal Regulations (10 CFR 431.401(f)(2)), DOE gives notification of the issuance of its Decision and Order as set forth below. The Decision and Order grants Senneca a waiver from the applicable test procedure at 10 CFR part 431, subpart R, appendix A for specified basic models of walk-in doors, and provides that Senneca must test and rate such equipment using the alternate test procedure specified in the Decision and Order. Senneca's representations concerning the energy consumption of the specified basic models must be based on testing according to the provisions and restrictions in the alternate test procedure set forth in the Decision and Order, and the representations must fairly disclose the test results. Distributors, retailers, and private labelers are held to the same requirements when making representations regarding the energy consumption of this equipment. (42 U.S.C. 6314(d))

Consistent with 10 CFR 431.401(j), not later than March 5, 2021, any manufacturer not currently distributing in commerce in the United States equipment employing a technology or characteristic that results in the same need for a waiver from the applicable test procedure must submit a petition for waiver. Manufacturers not currently distributing such equipment in commerce in the United States must petition for and be granted a waiver prior to the distribution in commerce of that equipment in the United States. Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 431.401.

Signing Authority

This document of the Department of Energy was signed on December 28, 2020, by Daniel R. Simmons, Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 29, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

Case #2020–002 Decision and Order

I. Background and Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] among other things, authorizes the U.S. Department of Energy (''DOE'') to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C[2] of EPCA established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency for certain types of industrial equipment. These types of equipment include walk-in coolers and walk-in freezers, the focus of this document. (42 U.S.C. 6311(1)(G))

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s))

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered equipment. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use or estimated annual operating cost of covered equipment during a representative average use cycle and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C.6314(a)(2)) The test procedure for walk-in doors is contained at 10 CFR part 431, subpart R, appendix A, ''Uniform Test Method for the Measurement of Energy Consumption of the Components of Envelopes of Walk-In Coolers and Walk-In Freezers'' (''Appendix A'').

Under 10 CFR 431.401, any interested person may submit a petition for waiver from DOE's test procedure requirements. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 431.401(f)(2). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *Id.*

II. Senneca's Petition for Waiver: Assertions and Determinations

By letter dated March 13, 2020, Senneca Holdings (''Senneca'') filed a petition for waiver and a petition for interim waiver from the DOE test procedure applicable to walk-in doors set forth in Appendix A. (Senneca, No. 1)[3] In response to questions from DOE, Senneca provided subsequent petitions for waiver and interim waiver on June 12, 2020 (Senneca, No. 2) and on July 21, 2020 (Senneca, No. 3).[4] Appendix A accounts for the power consumption of all electrical components associated with each door and discounts the power consumption of electrical components based on their operating time by an assigned percent time off (''PTO'') value. Appendix A, section 4.5.2. Section 4.5.2 of Appendix A specifies a PTO of 25 percent for ''other electricity-consuming

[1] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (Oct. 23, 2018).

[2] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated as Part A–1.

[3] A notation in the form ''Senneca, No. 1'' identifies a written submission: (1) Made by Senneca Holdings; and (2) recorded in document number 1 that is filed in the docket of this petition for waiver (Docket No. EERE–2020–BT–WAV–0009) and available for review at *http://www.regulations.gov.*

[4] Due to the lengthy list of walk-in door basic models listed in Senneca's July 21, 2020 petition, DOE is making the complete list publicly available in the relevant regulatory docket. The specific basic models identified in Appendix I of the petition can be found in the docket at *http://www.regulations.gov/docket?D=EERE-2020-BT-WAV-0009.*

devices'' (*i.e.,* electrical devices other than lighting or anti-sweat heaters) that have demand-based controls, and a PTO of 0 percent for other electricity-consuming devices without demand-based controls. *Id.* In its petition for waiver, Senneca suggested applying a PTO value of 97 percent to the door motors associated with the basic models specified in its petition. Senneca stated that the test procedure's assumption that the door motor operates for 75 percent of the day significantly overstates normal motor usage on their ColdGuard and Eco-Cold powered door models, causing the prescribed test procedure to inaccurately evaluate the true energy consumption characteristics as to provide materially inaccurate comparative data (Senneca, No. 3 at p. 1).

On September 28, 2020, DOE published a notification that announced its receipt of the petition for waiver and granted Senneca an interim waiver. 85 FR 60771 (''Notification of Petition for Waiver''). In the Notification of Petition for Waiver, DOE presented Senneca's claim that results from testing the specified basic models according to Appendix A are unrepresentative of actual energy usage because of the assigned PTO value. DOE also summarized Senneca's requested alternate test procedure, which would require testing the specified basic models according to Appendix A, except the PTO value for door motors would be modified from 25 percent to 97 percent for the specified freight and passage doors.

As explained in the Notification of Petition for Waiver, DOE considered the potential range of parameters affecting door motor operating time and evaluated the PTO based on the most energy consumptive scenarios for both the horizontally and vertically opening door basic models specified by Senneca. 85 FR 60771, 60774. In its calculations, DOE used the largest door opening at the slowest speed and standard duty cycle specified in the product literature of the door motors associated with Senneca's specified basic models. *Id.* Assuming the most energy consumptive scenarios, DOE initially determined that the suggested PTO value of 97 percent was more representative of actual energy use than the currently required PTO value of 25 percent. 85 FR 60771, 60775.

In the Notification of Petition for Waiver, DOE also solicited comments from interested parties on all aspects of the petition and the specified alternate test procedure. 85 FR 60771. In response, DOE received one substantive comment [5] from Hussmann Corporation (''Hussmann'').[6] Hussmann objected to Senneca's request for an alternate test procedure, asserting that Senneca's waiver request does not meet the criteria for DOE to grant a waiver, specifically: (1) The basic model(s) for which the waiver was requested must contain a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or (2) the prescribed test procedure must evaluate the basic model(s) in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. (Hussmann, No. 5 at p. 1) Further, Hussmann stated that Senneca's petition should be denied because investment and redesign can be used to achieve compliance with the current Federal standards. (Hussmann, No. 5 at p. 2)

As discussed previously, DOE may grant a waiver if either (1) the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or (2) the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 431.401(f)(2). In response to Hussmann's assertion that the criteria for granting a waiver to Senneca has not been met, DOE notes that while Senneca is not prevented from testing the basic models specified in its waiver petition, the performance data demonstrate that the current test procedure evaluates the energy consumption of its basic models with motorized door openers in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. In response to Hussmann's comment that compliance with current Federal standards could be achieved, DOE notes that the criteria which allow DOE to grant a waiver do not depend on whether investment or redesign could make the basic models compliant with the standard. EPCA does not require that a manufacturer design a particular type of equipment to enable it to be tested under a given test procedure. Instead, a test procedure must, among other things, be reasonably designed to produce test results reflecting the energy efficiency of a given type of industrial equipment. See generally 42 U.S.C. 6314(a)(2). Additionally, the required use of 97 percent is consistent with waivers previously granted in response to petitions that presented the same issue as in Senneca's petition. See Notice of Decision and Order granting a waiver to Jamison Door (Case No. 2017–009), 83 FR 53460 (Oct. 23, 2018); Notice of Decision and Order granting a waiver to HH Technologies (Case No. 2018–001), 83 FR 53457 (Oct. 23, 2018); and Extension of Waiver to HH Technologies (Case No. 2018–011), 84 FR 1434 (Feb. 4, 2019).[7]

For the reasons explained here and in the Notification of Petition for Waiver, absent a waiver the basic models identified by Senneca in its petition cannot be tested and rated for energy consumption on a basis representative of their true energy consumption characteristics. DOE has reviewed the recommended procedure suggested by Senneca and concludes that it will allow for the accurate measurement of the energy use of the equipment, while alleviating the testing issues associated with Senneca's implementation of DOE's applicable walk-in door test procedure for the specified basic models. Thus, DOE is requiring that Senneca test and rate walk-in door basic models according to the alternate test procedure specified in this Decision and Order, which is identical to the procedure provided in the interim waiver.

This Decision and Order is applicable only to the basic models listed and does not extend to any other basic models. DOE evaluates and grants waivers for only those basic models specifically set out in the petition, not future models that may be manufactured by the petitioner.

Senneca may request that DOE extend the scope of this waiver to include additional basic models that employ the same technology as those listed in this waiver. 10 CFR 431.401(g). Senneca may also submit another petition for waiver from the test procedure for additional basic models that employ a different technology and meet the criteria for test procedure waivers. 10 CFR 431.401(a)(1).

DOE notes that it may modify or rescind the waiver at any time upon DOE's determination that the factual basis underlying the petition for waiver

[5] DOE received an additional comment from an anonymous submitter opposing waivers in general.

[6] Hussmann's comment can be accessed at: *https://www.regulations.gov/docket?D=EERE-2020-BT-WAV-0009.*

[7] DOE notes that Hussmann has previously expressed general support for similar petitions for waiver, specifically in response to waiver petitions from Jamison Door, in which Jamison Door requested a PTO value of 93.5 percent (Docket No. EERE–2017–BT–WAV–0040–0005 at p. 1), and from HH Technologies, in which HH Technologies requested a PTO value of 96 percent (Docket No. EERE–2018–BT–WAV–0001–0013 at p. 1).

is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. 10 CFR 431.401(k)(1). Likewise, Senneca may request that DOE rescind or modify the waiver if the company discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 431.401(k)(2).

III. Order

After careful consideration of all the material that was submitted by Senneca, the various public-facing materials (*e.g.,* product literature, installation manuals) for the units listed in the petition, and comment(s) received, in this matter, it is *ordered* that:

(1) Senneca must, as of the date of publication of this Order in the **Federal Register**, test and rate the basic models listed in Appendix I of its July 21, 2020 petition as provided in Docket Number EERE–2020–BT–WAV–0009–0003 with the alternate test procedure as set forth in paragraph (2):

(2) The alternate test procedure for the Senneca basic models identified in paragraph (1) of this Order is the test procedure for walk-in doors prescribed by DOE at 10 CFR part 431, subpart R, appendix A, except that the PTO value specified in section 4.5.2 ''Direct Energy Consumption of Electrical Components of Non-Display Doors'' shall be 97 percent for door motors. All other requirements of 10 CFR part 431, subpart R, appendix A and DOE's regulations remain applicable.

(3) *Representations.* Senneca may not make representations about the energy use of a basic model identified in paragraph (1) of this Order for compliance or marketing, unless the basic model has been tested in accordance with the provisions set forth above and such representations fairly disclose the results of such testing.

(4) This waiver shall remain in effect according to the provisions of 10 CFR 431.401.

(5) DOE issues this waiver on the condition that the door performance characteristics, statements, representations, test data, and documentary materials provided by Senneca are valid. If Senneca makes any modifications to the controls or configurations of these basic models, such modifications will render the waiver invalid with respect to that basic model, and Senneca will either be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may rescind or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of a basic model's true energy consumption characteristics. 10 CFR 431.401(k)(1). Likewise, Senneca may request that DOE rescind or modify the waiver if Senneca discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 431.401(k)(2).

(6) Senneca remains obligated to fulfill all applicable requirements set forth at 10 CFR part 429.

Signed in Washington, DC, on December 28, 2020.

Daniel R. Simmons,

Assistant Secretary for Energy Efficiency and Renewable Energy.

[FR Doc. 2020–29099 Filed 12–31–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: Office of Environment, Health, Safety and Security, Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE), pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years, an information collection request with the Office of Management and Budget (OMB). The information continues to be necessary to provide DOE with the information needed to reduce the number of workers currently exposed to beryllium in the course of their work at sites managed by DOE or its contractors; minimize the levels of and potential for exposure to beryllium; and provide medical surveillance to ensure early detection of chronic beryllium disease.

DATES: Comments regarding this proposed information collection must be received on or before March 5, 2021. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Written comments may be sent to James Dillard, U.S. Department of Energy, Office of Health, Safety and Security, AU–11/Germantown Building, 1000 Independence Avenue SW, Washington, DC 20585, or by email at: *james.dillard@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to James Dillard, U.S. Department of Energy, Office of Health, Safety and Security, AU–11/ Germantown Building, 1000 Independence Avenue SW, Washington, DC 20585, or by email at *james.dillard@ hq.doe.gov* or by telephone at (301) 903–1165.

SUPPLEMENTARY INFORMATION:

Comments are invited on: (a) Whether the extended collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

This information collection request contains: (1) *OMB Control No.:* 1910–5112; (2) *Information Collection Request Title:* Final Rule: Chronic Beryllium Disease Prevention Program; (3) *Type of Review:* Renewal; (4) *Purpose:* This collection provides the Department with the information needed to continue reducing the number of workers currently exposed to beryllium in the course of their work at DOE facilities managed by DOE or its contractors; minimize the levels and potential exposure to beryllium; to provide information to employees, to provide medical surveillance to ensure early detection of disease; and to permit oversight of the programs by DOE management. DOE issued a final rule on December 8, 1999 (64 FR 68854), Chronic Beryllium Disease Prevention Program, which includes provisions that impose collections of information; (5) *Annual Estimated Number of Respondents:* 6,650 (26 DOE sites and 6,624 workers affected by the rule); (6) *Annual Estimated Number of Total Responses:* 16,613; (7) *Annual Estimated Number of Burden Hours:* 29,290; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $1,867,465; (9) *Response Obligation:* Mandatory.

Statutory Authority: Atomic Energy Act of 1954, 42 U.S.C. 2201, and the Department of Energy Organization Act, 42 U.S.C. 7191 and 42 U.S.C. 7254.

Signing Authority

This document of the Department of Energy was signed on December 23, 2020, by Matthew B. Moury, Associate Under Secretary for Environment, Health, Safety and Security, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on December 29, 2020.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2020–29053 Filed 12–31–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–20–000]

Algonquin Gas Transmission, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on December 18, 2020, Algonquin Gas Transmission, LLC (Algonquin), 5400 Westheimer Court, Houston, Texas 77056, filed in the above referenced docket a prior notice pursuant to Section 157.205 and 157.208 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act and the blanket certificate issued to Algonquin by the Commission in Docket No. CP87–317–000,[1] seeking authorization to replace approximately 490-foot segment of 26-inch diameter pipeline of its Line ML in Putnam County, New York (Stony Point Anomaly-Metro-North Railroad Crossing Project). The new segment is to be installed via conventional boring method and will be placed adjacent to the existing Line ML pipeline within Algonquin's existing easement. Algonquin estimates the cost of the project to be $12.5 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to Lisa A. Connolly, Director, Regulatory, Algonquin Gas Transmission, LLC, P.O. Box 1642, Houston, Texas 77251–1642, by telephone at (713) 627–4102, by fax at (713) 627–5947, or by email at *lisa.connolly@enbridge.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: You can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on February 26, 2021. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is February 26, 2021. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is February 26, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

[1] *Algonquin Gas Transmission Co.,* 40 FERC ¶ 62,398 (1987).

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before February 26, 2021. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP21–20–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [7]

(2) You can file a paper copy of your submission by mailing it to the address below.[8] Your submission must reference the Project docket number CP21–20–000. Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: *lisa.connolly@enbridge.com* or P.O. Box 1642, Houston, Texas 77251–1642. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

[7] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

[8] Hand-delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. 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. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: December 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–29066 Filed 12–31–20; 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: ER10–1484–023; ER12–2381–009; ER13–1069–012.
Applicants: Shell Energy North America (US), L.P., MP2 Energy LLC, MP2 Energy NE LLC.
Description: Triennial Market Power Analysis for Southeast Region of Shell Energy North America (US), L.P., et. al.
Filed Date: 12/23/20.
Accession Number: 20201223–5367.
Comments Due: 5 p.m. ET 2/21/21.

Docket Numbers: ER10–2564–010; ER10–2289–010; ER10–2600–010.
Applicants: Tucson Electric Power Company, UNS Electric, Inc., UniSource Energy Development Company.
Description: Notice of Non-Material Change in Status of Tucson Electric Power Company.
Filed Date: 12/23/20.
Accession Number: 20201223–5365.
Comments Due: 5 p.m. ET 1/13/21.

Docket Numbers: ER10–2791–017; ER10–2792–017; ER19–289–006; ER10–1827–008; ER10–1575–015; ER10–2876–017; ER19–2378–001; ER19–2462–003; ER18–2264–006.
Applicants: Bayou Cove Peaking Power, LLC, Big Cajun I Peaking Power LLC, Cleco Cajun LLC, Cleco Power LLC, Cottonwood Energy Company LP, Louisiana Generating LLC, Sterlington Power LLC, Macquarie Energy LLC, Macquarie Energy Trading LLC.
Description: Updated Market Power Analysis of Bayou Cove Peaking Power, LLC, et. al.
Filed Date: 12/23/20.
Accession Number: 20201223–5374.
Comments Due: 5 p.m. ET 2/21/21.

Docket Numbers: ER12–348–007.
Applicants: Mercuria Energy America, LLC.
Description: Triennial Market Power Analysis for Southeast Region of Mercuria Energy America, LLC.
Filed Date: 12/28/20.
Accession Number: 20201228–5089.
Comments Due: 5 p.m. ET 2/26/21.

Docket Numbers: ER21–717–000.
Applicants: Hollow Road Solar, LLC.
Description: Request for Limited Waiver, et al. of Hollow Road Solar, LLC.
Filed Date: 12/22/20.
Accession Number: 20201222–5135.
Comments Due: 5 p.m. ET 1/5/21.

Docket Numbers: ER21–735–000.
Applicants: Appalachian Power Company, AEP Appalachian Transmission Company, Inc, Indiana Michigan Power Company, AEP Indiana Michigan Transmission Company, Inc., Kentucky Power Company, AEP Kentucky Transmission Company, Inc., Kingsport Power Company, AEP Ohio Transmission Company, Inc., Ohio Power Company, AEP West Virginia Transmission Company, Inc., American Electric Power Service Corporation, Wheeling Power Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: AEP submits revisions to PJM OATT Atts. H–14B and H–20B re: Depreciation Rates to be effective 1/1/2020.
Filed Date: 12/23/20.
Accession Number: 20201223–5113.
Comments Due: 5 p.m. ET 1/13/21.

Docket Numbers: ER21–736–000.
Applicants: RE Slate 1 LLC.
Description: § 205(d) Rate Filing: Petition for Order Accepting Market-Based Rate Tariff to be effective 1/25/2021.
Filed Date: 12/23/20.
Accession Number: 20201223–5115.
Comments Due: 5 p.m. ET 1/13/21.

Docket Numbers: ER21–737–000.
Applicants: Lakehurst Solar, L.L.C.
Description: Baseline eTariff Filing: Reactive Power Compensation Tariff Filing to be effective 1/1/2021.
Filed Date: 12/28/20.
Accession Number: 20201228–5022.

Comments Due: 5 p.m. ET 1/19/21.

Docket Numbers: ER21–738–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2020–12–28_SA 3258 Big Rivers Electric-OSER 1st Rev GIA (J753) to be effective 12/15/2020.

Filed Date: 12/28/20.

Accession Number: 20201228–5034.

Comments Due: 5 p.m. ET 1/19/21.

Docket Numbers: ER21–739–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2020–12–28_SA 3259 Big Rivers Electric-OSER 1st Rev GIA (J762) to be effective 12/15/2020.

Filed Date: 12/28/20.

Accession Number: 20201228–5044.

Comments Due: 5 p.m. ET 1/19/21.

Docket Numbers: ER21–740–000.

Applicants: Duke Energy Florida, LLC.

Description: § 205(d) Rate Filing: DEF-City of Wauchula Amended and Restated NITSA SA 150 to be effective 3/1/2021.

Filed Date: 12/28/20.

Accession Number: 20201228–5051.

Comments Due: 5 p.m. ET 1/19/21.

Docket Numbers: ER21–741–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2020–12–28 SA 3291 Termination Duke Energy-Roaming Bison Renewables GIA (J754) to be effective 12/29/2020.

Filed Date: 12/28/20.

Accession Number: 20201228–5066.

Comments Due: 5 p.m. ET 1/19/21.

Docket Numbers: ER21–742–000.

Applicants: V20 Mansfield, LLC, AF1327, LLC, West Denville, LLC.

Description: Petition for Limited Waiver, et al. of V20 Mansfield, LLC, et al.

Filed Date: 12/23/20.

Accession Number: 20201223–5366.

Comments Due: 5 p.m. ET 1/13/21.

Docket Numbers: ER21–744–000.

Applicants: Wallingford Renewable Energy LLC.

Description: Baseline eTariff Filing: Wallingford Renewable Energy LLC Application for MBR Authority to be effective 1/4/2021.

Filed Date: 12/28/20.

Accession Number: 20201228–5100.

Comments Due: 5 p.m. ET 1/19/21.

Docket Numbers: ER21–745–000.

Applicants: Valley Electric Association, Inc.

Description: § 205(d) Rate Filing: Annual TRBA Filing to be effective 1/1/2021.

Filed Date: 12/28/20.

Accession Number: 20201228–5103.

Comments Due: 5 p.m. ET 1/19/21.

Docket Numbers: ER21–746–000.

Applicants: Mayflower Power & Gas LLC.

Description: Baseline eTariff Filing: Baseline new to be effective 2/1/2021.

Filed Date: 12/28/20.

Accession Number: 20201228–5119.

Comments Due: 5 p.m. ET 1/19/21.

Docket Numbers: ER21–747–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Correction to Original ISA, SA No. 5622; Queue No. AF1–196 (amend) to be effective 3/10/2020.

Filed Date: 12/28/20.

Accession Number: 20201228–5189.

Comments Due: 5 p.m. ET 1/19/21.

Docket Numbers: ER21–748–000.

Applicants: System Energy Resources, Inc.

Description: § 205(d) Rate Filing: SERI UPSA Historical Credits to be effective 2/26/2021.

Filed Date: 12/28/20.

Accession Number: 20201228–5207.

Comments Due: 5 p.m. ET 1/19/21.

Docket Numbers: ER21–749–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 2020–12–28 Const & Intercon-Ault Husky 230kV–567–0.0.0 to be effective 12/29/2020.

Filed Date: 12/28/20.

Accession Number: 20201228–5215.

Comments Due: 5 p.m. ET 1/19/21.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES21–19–000.

Applicants: Evergy Missouri West, Inc.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities for Evergy Missouri West, Inc.

Filed Date: 12/23/20.

Accession Number: 20201223–5271.

Comments Due: 5 p.m. ET 1/13/21.

Docket Numbers: ES21–20–000.

Applicants: NECEC Transmission LLC.

Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities for NECEC Transmission LLC.

Filed Date: 12/23/20.

Accession Number: 20201223–5421.

Comments Due: 5 p.m. ET 1/13/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by 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: December 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–29070 Filed 12–31–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: PR21–12–000.

Applicants: Black Hills Wyoming Gas, LLC.

Description: § 284.123(g) Rate Filing: NJR Energy Services Negotiated Rate Amendment to be effective 12/24/2020.

Filed Date: 12/23/20.

Accession Number: 202012235028.

Comments Due: 5 p.m. ET 1/13/2021.

284.123(g) Protests Due: 5 p.m. ET 2/22/2021.

Docket Numbers: RP21–326–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: Motion to Intervene of Antero Resources Corporation under RP21–326.

Filed Date: 12/23/20.

Accession Number: 20201223–5188.

Comments Due: 5 p.m. ET 1/4/21.

Docket Numbers: RP21–328–000.

Applicants: Florida Gas Transmission Company, LLC.

Description: Compliance filing Annual Accounting Report on 12–23–20 to be effective N/A.

Filed Date: 12/23/20.

Accession Number: 20201223–5001.

Comments Due: 5 p.m. ET 1/4/21.

Docket Numbers: RP21–329–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 122320 Negotiated Rates—Castleton

Commodities Merchant Trading L.P. R–4010–28 to be effective 1/1/2021.
Filed Date: 12/23/20.
Accession Number: 20201223–5008.
Comments Due: 5 p.m. ET 1/4/21.

Docket Numbers: RP21–330–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 122320 Negotiated Rates—Castleton Commodities Merchant Trading L.P. R–4010–27 to be effective 1/1/2021.
Filed Date: 12/23/20.
Accession Number: 20201223–5009.
Comments Due: 5 p.m. ET 1/4/21.

Docket Numbers: RP21–331–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 122320 Negotiated Rates—Shell Energy North America (US), L.P. R–2170–15 to be effective 1/1/2021.
Filed Date: 12/23/20.
Accession Number: 20201223–5012.
Comments Due: 5 p.m. ET 1/4/21.

Docket Numbers: RP21–332–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 122320 Negotiated Rates—Shell Energy North America (US), L.P. R–2170–16 to be effective 1/1/2021.
Filed Date: 12/23/20.
Accession Number: 20201223–5013.
Comments Due: 5 p.m. ET 1/4/21.

Docket Numbers: RP21–333–000.
Applicants: Enable Mississippi River Transmission, L.
Description: § 4(d) Rate Filing: MRT Tariff Cleanup Filing—February 2021 to be effective 2/1/2021.
Filed Date: 12/23/20.
Accession Number: 20201223–5027.
Comments Due: 5 p.m. ET 1/4/21.

Docket Numbers: RP21–334–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20201223 Negotiated Rate to be effective 12/29/2020.
Filed Date: 12/23/20.
Accession Number: 20201223–5073.
Comments Due: 5 p.m. ET 1/4/21.

Docket Numbers: RP21–334–000.
Applicants: Northern Natural Gas Company.
Description: (doc-less) Motion to Intervene of Northern States Power Company—Minnesota and Northern States Power Company—Wisconsin under RP21–334.
Filed Date: 12/23/20.
Accession Number: 20201223–5104.
Comments Due: 5 p.m. ET 1/4/21.

Docket Numbers: RP21–335–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: NJR Energy Services Negotiated Rate Amendment to be effective 12/24/2020.
Filed Date: 12/23/20.
Accession Number: 20201223–5111.
Comments Due: 5 p.m. ET 1/4/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by 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: December 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–29072 Filed 12–31–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–18–000]

Colorado Interstate Gas Company, L.L.C.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on December 15, 2020, Colorado Interstate Gas Company, L.L.C. (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.213(b) of the Commission's regulations under the Natural Gas Act (NGA) and CIG's blanket certificate issued in Docket No. CP83–21–000, for authorization to reclassify an injection/withdrawal well (Well No. 12) to an observation well at the Flank Natural Gas Storage Field (Flank) located in Baca County, Colorado. CIG states that the requested reclassification of Well No. 12 involves no change in the certificated physical parameters of Flank, including total inventory, reservoir pressure, reservoir and buffer boundaries, and/or capacity. Therefore, CIG states that there will be no impact on the service it provides to its customers. CIG further states that no construction related activities will be required and there will be no environmental impacts associated with the requested reclassification, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this prior notice request should be directed to Francisco Tarin, Director, Regulatory, Colorado Interstate Gas Company, L.L.C.; P.O. Box 1087, Colorado Springs, Colorado 80944 at (719) 667–7517 or by email to *franciso_tarin@kindermorgan.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: You can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on February 26, 2021. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is February 26, 2021. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is February 26, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before February 26, 2021. *The filing of a comment alone will not serve to make the filer a party to the proceeding.* To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP21–18–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [6]

(2) You can file a paper copy of your submission by mailing it to the address below.[7] Your submission must reference the Project docket number CP21–18–000.

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail at: P.O. Box 1087, Colorado Springs, Colorado 80944 or email (with a link to the document) at: *franciso_tarin@kindermorgan.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. 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. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: December 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–29067 Filed 12–31–20; 8:45 am]

BILLING CODE 6717–01–P

[3] 18 CFR 157.205(e).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

[6] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

[7] Hand-delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–19–000]

Texas Gas Transmission, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on December 18, 2020, Texas Gas Transmission, LLC (Texas Gas) filed a prior notice application pursuant to sections 157.205(b), 157.208(c) and 157.210 of the Commission's regulations under the Natural Gas Act (NGA), and Texas Gas' blanket certificate issued in Docket No. CP82–407. Texas Gas requests authorization to install a new 3,750 horsepower natural gas-fired reciprocating engine caterpillar G3612 unit, discharge gas cooler, water cooler, unit blowdown vent/silencer, yard and station piping, and other ancillary auxiliary equipment at Texas Gas' existing Midland 3 Compressor Station junction located in Muhlenberg County, Kentucky, as more fully set forth in the application, which is on file with the

Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application may be directed to Texas Gas' Supervisor of Regulatory Affairs, Juan Eligio, Jr. at (713) 479–3480 or *juan.eligio@bwpipelines.com;* or to Sr. Regulatory Analyst, Payton Barrientos at (713) 479–8157 or *payton.barrientos@bwpipelines.com;* both at 9 Greenway Plaza, Houston, Texas, 77046.

Public Participation

There are three ways to become involved in the Commission's review of this project: You can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on February 26, 2021. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is February 26, 2021. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is February 26, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before February 26, 2021. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP21–19–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [6]

(2) You can file a paper copy of your submission by mailing it to the address below.[7] Your submission must reference the Project docket number CP21–19–000.

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: 9 Greenway Plaza, Houston, Texas 77046 or at *juan.eligio@bwpipelines.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[3] 18 CFR 157.205(e).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

[6] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

[7] Hand-delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. 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. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: December 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–29069 Filed 12–31–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–736–000]

RE Slate 1 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 RE Slate 1 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 January 19, 2021.

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 may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: December 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–29071 Filed 12–31–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL21–35–000]

Hollow Road Solar LLC; Notice of Petition for Declaratory Order

Take notice that on December 22, 2020, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207,[1] Hollow Road Solar LLC (Petitioner or Hollow Road), filed a petition for declaratory order (Petition) requesting that the Commission issue a declaratory order confirming that Hollow Road will not be subject to the application of the expanded Minimum Offer Price Rule in the forthcoming PJM Base Residual Auction for the 2022/2023 Delivery Year as a consequence of being granted local property tax relief pursuant to the Virginia Certified Pollution Control Equipment and Facilities Section of the Virginia Code on Taxation (Virginia Pollution Control Statute),[2] as more fully explained in the petition.

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. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

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

[1] Pursuant to 18 CFR 381.302, the NYISO has electronically submitted the applicable filing fee. See Update of Annual Filing Fees, 169 FERC ¶ 61,167 (2019).

[2] Va. Code Ann. § 58.1–3660 (2020).

electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern time on January 21, 2021.

Dated: December 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–29076 Filed 12–31–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ19–16–001]

Hoosier Energy Rural Electric Cooperative, Inc.; Notice of Filing

Take notice that on November 24, 2020, the Hoosier Energy Rural Electric Cooperative, Inc. submitted its tariff filing: Compliance Filing for the October 26th Order to be effective 11/25/2020.

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. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

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 may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern Time on January 18, 2021.

Dated: December 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–29073 Filed 12–31–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–2–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Availability of the Environmental Assessment for the Proposed

Lines DT and DS Replacement Project Amendment

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Lines DT and DS Replacement Project Amendment (Project), proposed by Southern Star Central Gas Pipeline, Inc. (Southern Star) in the above-referenced docket. Southern Star requests authorization to abandon Lines DT and DS entirely in-place, rather than primarily by removal in Anderson and Franklin Counties, Kansas. Southern Star contends that the abandonment of the pipeline facilities in-place would reduce impacts on landowners and the environment.

The EA assesses the potential environmental effects of the abandonment of the Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed Project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed Project includes the abandonment in-place of approximately 31.8 and 31.4 miles of the Line DT and Line DS pipelines, respectively in Anderson and Franklin Counties, Kansas.

The Commission mailed a copy of the *Notice of Availability* to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. The EA is only available in electronic format. It may be viewed and downloaded from the FERC's website (*www.ferc.gov*), on the natural gas environmental documents page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). In addition, the EA may be accessed by using the eLibrary link on the FERC's website. Click on the eLibrary link (*https://elibrary.ferc.gov/eLibrary/search*), select General Search and enter the docket number in the ''Docket Number'' field (*i.e.,* CP21–2). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

The EA is not a decision document. It presents the Commission staff's independent analysis of the environmental issues for the Commission to consider when addressing the merits of all issues in this proceeding. Any person wishing to comment on the EA may do so. Your comments should focus on the EA's disclosure and discussion of potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before 5:00 p.m. Eastern Time on January 27, 2021.

For your convenience, there are three methods you can use to file your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP21–2–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered. Only intervenors have the right to seek rehearing or judicial review of the Commission's decision. At this point in this proceeding, the timeframe for filing timely intervention requests has expired. Any person seeking to become a party to the proceeding must file a motion to intervene out-of-time pursuant to Rule 214(b)(3) and (d) of the Commission's Rules of Practice and Procedures (18 CFR 385.214(b)(3) and (d)) and show good cause why the time limitation should be waived. Motions to intervene are more fully described at *https://www.ferc.gov/ferc-online/ferc-online/how-guides.*

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. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. 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 *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Dated: December 28, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–29068 Filed 12–31–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2020–0717; FRL–10019–15–OGC]

Proposed Settlement Agreement, Challenge to Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (''CAA'' or the ''Act''), notice is hereby given of a proposed Settlement Agreement to resolve petitions for review filed by the State of Wyoming (''Wyoming'') and PacifiCorp with respect to PacifiCorp's Wyodak electric generating unit (EGU). In 2014, Wyoming and PacifiCorp filed petitions for review in the United States Court of Appeals for the Tenth Circuit, challenging EPA's final rule, in which the Agency partially approved and partially disapproved elements of Wyoming's Regional Haze State Implementation Plan (SIP), and promulgated a Federal Implementation Plan (FIP) to address the disapproved elements. In the Final rule, EPA, *inter alia,* disapproved Wyoming's determination concerning nitrogen oxide (NO_X) best available retrofit technology (BART) for Wyodak and promulgated a FIP addressing NO_X BART requirements for Wyodak. The Settlement Agreement would resolve Wyoming's and PacifiCorp's challenges to the final rule. Under the proposed Settlement Agreement, the parties agree to take certain specified actions.

DATES: Written comments on the proposed settlement agreement must be received by February 3, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2020–0717, online at *https://www.regulations.gov* (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Additional Information about Commenting on the Proposed Settlement Agreement'' heading under the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov,* as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

The EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19.

FOR FURTHER INFORMATION CONTACT: Stephanie L. Hogan, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone: (202) 564–3244; email address: *hogan.stephanie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Settlement Agreement

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2020–0717) contains a copy of the proposed Settlement Agreement.

The electronic version of the public docket for this action contains a copy of the proposed Settlement Agreement, and is available through *https://www.regulations.gov.* You may use *https://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket

identification number then select ''search.''

II. Additional Information About the Proposed Settlement Agreement

The proposed Settlement Agreement would resolve Wyoming's and PacifiCorp's challenges to the following action: Approval, Disapproval and Promulgation of Implementation Plans; State of Wyoming; Regional Haze State Implementation Plan; Federal Implementation Plan for Regional Haze; final rule, 79 FR 5032 (January 30, 2014). *See Wyoming* v. *EPA,* No. 14–9529 (10th Cir. filed March 28, 2014) and *PacifiCorp* v. *EPA,* No. 14–9534 (10th Cir. filed March 31, 2014).

The proposed Settlement Agreement establishes deadlines by which Wyoming and EPA will take certain specified actions with respect to development of and action on a SIP revision addressing NO_X BART requirements for Wyodak. The proposed Settlement Agreement further provides that, if certain conditions are met, Wyoming, PacifiCorp, and EPA agree to move for dismissal of Wyoming's and PacifiCorp's challenges to the Final rule. See the proposed Settlement Agreement for specific details.

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed Settlement Agreement. EPA or the Department of Justice may withdraw or withhold consent to the proposed Settlement Agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information About Commenting on the Proposed Settlement Agreement

Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2020–0717, via *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from this docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *https://www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

Gautam Srinivasan,

Associate General Counsel.

[FR Doc. 2020–29065 Filed 12–31–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2020–0652; FRL–10019–16–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed consent decree in *United Refining Co.* v. *Wheeler,* No. 20–cv–1956 (D.D.C.). On July 7, 2020, United Refining Co. (United) filed a complaint in the United States District Court for the District of Columbia alleging that the Environmental Protection Agency (EPA or the Agency) failed to perform a certain non-discretionary duty. United alleges that EPA failed to take final action on its petition for a small refinery hardship exemption from its 2019 obligations under the Renewable Fuel Standards (RFS) program established by the Clean Air Act. The proposed consent decree would establish a deadline for EPA to act on the petition.

DATES: Written comments on the proposed consent decree must be received by February 3, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2020–0652, online at *https://www.regulations.gov* (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Additional Information about Commenting on the Proposed Consent Decree'' heading under the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov,* as there may be a delay in processing mail and faxes.

Hand-deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID–19.

FOR FURTHER INFORMATION CONTACT: Meredith G. Miller, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone (202) 564–8572; email address *miller.meredith@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2020–0652) contains a copy of the proposed consent decree.

The electronic version of the public docket for this action contains a copy of the proposed consent decree, and is available through *https://www.regulations.gov.* You may use *https://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

II. Additional Information About the Proposed Consent Decree

The proposed consent decree would require EPA to act on United's petition for a small refinery hardship exemption from its 2019 RFS obligations. On or about December 18, 2019, United submitted its petition seeking a small refinery exemption from the RFS program pursuant to CAA section 211(*o*). 42 U.S.C. 7545(*o*). CAA section 211(*o*)(9)(B)(iii) provides a 90-day deadline for the Administrator to act on such petitions. 42 U.S.C. 211(*o*)(9)(B)(iii). EPA has not acted on the petition. The proposed consent decree would require the Administrator to either grant or deny United's petition for a 2019 small refinery hardship exemption no later than February 19, 2021.

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information About Commenting on the Proposed Consent Decree

Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2020–0652, via *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *https://www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

Gautam Srinivasan,

Associate General Counsel.

[FR Doc. 2020–29078 Filed 12–31–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2019–0501; FRL–10017–43]

Asbestos (Part 1: Chrysotile Asbestos); Final Toxic Substances Control Act (TSCA) Risk Evaluation; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of the final Toxic Substances Control Act (TSCA) risk evaluation of Asbestos Part 1 (Chrysotile Asbestos). The purpose of conducting risk evaluations under TSCA is to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use, including an unreasonable risk to a relevant potentially exposed or susceptible subpopulation, without consideration of costs or other nonrisk factors. EPA has determined that specific conditions of use of Chrysotile Asbestos present an unreasonable risk of injury to health. For those conditions of use for which EPA has found an unreasonable risk, EPA must take regulatory action to address that unreasonable risk through risk management measures enumerated in TSCA. EPA has also determined that specific conditions of use do not present unreasonable risk of injury to health or the environment. For those conditions of use for which EPA has found no

unreasonable risk to health or the environment, the Agency's determination is a final Agency action and is issued via order in the risk evaluation. EPA is currently developing Part 2 of the TSCA risk evaluation for Asbestos which will evaluate risk of injury to health or the environment for legacy uses and associated disposals of asbestos. The Agency plans to release a draft scope for Part 2 of the risk evaluation for Asbestos for public comment mid-year 2021.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2019–0501, is available online at *https://www.regulations.gov* or in-person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Public Reading Room are closed to visitors with limited exceptions. The EPA/DC staff continue to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Collin Beachum, Office of Pollution Prevention and Toxics (7403M), Environmental Protection Agency, 109 T.W. Alexander Drive, Research Triangle Park, NC 27711; (919) 541–7554; email address: *beachum.collin@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may be of interest to persons who are or may be interested in risk evaluations of chemical substances under TSCA, 15 U.S.C. 2601 *et seq.* Since other entities may also be interested in this final risk evaluation, the EPA has not attempted to describe all the specific entities that may be affected by this action.

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

TSCA section 6, 15 U.S.C. 2605, requires EPA to conduct risk evaluations to ''determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, without consideration of costs or other nonrisk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation by the Administrator, under the conditions of use.'' 15 U.S.C. 2605(b)(4)(A). TSCA sections 6(b)(4)(A) through (H) enumerate the deadlines and minimum requirements applicable to this process, including provisions that provide instruction on chemical substances that must undergo evaluation, the minimum components of a TSCA risk evaluation, and the timelines for public comment and completion of the risk evaluation. TSCA also requires that EPA operate in a manner that is consistent with the best available science, make decisions based on the weight of the scientific evidence and consider reasonably available information. 15 U.S.C. 2625(h), (i), and (k). TSCA section 6(i) directs that a determination of ''no unreasonable risk'' shall be issued by order and considered to be a final Agency action, while a determination of ''unreasonable risk'' is not considered to be a final Agency action. 15 U.S.C. 2605(i).

The statute identifies the minimum components for all chemical substance risk evaluations. For each risk evaluation, EPA must publish a document that outlines the scope of the risk evaluation to be conducted, which includes the hazards, exposures, conditions of use, and the potentially exposed or susceptible subpopulations that EPA expects to consider. 15 U.S.C. 2605(b)(4)(D). The statute further provides that each risk evaluation must also: (1) Integrate and assess available information on hazards and exposures for the conditions of use of the chemical substance, including information that is relevant to specific risks of injury to health or the environment and information on relevant potentially exposed or susceptible subpopulations; (2) describe whether aggregate or sentinel exposures were considered and the basis for that consideration; (3) take into account, where relevant, the likely duration, intensity, frequency, and number of exposures under the conditions of use; and (4) describe the weight of the scientific evidence for the identified hazards and exposures. 15 U.S.C. 2605(b)(4)(F)(i) through (ii) and (iv) through (v). Each risk evaluation must not consider costs or other nonrisk factors. 15 U.S.C. 2605(b)(4)(F)(iii).

The statute requires that the risk evaluation process be completed within a specified timeframe and provide an opportunity for public comment on a draft risk evaluation prior to publishing a final risk evaluation. 15 U.S.C. 2605(b)(4).

Subsection 5.3.1 of the final risk evaluation for Asbestos Part 1 (Chrysotile Asbestos) constitutes the order required under TSCA section 6(i)(1), and the ''no unreasonable risk'' determinations in that subsection are considered to be a final Agency action effective on the date of issuance of the order. In conducting risk evaluations, ''EPA will determine whether the chemical substance presents an unreasonable risk of injury to health or the environment under each condition of use[ ] within the scope of the risk evaluation, either in a single decision document or in multiple decision documents. '' 40 CFR 702.47. Under EPA's implementing regulations, ''[a] determination by EPA that the chemical substance, under one or more of the conditions of use within the scope of the risk evaluation, does not present an unreasonable risk of injury to health or the environment will be issued by order and considered to be a final Agency action, effective on the date of issuance of the order.'' 40 CFR 702.49(d). For purposes of TSCA section 19(a)(1)(A), the date of issuance of the TSCA section 6(i)(1) order for Asbestos Part 1 (Chrysotile Asbestos) shall be at 1:00 p.m. Eastern time (standard or daylight, as appropriate) on the date that is two weeks after the date when this notice is published in the **Federal Register**, which is in accordance with 40 CFR 23.5.

C. What action is EPA taking?

EPA is announcing the availability of the risk evaluation of the chemical substance identified in Unit II. In this risk evaluation EPA has made unreasonable risk determinations on some of the conditions of use within the scope of the risk evaluation for this chemical. For those conditions of use for which EPA has found an unreasonable risk of injury to health or the environment, EPA must initiate regulatory action to address those risks through risk management measures enumerated in 15 U.S.C. 2605(a).

EPA also is announcing the availability of the information required to be provided publicly with each risk evaluation, which is available online at

https://www.regulations.gov in the dockets identified. 40 CFR 702.51. Specifically, for the risk evaluation of Asbestos Part 1 (Chrysotile Asbestos), EPA has provided:

- The scope document and problem formulation (in Docket ID No. EPA–HQ–OPPT–2016–0736);
- Draft risk evaluation and final risk evaluation (in Docket ID No. EPA–HQ–OPPT–2019–0501);
- All notices, determinations, findings, consent agreements, and orders (in Docket ID No. EPA–HQ–OPPT–2019–0501);
- Any information required to be provided to the Agency under 15 U.S.C. 2603 (in Docket ID No. EPA–HQ–OPPT–2016–0736 and Docket ID No. EPA–HQ–OPPT–2019–0501);
- A nontechnical summary of the risk evaluation (in Docket ID No. EPA–HQ–OPPT–2019–0501);
- A list of the studies, with the results of the studies, considered in carrying out each risk evaluation in Docket ID No. EPA–HQ–OPPT–2019–0501);
- The final peer review report, including the response to peer review and public comments received during peer review (in Docket ID No. EPA–HQ–OPPT–2019–0501); and
- Response to public comments received on the draft scope and the draft risk evaluation (in Docket ID No. EPA–HQ–OPPT–2019–0501).

II. TSCA Risk Evaluation

A. What is EPA's risk evaluation process for existing chemicals under TSCA?

The risk evaluation process is the second step in EPA's existing chemical review process under TSCA, following prioritization and before risk management. As this chemical is one of the first ten chemical substances undergoing risk evaluation, the chemical substance was not required to go through prioritization (81 FR 91927, December 19, 2016) (FRL–9956–47). The purpose of conducting risk evaluations is to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use, including an unreasonable risk to a relevant potentially exposed or susceptible subpopulation. As part of this process, EPA must evaluate both hazard and exposure, not consider costs or other nonrisk factors, use reasonably available information and approaches in a manner that is consistent with the requirements in TSCA for the use of the best available science, and ensure decisions are based on the weight of the scientific evidence.

The specific risk evaluation process that EPA has established by rule to implement the statutory process is set out in 40 CFR part 702 and summarized on EPA's website at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluations-existing-chemicals-under-tsca.* As explained in the preamble to EPA's final rule on procedures for risk evaluation (82 FR 33726, July 20, 2017) (FRL–9964–38), the specific regulatory process set out in 40 CFR part 702, subpart B is being followed for the first ten chemical substances undergoing risk evaluation to the maximum extent practicable.

Prior to the publication of this final risk evaluation, a draft risk evaluation was subject to peer review and public comment. EPA reviewed the report from the peer review committee and public comments and has amended the risk evaluation in response to these comments as appropriate. The public comments, peer review report, and EPA's response to comments is in Docket ID No. EPA–HQ–OPPT–2019–0501. Prior to the publication of the draft risk evaluation, EPA made available the scope and problem formulation, and solicited public input on uses and exposure. EPA's documents and the public comments are in Docket ID No. EPA–HQ–OPPT–2016–0736. Additionally, information about the scope, problem formulation, and draft risk evaluation phases of the TSCA risk evaluation for this chemical is available at EPA's website at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluation-asbestos-0.*

B. Definition of asbestos?

For the purposes of the Risk Evaluation for Asbestos under TSCA Section 6(a), EPA is using the TSCA section 202 definition of asbestos; which is—''asbestiform varieties of six fiber types—chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite or actinolite.'' Part 1 of the Risk Evaluation for Asbestos is focused on Chrysotile Asbestos, as this is the only fiber type currently being imported, processed, or distributed for use in the United States. It is used in diaphragms, sheet gaskets, other gaskets, oilfield brake blocks, aftermarket automotive brakes/linings, and other vehicle friction products. Part 1 of the Risk Evaluation for Asbestos presents risk determinations for Chrysotile Asbestos attributable to these conditions of use.

C. Risk Evaluation for Asbestos Part 2: Legacy Uses and Associated Disposals of Asbestos

As a result of the court decision in Safer Chemicals Healthy Families v. EPA, 943 F.3d 397 (9th Cir. 2019), EPA will evaluate legacy uses and associated disposals for Asbestos in Part 2 of the Risk Evaluation which is under expedited development. Legacy uses and associated disposals of Asbestos are conditions of use for which manufacture, import, processing and distribution no longer occur but where use and disposal, respectively, are still known, intended, or reasonably foreseen to occur. Part 2 of the Risk Evaluation for Asbestos will consider all six fiber types of Asbestos described in the TSCA definition.

Part 2 of the Risk Evaluation for Asbestos will begin with a draft scope document that will be made available for public comment. EPA will engage external stakeholders, where appropriate, to obtain reasonably available information related to legacy uses and associated disposals, including in situ in older buildings or still present in older equipment that has not exceeded its useful life.

Authority: 15 U.S.C. 2601 *et seq.*

Andrew Wheeler,

Administrator.

[FR Doc. 2020–29109 Filed 12–31–20; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

Sunshine Act Meetings

Notice of an Open Meeting of the Board of Directors of the Export-Import Bank of the United States

TIME AND DATE: Thursday, January 14, 2021 at 1:00 p.m.

PLACE: The meeting will be held via teleconference.

STATUS: The meeting will be open to public observation for Item Number 1 only.

MATTERS TO BE CONSIDERED: State Department Vetting of EXIM Transactions.

CONTACT PERSON FOR MORE INFORMATION: Joyce B. Stone (202–257–4086). Members of the public who wish to attend the meeting via audio only teleconference should register via *https://attendee.gotowebinar.com/register/7434330690988996623* by noon Wednesday, January 13, 2021. Individuals will be directed to a

Webinar registration page and provided call-in information.

Joyce B. Stone,

Assistant Corporate Secretary.

[FR Doc. 2020–29156 Filed 12–30–20; 11:15 am]

BILLING CODE 6690–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of 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(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than January 19, 2021.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Timothy Schams, La Crosse, Wisconsin;* to acquire voting shares of River Holding Company, Stoddard, Wisconsin, and thereby indirectly acquire voting shares of River Bank, Stoddard, Wisconsin, and Wisconsin River Bank, Sauk City, Wisconsin.

B. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Angela K. Rassas, Potomac Falls, Virginia; Dianne K. Johnson, as a trustee of the Dianne K. Johnson Trust and the Mignon L. Johnson Trust, all of Forest Lake, Minnesota; Scott C. Johnson, individually and as trustee of the Edsel F. Johnson Disclaimer Trust, both of Stillwater, Minnesota; Jill E. King, Arden Hills, Minnesota; and Mackenzie L. Farrill, Hudson, Wisconsin;* to join the Johnson Family Group, a group acting in concert, to retain voting shares of Marine Bancshares, Inc., and thereby indirectly retain voting shares of Security State Bank of Marine, both of Marine on St. Croix, Minnesota.

C. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *William Alexander O'Brien, Amarillo, Texas;* to acquire voting shares of BOC Bank, McLean, Texas.

Board of Governors of the Federal Reserve System, December 28, 2020.

Ann Misback,

Secretary of the Board.

[FR Doc. 2020–29030 Filed 12–31–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Financial Statements for Holding Companies (FR Y–9 reports; OMB Control Number 7100–0128) and the Consolidated Report of Condition and Income for Edge and Agreement Corporations (FR 2886b; OMB Control Number 7100–0086). The new revisions to these reports are effective as of March 31, 2021. The Board is also finalizing the following revisions that were previously approved on an interim basis: Revisions to the definition of ''savings deposits'' in the FR Y–9C and FR 2886b instructions associated with the amendments to the Board's Regulation D (Reserve Requirements of Depository Institutions), collection of two new temporary data items on loan modifications consistent with section 4013(d)(2) of the Coronavirus Aid, Relief and Economic Security (CARES) Act, and collection of four new temporary data items related to the an interim final rule implementing the Paycheck Protection Program Liquidity Facility (PPPLF). These changes became effective June 30, 2020.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

Office of Management and Budget (OMB) Desk Officer—Will Bestani—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are available at *https://www.reginfo.gov/public/do/PRAMain.* These documents are also available on the Federal Reserve Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision of the Following Information Collections:

(1) *Report title:* Financial Statements for Holding Companies.

Agency form numbers: FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS.

OMB control number: 7100–0128.

Frequency: Quarterly, semiannually, and annually.

Respondents: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies, and U.S. intermediate holding companies (IHCs) (collectively, holding companies).[1]

Estimated number of respondents:

FR Y–9C (non-advanced approaches holding companies) with less than $5 billion in total assets—124,

[1] An SLHC must file one or more of the FR Y–9 family of reports unless it is: (1) A grandfathered unitary SLHC with primarily commercial assets and thrifts that make up less than five percent of its consolidated assets; or (2) a SLHC that primarily holds insurance-related assets and does not otherwise submit financial reports with the SEC pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

FR Y–9C (non advanced approaches holding companies) with $5 billion or more in total assets—218,
FR Y–9C (advanced approaches holding companies)—9,
FR Y–9LP—416,
FR Y–9SP—3,739,
FR Y–9ES—78,
FR Y–9CS—236.

Estimated average hours per response:

Reporting

FR Y–9C (non advanced approaches holding companies) with less than $5 billion in total assets—35.72;
FR Y–9C (non advanced approaches holding companies) with $5 billion or more in total assets—44.92;
FR Y–9C (advanced approaches holding companies)—50.14;
FR Y–9LP—5.27;
FR Y–9SP—5.40;
FR Y–9ES—0.50;
FR Y–9CS—0.50.

Recordkeeping

FR Y–9C—1;
FR Y–9LP—1;
FR Y–9SP—0.50;
FR Y–9ES—0.50;
FR Y–9CS—0.50.

Estimated annual burden hours:

Reporting

FR Y–9C (non advanced approaches holding companies) with less than $5 billion in total assets—17,715;
FR Y–9C (non advanced approaches holding companies) with $5 billion or more in total assets—39,166;
FR Y–9C (advanced approaches holding companies)—1,805;
FR Y–9LP—8,769;
FR Y–9SP—40,381;
FR Y–9ES—39;
FR Y–9CS—472.

Recordkeeping

FR Y–9C—1,404;
FR Y–9LP—1,664;
FR Y–9SP—3,739;
FR Y–9ES—39;
FR Y–9CS—472.

General description of report: The FR Y–9 family of reporting forms continues to be the primary source of financial data on holding companies that examiners rely on in the intervals between on-site inspections. The Board requires holding companies to provide standardized financial statements to fulfill the Board's statutory obligation to supervise these organizations. Financial data from these reporting forms are used to detect emerging financial problems, to review performance and conduct pre-inspection analysis, to monitor and evaluate capital adequacy, to evaluate holding company mergers and acquisitions, and to analyze a holding company's overall financial condition to ensure the safety and soundness of its operations. The FR Y–9C, FR Y–9LP, and FR Y–9SP serve as standardized financial statements for the holding companies. The FR Y–9ES is a financial statement for holding companies that are Employee Stock Ownership Plans. The Board uses the voluntary FR Y–9CS (a free-form supplement) to collect additional information deemed to be critical and needed in an expedited manner. Holding companies file the FR Y–9C on a quarterly basis, the FR Y–9LP quarterly, the FR Y–9SP semiannually, the FR Y–9ES annually, and the FR Y–9CS on a schedule that is determined when this supplement is used.

Legal authorization and confidentiality: The reporting and recordkeeping requirements associated with the FR Y–9 series of reports are authorized for BHCs pursuant to section 5 of the Bank Holding Company Act (''BHC Act'');[2] for SLHCs pursuant to section 10(b)(2) and (3) of the Home Owners' Loan Act, 12 U.S.C. 1467a(b)(2) and (3), as amended by sections 369(8) and 604(h)(2) of the Dodd-Frank Wall Street and Consumer Protection Act (''Dodd-Frank Act''); for IHCs pursuant to section 5 of the BHC Act, as well as pursuant to sections 102(a)(1) and 165 of the Dodd-Frank Act;[3] and for securities holding companies pursuant to section 618 of the Dodd-Frank Act.[4] Except for the FR Y–9CS report, which is expected to be collected on a voluntary basis, the obligation to submit the remaining reports in the FR Y–9 series of reports and to comply with the recordkeeping requirements set forth in the respective instructions to each of the other reports, is mandatory.

With respect to the FR Y–9C report, Schedule HI's Memorandum item 7.g, ''FDIC deposit insurance assessments,'' Schedule HC–P's item 7.a, ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to U.S. government agencies and government sponsored agencies,'' and Schedule HC–P's item 7.b, ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to other parties'' are considered confidential commercial and financial information. Such treatment is appropriate under exemption 4 of the Freedom of Information Act (''FOIA''),[5] because these data items reflect commercial and financial information that is both customarily and actually treated as private by the submitter, and which the Board has previously assured submitters will be treated as confidential. It also appears that disclosing these data items may reveal confidential examination and supervisory information, and in such instances, the information also would be withheld pursuant to exemption 8 of the FOIA,[6] which protects information related to the supervision or examination of a regulated financial institution.

In addition, for both the FR Y–9C report and the FR Y–9SP report, Schedule HC's Memorandum item 2.b, the name and email address of the external auditing firm's engagement partner, is considered confidential commercial information and protected by exemption 4 of the FOIA,[7] if the identity of the engagement partner is treated as private information by holding companies. The Board has assured respondents that this information will be treated as confidential since the collection of this data item was proposed in 2004.

Additionally, items on the FR Y–9C, Schedule HC–C regarding loans modified under section 4013 of the CARES Act (Memorandum item 16.a, ''Number of Section 4013 loans outstanding'', and Memorandum item 16.b, ''Outstanding balance of Section 4013 loans'') are considered confidential. While the Board generally makes institution-level FR Y–9C report data publicly available, the Board believes the disclosure of these items at the holding company level would not be in the public interest.[8] Such information is permitted to be collected on a confidential basis, consistent with 5 U.S.C. 552(b)(8).[9] Holding companies

[2] 12 U.S.C. 1844.

[3] 12 U.S.C. 5311(a)(1) and 5365; Section 165(b)(2) of Title I of the Dodd-Frank Act, 12 U.S.C. 5365(b)(2), refers to ''foreign-based bank holding company.'' Section 102(a)(1) of the Dodd-Frank Act, 12 U.S.C. 5311(a)(1), defines ''bank holding company'' for purposes of Title I of the Dodd-Frank Act to include foreign banking organizations that are treated as bank holding companies under section 8(a) of the International Banking Act, 12 U.S.C. 3106(a). The Board has required, pursuant to section 165(b)(1)(B)(iv) of the Dodd-Frank Act, 12 U.S.C. 5365(b)(1)(B)(iv), certain foreign banking organizations subject to section 165 of the Dodd-Frank Act to form U.S. intermediate holding companies. Accordingly, the parent foreign-based organization of a U.S. IHC is treated as a BHC for purposes of the BHC Act and section 165 of the Dodd-Frank Act. Because section 5(c) of the BHC Act authorizes the Board to require reports from subsidiaries of BHCs, section 5(c) provides additional authority to require U.S. IHCs to report the information contained in the FR Y–9 series of reports.

[4] 12 U.S.C. 1850a(c)(1)(A).

[5] 5 U.S.C. 552(b)(4).

[6] 5 U.S.C. 552(b)(8).

[7] 5 U.S.C. 552(b)(4).

[8] See 12 U.S.C. 1464(v)(2).

[9] Exemption 8 of the Freedom of Information Act (FOIA) specifically exempts from disclosure

Continued

may be reluctant to offer modifications under section 4013 if information on these modifications are publicly available, as analysts, investors, and other users of public FR Y–9C report information may penalize an institution for using the relief provided by the CARES Act.

Aside from the data items described above, the remaining data items collected on the FR Y–9C report and the FR Y–9SP report are generally not accorded confidential treatment. The data items collected on FR Y–9LP, FR Y–9ES, and FR Y–9CS [10] reports, are also generally not accorded confidential treatment. As provided in the Board's Rules Regarding Availability of Information,[11] however, a respondent may request confidential treatment for any data items the respondent believes should be withheld pursuant to a FOIA exemption. The Board will review any such request to determine if confidential treatment is appropriate, and will inform the respondent if the request for confidential treatment has been granted or denied.

To the extent the instructions to the FR Y–9C, FR Y–9LP, FR Y–9SP, and FR Y–9ES reports each respectively direct the financial institution to retain the workpapers and related materials used in preparation of each report, such material would only be obtained by the Board as part of the examination or supervision of the financial institution. Accordingly, such information is considered confidential pursuant to exemption 8 of the FOIA.[12] In addition, the workpapers and related materials may also be protected by exemption 4 of the FOIA, to the extent such financial information is treated as confidential by the respondent.[13]

(2) *Report title:* Consolidated Report of Condition and Income for Edge and Agreement Corporations.

Agency form number: FR 2886b.

OMB control number: 7100–0086.

Frequency: Quarterly and annually.

Reporters: Edge and agreement corporations.

Estimated annual reporting hours:

Banking: Edge and agreement corporations (quarterly): 586;

Banking: Edge and agreement corporations (annually): 16;

Investment: Edge and agreement corporations (quarterly): 1,034;

Investment: Edge and agreement corporations (annually): 79.

Estimated average hours per response:

Banking: Edge and agreement corporations (quarterly): 15.77;

Banking: Edge and agreement corporations (annually): 15.87;

Investment: Edge and agreement corporations (quarterly): 11.81;

Investment: Edge and agreement corporations (annually): 10.82.

Number of respondents:

Banking: Edge and agreement corporations (quarterly): 9;

Banking: Edge and agreement corporations (annually): 1;

Investment: Edge and agreement corporations (quarterly): 21;

Investment: Edge and agreement corporations (annually): 7.

General description of report: The FR 2886b reporting form is filed quarterly and annually by banking Edge and agreement corporations and investment (nonbanking) Edge and agreement corporations (collectively, ''Edges or Edge corporations''). The mandatory FR 2886b comprises a balance sheet, an income statement, two schedules reconciling changes in capital and reserve accounts, and 11 supporting schedules. The Board uses the FR 2886b data to help plan and target the scope of examinations of Edges and to evaluate applications from Edge corporations. Data from the FR 2886b are also used to monitor aggregate institutional trends, such as growth in assets and the number of offices, changes in leverage, and the types and locations of customers and to monitor and identify present and potential problems with Edge corporations.

Legal authorization and confidentiality: Sections 25 and 25A of the Federal Reserve Act authorize the Federal Reserve to collect the FR 2886b (12 U.S.C. 602, 625). The obligation to report this information is mandatory. For Edge and Agreement corporations engaged in banking, current Schedules RC–M (with the exception of item 3) and RC–V are held confidential pursuant to exemption 4 of FOIA (12 U.S.C. 552(b)(4)). For Edge and Agreement corporations not engaged in banking, only information collected on Schedule RC–M (with the exception of item 3) are given confidential treatment pursuant to exemption 4 of FOIA (12 U.S.C. 552(b)(4)).

Current actions: On July 7, 2020, the Board published a notice [14] to temporarily revise the FR Y–9C to collect four new data items related to Paycheck Protection Program (PPP) loans and the PPPLF. Also, as part of this notice, the Board temporarily revised the FR Y–9C to collect two new data items related to section 4013 of the CARES act.

On October 8, 2020, the Board published a separate notice [15] to propose a number of revisions to the FR Y–9C, FR Y–9LP, and FR Y–9SP related to U.S. GAAP effective for reports with a March 31, 2021, as-of date, except for proposed revisions related to last-of-layer hedging, which were proposed to become effective following the adoption and implementation of a final standard by the Financial Accounting Standards Board (FASB). For holding companies that have adopted Accounting Standards Codification (ASC) Topic 326, Financial Instruments—Credit Losses, the Board proposed in the October 2020 notice to add new Memorandum item 7, ''Provisions for credit losses on off-balance sheet credit exposures,'' to Schedule HI–B, Part II, Changes in allowances for Credit Losses. This line item would have enhanced transparency and differentiate between the provisions attributable to on-and off-balance sheet credit exposures reported in item 4, ''Provisions for loan and lease losses'' on the FR Y–9C income statement. As part of the GAAP-related changes, the Board also proposed new Memorandum item 8 to Schedule HI–B, Part II, ''Changes in Allowances for Credit Losses'', to the FR Y–9C report. The description of the memorandum item would have been ''Estimated amount of expected recoveries of amounts previously written off included within the allowance for credit losses on loans and leases held for investment (included in item 7, column A, 'Balance end of current period,' above).'' In proposing this reporting change, the Board noted that, under ASC Topic 326, holding companies could in some circumstances reduce the amount of the allowance for credit losses that would otherwise be calculated for a pool of assets with similar risk characteristics, which includes charged-off assets, by the estimated amount of expected recoveries of amounts written off on these assets.

In this same October notice, the Board proposed to finalize, on an interim basis, revisions to the definition of ''savings deposits'' in the FR Y–9C and FR 2886b instructions that are

information ''contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.''

[10] The FR Y–9CS is a supplemental report that may be utilized by the Board to collect additional information that is needed in an expedited manner from holding companies. The information collected on this supplemental report is subject to change as needed. Generally, the FR Y–9CS report is treated as public. However, where appropriate, data items on the FR Y–9CS report may be withheld under exemptions 4 or 8 of the FOIA, 5 U.S.C. 552(b)(4) and (8).

[11] 12 CFR part 261.

[12] 5 U.S.C. 552(b)(8).

[13] 5 U.S.C. 552(b)(4).

[14] 85 FR 40646 (July 7, 2020).

[15] 85 FR 63553 (October 8, 2020).

associated with the amendments to the Board's Regulation D (Reserve Requirements of Depository Institutions) published April 28, 2020.[16] The temporarily-approved revisions permit, but do not require, depository institutions to immediately suspend enforcement of the six-transfer limit on convenient transfers for savings deposits and to allow their customers to make an unlimited number of convenient transfers and withdrawals from their savings deposits. The General Instructions for FR Y–9C Schedule HC–E, Deposit Liabilities, and FR 2886b Schedule RC–E, Deposit Liabilities, were revised to state that if an institution chooses to suspend enforcement of the six-transfer limit on a ''savings deposit,'' the institution may continue to report that account as a ''savings deposit'' or may instead choose to report that account as a ''transaction account'' based on an assessment of certain characteristics of the account.

Also as part of the October notice, the Board proposed to revise the General Instructions for FR Y–9C Schedule HC–E and FR 2886b Schedule RC–E to state that where the reporting institution has suspended the enforcement of the six-transfer limit rule on an account that otherwise meets the definition of a savings deposit, the institution must report such deposits as a ''savings deposit'' (and as a ''nontransaction account'') or a ''transaction account'' based on an assessment of certain criteria.

The comment period for the July 2020 notice ended on September 8, 2020. The Board did not receive any comments on this proposal, and the revisions will be implemented as proposed, with the new data items being collected through December 31, 2021.

The comment period for the October 2020 notice expired on December 7, 2020. The Board received a comment from a banker's association on this proposal. Comments were also received on a comparable proposal involving the Consolidated Reports of Condition and Income (Call Report) (FFIEC 031, FFIEC 041and FFIEC 051; OMB Control Number 7100–0036).[17] The Board has taken the comments from the proposed changes to the Call Report into consideration in finalizing the proposed FR Y–9C and FR 2886b changes. The revisions to the FR Y–9C and FR 2886b will be implemented as proposed, with certain modifications described below. The effective date of the proposed revisions to the FR Y–9C and FR 2886b instructions regarding the definition of ''savings deposits'' is December 31, 2020. The effective date for all other changes is March 31, 2021.

Comments Received on Provision for Credit Losses on Off-Balance Sheet Credit Exposures

The lone commenter on the October 2020 notice noted the potential impact on other reports beyond the FR Y–9C of the GAAP change related to provision for credit losses on off-balance sheet credit exposures. These other reports include the FR Y–7N (OMB Control Number 7100–0125), FR Y–11 (OMB Control Number 7100–0244), FR 2314 (OMB Control Number 7100–0073), FR 2886b (OMB Control Number 7100–0086), and FR 2644 (OMB Control Number 7100–0075).

The Board will consider conforming changes to the forms and instructions for the FR 2886b, FR Y–7N, FR Y–11, and FR 2314 in the future. Any such changes would be proposed by the Board through a separate **Federal Register** notice pursuant to the Paperwork Reduction Act. The Board does not intend to make conforming changes to the FR 2644 since this report is only comprised of balance sheet items and this GAAP-related change only impacts income statement items.

Comments Received on Final Regulation D Reporting Revisions

The Board did not receive comments on the proposal to finalize the temporarily-approved revisions to the FR Y–9C and FR 2886b instructions regarding the definition of ''savings deposits'' associated with the amendments to the Board's Regulation D. The changes were effective as of June 30, 2020.

The commenter on the October 2020 notice raised several concerns with the proposed changes related to the definition of ''savings deposits'' and the assessment criteria to remove certain optional reporting, and requested a clarification on the definition of ''retail sweep arrangements.'' The commenter recommended that the revisions be consistent across reports. Specifically, the commenter recommended that savings deposits be classified consistently as transaction or nontransaction accounts across reports. The commenter stated that the differences in the treatment of savings deposits would require firms to report savings deposits as nontransaction accounts on the Call Reports, FR Y–9C, and FR 2886b, while the same deposits would be classified as a transaction account on the Report of Transaction Accounts, Other Deposits and Vault Cash (FR 2900; OMB Control Number 7100–0087). The commenter recommended that the Board provide clear and consistent definitions of ''savings deposits,'' ''transaction accounts,'' and ''nontransaction accounts.'' In response to the commenter's recommendation, the Board will continue to maintain the requirement to report ''savings deposits'' as a component of nontransaction accounts on the FR Y–9C and FR 2886b in order to maintain consistency with the Call Report. The Board will also maintain the definition of ''transaction accounts'' and ''nontransaction accounts'' as currently stated in the FR Y–9C and FR 2886b instructions, which is consistent with the Call Report instructions. It is important to note the Call Report and FR Y–9C are principal sources of financial data used for supervision and regulation of the banking industry whereas the primary purpose of the FR 2900 report is to collect data for the construction of the monetary aggregates.

Secondly, regarding the proposed changes to the assessment criteria for ''savings deposits,'' the commenter recommended that a depositor's eligibility to hold a NOW account should not be included in the criteria assessment to determine the reporting treatment for savings deposits for which the numeric limits on transfers and withdrawals have been removed. The commenter noted that ''if a firm does not offer NOW accounts, they would be required to report savings deposits as NOW accounts, ATS accounts, or telephone and preauthorized transfer accounts (and as transaction accounts) based on a depositor's eligibility to hold such account'' and ''for firms that do not offer NOW accounts, the data necessary to determine a depositor's eligibility for NOW accounts would not be readily available.'' In addition, the commenter noted that this reporting treatment would be inconsistent with the Regulation D definition of savings deposits, as NOW account eligibility is not a component of the definition. The commenter believed that gathering the data necessary to distinguish these depositors from other savings account holders solely for regulatory reporting purposes would create business and systems challenges. The Board agrees with the commenter that the depositor's eligibility to hold a NOW account should not be included in the assessment criteria for classification as a ''savings deposit,'' as such reporting would not be consistent with the Regulation D definition of savings deposits. Therefore, the Board will remove the depositor's eligibility to

[16] 85 FR 23445 (April 28, 2020).

[17] 85 FR 44361 (July 22, 2020).

hold a NOW account from the assessment criteria. The Board and the other federal banking agencies have proposed comparable revisions to the Call Report.

Additionally, the commenter recommended that the effective date of the proposed revisions to the FR Y–9C and the FR 2886b definition of ''savings deposits'' be delayed from December 31, 2020, until June 30, 2021, to better align with the proposed effective dates of the FR 2900 [18] and the Report of Foreign (Non-U.S.) Currency Deposits (FR 2915; OMB Control Number 7100–0087). The commenter noted that aligning the timing of the revisions would give firms additional time to implement any further changes made by the Board and other agencies in light of the comments received. In response to the commenter's recommendation, the Board has deferred the effective date of the proposed revisions that requires a depository institution to report each account as a ''savings deposit'' or a ''transaction account'' based on the institution's assessment of account characteristics and removes the optionality in reporting savings deposits as either a ''savings deposit'' or a ''transaction account'' if the institution suspended the enforcement of the six-transfer limit until March 31, 2021. Choosing March 31, 2021 as the proposed effective date will align the FR Y–9C and FR 2886b Regulation D revisions with the Call Report and will provide institutions additional time to implement any necessary changes. The timing of the FR Y–9C changes was chosen to match the Call Report to allow for consistent quarterly reporting.

Lastly, the commenter requested clarification on how institutions should report the components of retail sweep arrangements on the FR Y–9C report. Specifically, the commenter asked whether institutions should continue to report the nontransaction components of, or savings deposits in, retail sweep arrangements as nontransaction accounts. If not, the commenter asked whether institutions should strictly follow the proposed assessment criteria for the treatment of accounts where the transfer limit has been removed. In response to the comment, the Board has modified the description of retail sweep arrangements in the FR Y–9C instructions to remove references to transaction and nontransaction components. Further, the instructions will indicate that institutions should not follow the proposed assessment criteria for the treatment of accounts for which the transfer limit has been removed. Instead, the instructions will note that institutions that offer valid retail sweep programs must report each component of the retail sweep arrangement based on the customer account agreement established by the depository institution. The instructions will also note that two key criteria must be met for a valid retail sweep program. These criteria are: (1) A depository institution must establish by agreement with its customer two distinct, legally separate accounts; and (2) the swept funds must actually be moved between the customer's accounts on the depository institution's official books and records as of the close of business on the day(s) on which the depository institution intends to report the funds as being in separate accounts. These modifications are consistent with modifications to the Call Report instructions made in response to a similar comment.[19]

Modifications to Proposed Memorandum Item 8 of Schedule HI–B, Part II, ''Changes in Allowances for Credit Losses''

As discussed above, the Board proposed to add a new Memorandum item 8 to Schedule HI–B, Part II, to collect the estimated amount of expected recoveries of amounts previously written off included within the allowance for credit losses on loans and leases held for investment. The Board did not receive any comments on this aspect of the proposal, and will adopt this revision. However, the Board has decided to collect this new Memorandum item only from holding companies with $5 billion or more in total consolidated assets. The Board decided to limit this collection to such holding companies in order to minimize burden, consistent with a number of other FR Y–9C items that are not required from holding companies with less than $5 billion in total assets.

Proposed Revisions Related to Last-of-Layer Hedging

In the October 2020 notice, the Board proposed to make certain revisions to the FR Y–9C related to the last-of-layer method of hedge accounting standards. This proposal would have implemented in the FR Y–9C revisions related to a project added to the FASB agenda to expand last-of-layer hedging to multiple layers, thereby providing more flexibility to entities when applying hedge accounting to a closed portfolio of prepayable assets. The Board proposed for these revisions to become effective following the adoption and implementation of a final standard on this matter by FASB.

Because FASB has not yet adopted a final standard regarding last-of-layer hedging, the Board has not adopted the proposed FR Y–9C revisions associated with this topic at this time. The Board will consider whether to finalize the proposed revisions related to last-of-layer hedging when FASB adopts a final standard.

Additional Instructional Matters

The agencies addressed several additional instructional matters in the final Call Report notice. The Board will make comparable clarifying changes to the FR Y–9 reports for consistency purposes as discussed in detail below.

1. Uncollectible Accrued Interest Receivable Under ASC Topic 326

In April 2019, the Financial Accounting Standards Board (FASB) issued ASU No. 2019–04, ''Codification Improvements to Topic 326, Financial Instruments—Credit Losses, Topic 815, Derivatives and Hedging, and Topic 825, Financial Instruments,'' which amended ASC Topic 326 to allow an institution to make certain accounting policy elections for accrued interest receivable balances, including a separate policy election, at the class of financing receivable or major security-type level, to charge off any uncollectible accrued interest receivable by reversing interest income, recognizing credit loss expense (*i.e.,* provision expense), or a combination of both. The Glossary entry for ''Accrued Interest Receivable'' in the FR Y–9C report instructions currently references the following accounting policy elections in ASU 2019–04:

- Holding companies may elect to separately present accrued interest receivable from the associated financial asset, and the accrued interest receivable is presented net of an allowance for credit losses (ACL), if any; and
- Holding companies that charge off uncollectible accrued interest receivable in a timely manner, *i.e.,* in accordance with the Glossary entry for ''Nonaccrual Status,'' may elect, at the class of financing receivable or the major security-type level, not to measure an ACL for accrued interest receivable.

Although this Glossary entry does not currently provide for the ASU's separate accounting policy election for the charge-off of uncollectible accrued interest receivable at the class of financing receivable or major security-type level, this election is specifically addressed in the Interagency Policy Statement on Allowances for Credit

[18] 85 FR 54577 (Nov. 2, 2020).

[19] 85 FR 74784.

Losses issued in May 2020.[20] Accordingly, as provided in the FR Y–9C Supplemental Instructions for the September 30, 2020, report date,[21] a holding company that has adopted ASC Topic 326 may make the charge-off election for accrued interest receivable balances in ASU 2019–04 separately from the other elections for these balances in the ASU for FR Y–9C reporting purposes. A holding company may also charge off uncollectible accrued interest receivable against an ACL for FR Y–9C reporting purposes.

The Board plans to update the FR Y–9C Glossary entry for ''Accrued Interest Receivable'' to align the instructions in this entry with the elections permitted under U.S. GAAP for institutions that have adopted ASC 326, which also would achieve consistency with the discussion of accrued interest receivable in the Interagency Policy Statement on Allowances for Credit Losses.

2. Shared Fees and Commissions From Securities-Related and Insurance Activities

Holding companies with $5 billion or more in total assets report income from certain securities-related and insurance activities in FR Y–9C report Schedule HI, Income Statement, items 5.d.(1) through (7), while holding companies with less than $5 billion in total assets report only items 5.d.(6) and 5.d.(7). When an institution partners with, or otherwise joins with, a third party to conduct these securities-related or insurance activities, and any fees and commissions generated by these activities are shared with the third party, the Schedule HI instructions do not currently address the reporting treatment for these sharing arrangements. Consequently, holding companies may have reported the gross fees and commissions from these activities in the appropriate subitem of Schedule HI, item 5, ''Other noninterest income,'' and the third party's share of the fees and commissions separately as expenses in Schedule HI, item 7.d, ''Other noninterest expense.'' Alternatively, holding companies may have reported only their net share of the fees or commissions in the appropriate subitem of Schedule HI, item 5.

The Board believes that reporting shared fees and commissions on a net basis is preferable to gross reporting and is analogous to how income from certain other income-generating activities is reported on the FR Y–9C income statement, including securitization income and servicing fee income, which are currently reported net of specified expenses and costs.

This net approach better represents an institution's income from a securities-related or insurance activity engaged in jointly with a third party than when the third party's share of the fees and commissions is separately reported as a noninterest expense in another income statement data item. As a result, the Board has clarified the existing Schedule HI instructions to ensure consistent reporting on a net basis of fees and commissions from securities-related and insurance activities that are shared with third parties. Furthermore, to avoid including repetitive language in the instructions for the multiple noninterest income items for income from securities-related and insurance activities in Schedule HI, a new non-reportable item 5.d captioned ''Income from securities-related and insurance activities'' has been added before the existing 5.d subitems on the FR Y–9C report. The reporting treatment for arrangements involving the sharing of fees and commissions with third parties arising from an institution's securities brokerage, investment banking, investment advisory, securities underwriting, insurance and annuity sales, insurance underwriting, or any other securities-related and insurance activities is explained once in the new item 5.d instructions.

3. Pledged Equity Securities

In January 2016, the FASB issued ASU 2016–01, ''Recognition and Measurement of Financial Assets and Financial Liabilities.'' As one of its main provisions, the ASU requires investments in equity securities, except those accounted for under the equity method and those that result in consolidation, to be measured at fair value, with changes in fair value recognized in net income. Thus, the ASU eliminates the existing concept of available-for-sale (AFS) equity securities, which are measured at fair value with changes in fair value generally recognized in other comprehensive income. As of December 31, 2020, all holding companies will have been required to adopt ASU 2016–01 and, as a consequence, must report equity securities with readily determinable fair values not held for trading in Schedule HC, Balance Sheet, item 2.c, ''Equity securities with readily determinable fair values not held for trading,'' instead of Schedule HC–B, Securities, item 7, ''Investments in mutual funds and other equity securities with readily determinable fair values.'' Accordingly, Schedule HC–B, item 7, will be removed effective December 31, 2020.

Holding companies report held-to-maturity and AFS securities in Schedule HC–B, items 1 through 7, and have long reported in Schedule HC–B, Memorandum item 1, ''Pledged securities'' the amount of such securities that are pledged to secure deposits and for other purposes. Considering that all institutions that previously reported their AFS equity securities in Schedule HC–B, item 7, now report these securities in Schedule HC, item 2.c, the Board is updating the instructions for Schedule HC–B, Memorandum item 1, and Schedule HC, item 2.c, to indicate that holding companies should include in Memorandum item 1 the fair value of pledged equity securities with readily determinable fair values not held for trading that are now reported in Schedule HC, item 2.c. The wording of existing footnote 1 to Memorandum item 1 of Schedule HC–B on the FR Y–9C forms will be similarly updated. These instructional clarifications would ensure that pledged equity securities formerly reportable as AFS equity securities would continue to be reported in Memorandum item 1 notwithstanding the change in accounting for equity securities under U.S. GAAP. Information on pledged securities is an important element of the agencies' analysis of an institution's liquidity risk. The existing footnote 1 to Memorandum item 1, Schedule HC–B on the FR Y–9C forms and the instructions for PC–B Memoranda line item 10, ''Pledged securities'', of the FR Y–9LP and related footnote 1 reference of this line item on the FR Y–9LP forms will be similarly updated.

The FR Y–9C instructional clarifications to the Glossary entry for ''Accrued Interest Receivable'' and Schedule HC–B for pledged equity securities will take effect December 31, 2020, while the instructional clarifications to Schedule HI for shared fees and commissions from securities-related and insurance activities will take effect March 31, 2021.

Board of Governors of the Federal Reserve System, December 28, 2020.

Ann Misback,

Secretary of the Board.

[FR Doc. 2020–29028 Filed 12–31–20; 8:45 am]

BILLING CODE 6210–01–P

[20] 85 FR 32991 (June 1, 2020).

[21] *https://www.federalreserve.gov/reportforms/supplemental/Final%20FR%20Y-9C%20September%202020%20Supplemental%20Instructions.pdf.*

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 public portions of 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(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* 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 February 3, 2021.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *St. Holdings, Inc., Orlando, Florida;* to become a bank holding company by acquiring outstanding shares of Rochelle State Bank, Rochelle, Georgia.

Board of Governors of the Federal Reserve System, December 28, 2020.

Ann Misback,

Secretary of the Board.

[FR Doc. 2020–29033 Filed 12–31–20; 8:45 am]

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FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The public portions of 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(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the 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 February 3, 2021.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001. Comments can also be sent electronically to *Comments.applications@ny.frb.org:*

1. *Caisse Fédérale de Crédit Mutuel, Strasbourg, France; and its subsidiaries Crédit Industriel et Commercial and Banque Transatlantique, both of Paris, France;* to engage in financial and investment advisory activities through their indirect subsidiary, Transatlantique Private Wealth LLC, New York, New York, pursuant to section 225.28(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 28, 2020.

Ann Misback,

Secretary of the Board.

[FR Doc. 2020–29034 Filed 12–31–20; 8:45 am]

BILLING CODE P

GOVERNMENT ACCOUNTABILITY OFFICE

Request for Medicaid and CHIP Payment and Access Commission (MACPAC) Nominations

AGENCY: Government Accountability Office (GAO).

ACTION: Request for letters of nomination and resumes.

SUMMARY: The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) established MACPAC to review Medicaid and CHIP access and payment policies and to advise Congress on issues affecting Medicaid and CHIP. CHIPRA gave the Comptroller General of the United States responsibility for appointing MACPAC's members. GAO is now accepting nominations for MACPAC appointments that will be effective May 2021. Nominations should be sent to the email address listed below. Acknowledgement of submissions will be provided within a week of submission.

DATES: Letters of nomination and resumes should be submitted no later than January 26, 2021, to ensure adequate opportunity for review and consideration of nominees prior to appointment.

ADDRESSES: Submit letters of nomination and resumes to *MACPACappointments@gao.gov.*

FOR FURTHER INFORMATION CONTACT: Susan Anthony at (312) 220–7666 or *anthonys@gao.gov* if you do not receive an acknowledgment or need additional information. For general information, contact GAO's Office of Public Affairs, (202) 512–4800.

Authority: Public Law 111–3, sec. 506; 42 U.S.C. 1396.

Gene L. Dodaro,

Comptroller General of the United States.

[FR Doc. 2020–28477 Filed 12–31–20; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10137 and CMS–R–262]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. 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 or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by February 3, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (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. The term ''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 publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Solicitation for Applications for Medicare Prescription Drug Plan 2022 Contracts; *Use:* Coverage for the prescription drug benefit is provided through contracted prescription drug plans (PDPs) or through Medicare Advantage (MA) plans that offer integrated prescription drug and health care coverage (MA–PD plans). Cost Plans that are regulated under Section 1876 of the Social Security Act, and Employer Group Waiver Plans (EGWP) may also provide a Part D benefit. Organizations wishing to provide services under the Prescription Drug Benefit Program must complete an application, negotiate rates, and receive final approval from CMS. Existing Part D Sponsors may also expand their contracted service area by completing the Service Area Expansion (SAE) application.

Collection of this information is mandated in Part D of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) in Subpart 3. The application requirements are codified in Subpart K of 42 CFR 423 entitled ''Application Procedures and Contracts with PDP Sponsors.''

The information will be collected under the solicitation of proposals from PDP, MA–PD, Cost Plan, Program of All Inclusive Care for the Elderly (PACE), and EGWP applicants. The collected information will be used by CMS to: (1) Ensure that applicants meet CMS requirements for offering Part D plans (including network adequacy, contracting requirements, and compliance program requirements, as described in the application), (2) support the determination of contract awards. *Form Number:* CMS–10137 (OMB control number: 0938–0936); *Frequency:* Yearly; *Affected Public:* Private Sector: Business or other for-profits and Not-for-profit institutions and State, Local or Tribal Governments; *Number of Respondents:* 658; *Total Annual Responses:* 331; *Total Annual Hours:* 1,550. (For policy questions regarding this collection, contact Arianne Spaccarelli at 410–786–5715.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* CMS Plan Benefit Package (PBP) and Formulary CY 2022; *Use:* Under the Medicare Modernization Act (MMA), Medicare Advantage (MA) and Prescription Drug Plan (PDP) organizations are required to submit plan benefit packages for all Medicare beneficiaries residing in their service area. The plan benefit package submission consists of the Plan Benefit Package (PBP) software, formulary file, and supporting documentation, as necessary. MA and PDP organizations use the PBP software to describe their organization's plan benefit packages, including information on premiums, cost sharing, authorization rules, and supplemental benefits. They also generate a formulary to describe their list of drugs, including information on prior authorization, step therapy, tiering, and quantity limits.

CMS requires that MA and PDP organizations submit a completed PBP and formulary as part of the annual bidding process. During this process, organizations prepare their proposed plan benefit packages for the upcoming contract year and submit them to CMS for review and approval. CMS uses this data to review and approve the benefit packages that the plans will offer to Medicare beneficiaries. This allows CMS to review the benefit packages in a consistent way across all submitted bids during with incredibly tight timeframes. This data is also used to populate data on Medicare Plan Finder, which allows beneficiaries to access and compare Medicare Advantage and Prescription Drug plans. *Form Number:* CMS–R–262 (OMB control number: 0938–0763); *Frequency:* Yearly; *Affected Public:* Private Sector: Business or other for-profits and Not-for-profit institutions and State, Local or Tribal Governments; *Number of Respondents:* 753; *Total*

Annual Responses: 8,090; *Total Annual Hours:* 74,038. (For policy questions regarding this collection, contact Kristy Holtje at 410–786–2209.)

Dated: December 29, 2020.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2020–29116 Filed 12–31–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–1415]

Sunrise Lee: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) permanently debarring Sunrise Lee from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Ms. Lee was convicted of a felony under Federal law for conduct that relates to the regulation of a drug product under the FD&C Act. Ms. Lee was given notice of the proposed permanent debarment and an opportunity to request a hearing to show why she should not be debarred. As of October 8, 2020 (30 days after receipt of the notice), Ms. Lee had not responded. Ms. Lee's failure to respond and request a hearing constitutes a waiver of her right to a hearing concerning this action.

DATES: This order is applicable January 4, 2021.

ADDRESSES: Submit applications for termination of debarment to the Dockets Management Staff, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, or at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, (ELEM–4029) Division of Enforcement, Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 240–402–8743, or at *debarments@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(a)(2)(B) of the FD&C Act (21 U.S.C. 335a(a)(2)(B)) requires debarment of an individual from providing services in any capacity to a person that has an approved or pending drug product application if FDA finds that the individual has been convicted of a felony under Federal law for conduct relating to the regulation of any drug product under the FD&C Act. On January 22, 2020, Ms. Lee was convicted as defined in section 306(*l*)(1) of the FD&C Act when judgment was entered against her in the U.S. District Court for the District of Massachusetts, after a jury verdict, on one count of Racketeering Conspiracy in violation of 18 U.S.C. 1962(d). The pattern of racketeering activity she was convicted of included engaging in multiple acts of mail fraud (18 U.S.C. 1341) and wire fraud (18 U.S.C. 1343).

The factual basis for this conviction is as follows: Ms. Lee held executive management positions, to include Regional Sales Manager for the Mid-Atlantic Region, Regional Director for the Central Region, and Regional Director for the West Region, of Insys Therapeutics Inc. (Insys), a Delaware Corporation, with headquarters in Chandler, Arizona. Insys developed and owned a drug called SUBSYS, a liquid formulation of fentanyl to be applied under the tongue. FDA approved SUBSYS for the management of breakthrough pain in adult cancer patients who are already receiving and are already tolerant to opioid therapy for their underlying persistent cancer pain. From 2012 and continuing through 2015, Ms. Lee participated in a conspiracy whereby employees of Insys bribed medical practitioners in various states to get those practitioners to increase prescribing SUBSYS to their patients, many of whom did not have cancer. Ms. Lee, along with her co-conspirators, measured the effect of these bribes on each practitioner's prescribing habits and on the revenue that each bribed practitioner generated for Insys. Ms. Lee, along with her co-conspirators, reduced or eliminated bribes paid to those practitioners who failed to meet the minimum prescription requirements or failed to generate enough revenue to justify additional bribes. To further this conspiracy, Ms. Lee's co-conspirators mislead and defrauded health insurance providers to ensure those providers approved payment for SUBSYS. Insys achieved this goal by establishing the ''Insys Reimbursement Center,'' which was designed to shift the burden of seeking prior authorization for SUBSYS from practitioners to Insys. This allowed Insys to determine what medical information was presented to insurers. Ms. Lee's co-conspirators directed Insys employees to mislead insurers to obtain payment authorization.

As a result of this conviction, FDA sent Ms. Lee by certified mail on August 3, 2020, a notice proposing to permanently debar her from providing services in any capacity to a person that has an approved or pending drug product application. The proposal was based on a finding, under section 306(a)(2)(B) of the FD&C Act, that Ms. Lee was convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the FD&C Act. The proposal also offered Ms. Lee an opportunity to request a hearing, providing her 30 days from the date of receipt of the letter in which to file the request, and advised her that failure to request a hearing constituted an election not to use the opportunity for a hearing and a waiver of any contentions concerning this action. Ms. Lee received the proposal on September 8, 2020. She did not request a hearing within the timeframe prescribed by regulation and has, therefore, waived her opportunity for a hearing and any contentions concerning her debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(a)(2)(B) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Ms. Sunrise Lee has been convicted of a felony under Federal law for conduct otherwise relating to the regulation of a drug product under the FD&C Act.

As a result of the foregoing finding, Ms. Lee is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application, effective (see **DATES**) (see sections 306(a)(2)(B) and (c)(2)(A)(ii) of the FD&C Act). Any person with an approved or pending drug product application who knowingly employs or retains as a consultant or contractor, or otherwise uses the services of Ms. Lee in any capacity during her debarment, will be subject to civil money penalties (section 307(a)(6) of the FD&C Act (21 U.S.C. 335b(a)(6))). If Ms. Lee provides services in any capacity to a person with an approved or pending drug product application during her period of debarment, she will be subject to civil money penalties (section 307(a)(7) of the FD&C Act). In addition, FDA will not accept or review any abbreviated new drug application from Ms. Lee during her period of debarment, other than in connection with an audit under section

306 of the FD&C Act (section 306(c)(1)(B) of the FD&C Act). Note that, for purposes of section 306 of the FD&C Act, a ''drug product'' is defined as a drug subject to regulation under section 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382) or under section 351 of the Public Health Service Act (42 U.S.C. 262) (section 201(dd) of the FD&C Act (21 U.S.C. 321(dd))).

Any application by Ms. Lee for special termination of debarment under section 306(d)(4) of the FD&C Act should be identified with Docket No. FDA–2020–N–1415 and sent to the Dockets Management Staff (see **ADDRESSES**). The public availability of information in these submissions is governed by 21 CFR 10.20.

Publicly available submissions will be placed in the docket and will be viewable at *https://www.regulations.gov* or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

Dated: December 28, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–29044 Filed 12–31–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–3794]

Jerrod Nichols Smith: Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is issuing an order permanently debarring Jerrod Nichols Smith from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Mr. Smith was convicted of multiple felony counts under Federal law for conduct that relates to the regulation of a drug product under the Federal, Food, Drug, and Cosmetic Act (the FD&C Act). Mr. Smith was given notice of the proposed permanent debarment and was given an opportunity to request a hearing to show why he should not be debarred. As of September 27, 2020 (30 days after receipt of the notice), Mr. Smith had not responded. Mr. Smith's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this action.

DATES: This order is effective January 4, 2021.

ADDRESSES: Submit applications for termination of debarment to the Dockets Management Staff, Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, or at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Enforcement (ELEM–4029), Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 240–402–8743, or at *debarments@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(a)(2)(B) of the FD&C Act (21 U.S.C. 335a(a)(2)(B)) requires debarment of an individual from providing services in any capacity to a person that has an approved or pending drug product application if FDA finds that the individual has been convicted of a felony under Federal law for conduct relating to the regulation of any drug product under the FD&C Act. On July 16, 2018, Mr. Smith was convicted as defined in section 306(*l*)(1)(A) of the FD&C Act when judgment was entered against him in the U.S. District Court for the Middle District of Tennessee, Nashville Division, after a jury trial, to one count of conspiracy to commit mail fraud in violation of 18 U.S.C. 371, 15 counts of mail fraud in violation of 18 U.S.C. 1341, and one count of obstruction of justice in violation of 18 U.S.C. 1001.

The factual basis for these convictions is as follows: Mr. Smith was one of the owners and operators of Cumberland Distribution, Inc. (''Cumberland''), formerly known as Midwest Pharmacy, which was a wholesale drug distribution company incorporated in Nevada and Tennessee. Mr. Smith was engaged in the business of wholesale distribution of prescription drugs, as defined by 21 U.S.C. 353(e)(3)(B), to pharmacy customers throughout the United States. From December 2006 through August 2009, Mr. Smith, along with others, purchased millions of dollars of prescription drugs, through Cumberland. The vast majority of the prescription drugs purchased by Cumberland and received at the company's warehouse facilities were sold to Cumberland, directly and indirectly, by individuals and entities whom Mr. Smith knew were not licensed by any State to engage in the wholesale distribution of prescription drugs and were not otherwise authorized to distribute prescription drugs pursuant to 21 U.S.C. 353. These unauthorized sellers obtained their prescription drugs from various networks of street level drug diverters. Mr. Smith directed employees to take steps to conceal the true origins of the diverted prescription drugs shipped to the company's warehouse facilities before shipping them to pharmacy customers around the country. Such steps included, but were not limited to, falsification of documents concerning the chain of custody or pedigree of a drug. These falsified pedigree documents, which Mr. Smith provided to his pharmacy customers or maintained at Cumberland, inaccurately represented that the diverted products had been obtained from licensed wholesale distributors. Mr. Smith also used shell companies to receive and relabel diverted prescription drugs before sending them to Cumberland's warehouse facilities to create the false appearance that his company was purchasing prescription drugs from licensed wholesale distributors.

The diverted drugs included, but were not limited to, drugs used to treat human immunodeficiency virus/acquired immunodeficiency syndrome, antipsychotic medications, antidepressants, blood pressure medications, and diabetes medications. Numerous pharmacies reported problems with drugs they purchased from Cumberland, including prescription drug bottles containing the wrong medicine, the wrong dosage information, and foreign objects inside. At trial, several witnesses testified that at least one bottle of prescription drugs sold by Cumberland contained Tic Tacs instead of medicine. Through the course of this scheme, Mr. Smith's company had gross proceeds of approximately $58,984,912. His profits were approximately $14,689,782.

As a result of these convictions, FDA sent Mr. Smith by certified mail on July 16, 2020, a notice proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application. The proposal was based on a finding, under section 306(a)(2)(B) of the FD&C Act, that Mr. Smith was convicted of felonies under Federal law for conduct relating to the regulation of a drug product under the FD&C Act. The proposal also offered Mr. Smith an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted an election not to use the opportunity for a hearing and a waiver of any contentions concerning this action. Mr.

Smith received the proposal on August 28, 2020. Mr. Smith did not request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(a)(2)(B) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Mr. Smith has been convicted of multiple felonies under Federal law for conduct otherwise relating to the regulation of a drug product under the FD&C Act.

As a result of the foregoing finding, Mr. Smith is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application, effective (see **DATES**) (see section 306(a)(2)(B) and (c)(2)(A)(ii) of the FD&C Act). Any person with an approved or pending drug product application who knowingly employs or retains as a consultant or contractor, or otherwise uses the services of Mr. Smith, in any capacity during his debarment, will be subject to civil money penalties (section 307(a)(6) of the FD&C Act (21 U.S.C. 335b(a)(6))). If Mr. Smith provides services in any capacity to a person with an approved or pending drug product application during his period of debarment he will be subject to civil money penalties (section 307(a)(7) of the FD&C Act). In addition, FDA will not accept or review any abbreviated new drug applications from Mr. Smith during his period of debarment, other than in connection with an audit under section 306 of the FD&C Act (section 306(c)(1)(B) of the FD&C Act). Note that, for purposes of section 306 of the FD&C Act, a ''drug product'' is defined as a drug subject to regulation under section 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382) or under section 351 of the Public Health Service Act (42 U.S.C. 262) (see section 201(dd) of the FD&C Act (21 U.S.C. 321(dd))).

Any application by Mr. Smith for special termination of debarment under section 306(d)(4) of the FD&C Act should be identified with Docket No. FDA–2019–N–3794 and sent to the Dockets Management Staff (see **ADDRESSES**). The public availability of information in these submissions is governed by 21 CFR 10.20.

Publicly available submissions will be placed in the docket and will be viewable at *https://www.regulations.gov* or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

Dated: December 28, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–29052 Filed 12–31–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–1372]

Alec Burlakoff: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) permanently debarring Alec Burlakoff from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Alec Burlakoff was convicted of a felony under Federal law for conduct that relates to the regulation of a drug product under the FD&C Act. Mr. Burlakoff was given notice of the proposed permanent debarment and was given an opportunity to request a hearing to show why he should not be debarred. As of July 24, 2020 (30 days after receipt of the notice), Mr. Burlakoff had not responded. Mr. Burlakoff's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this action.

DATES: This order is applicable January 4, 2021.

ADDRESSES: Submit applications for special termination of debarment to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Enforcement, Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, *debarments@fda.hhs.gov,* 240–402–8743.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(a)(2)(B) of the FD&C Act (21 U.S.C. 335a(a)(2)(B)) requires debarment of an individual from providing services in any capacity to a person that has an approved or pending drug product application if FDA finds that the individual has been convicted of a felony under Federal law for conduct relating to the regulation of any drug product under the FD&C Act. On January 23, 2020, Mr. Burlakoff was convicted as defined in section 306(*l*)(1) of the FD&C Act when judgment was entered against him in the U.S. District Court for the District of Massachusetts, after his plea of guilty, to one count of Racketeering Conspiracy in violation of 18 U.S.C. 1962(d). The pattern of racketeering activity he was convicted of included engaging in multiple acts of illegal distribution of a controlled substance (21 U.S.C. 841(a)(1)); mail fraud (18 U.S.C. 1341); wire fraud (18 U.S.C. 1343); honest services mail fraud (18 U.S.C. 1341 and 1346); and, honest services wire fraud (18 U.S.C. 1343 and 1346).

The factual basis for this conviction is as follows: Mr. Burlakoff held executive management positions at Insys Therapeutics Inc. (Insys), including Regional Sales Manager for the Southeast Region and Vice President of Sales. Insys is a Delaware Corporation, with headquarters in Chandler, Arizona. Insys developed and owned a drug called SUBSYS, a liquid formulation of fentanyl to be applied under the tongue. FDA approved SUBSYS for the management of breakthrough pain in adult cancer patients who are already receiving and are already tolerant to opioid therapy for their underlying persistent cancer pain. From May 2012 and continuing until December 2015, he participated in a conspiracy whereby employees of Insys bribed and provided kickbacks to medical practitioners in various states to get those practitioners to increase prescribing SUBSYS to their patients, many of whom did not have cancer. The bribes and kickbacks took various forms to include honoraria for the practitioners' participation in educational events, payment of the practitioner's staff salaries, and the completion of office tasks for the provider performed by Insys employees.

Mr. Burlakoff and his co-conspirators used pharmacy data acquired from third parties to identify practitioners who either prescribed unusually high volumes of rapid-onset opioids, or had demonstrated a capacity to prescribe unusually large volumes of rapid-onset opioids. In exchange for bribes and kickbacks to these targeted practitioners, the practitioners increased the number of new SUBSYS prescriptions they wrote and increased the dosage and number of units of SUBSYS for new and existing prescriptions. Many of the targeted practitioner's patients for

whom they wrote the additional SUBSYS prescriptions did not have cancer. Mr. Burlakoff, along with his co-conspirators, measured the effect of the bribes and kickbacks on each practitioner's prescribing habits and on the revenue that each bribed practitioner generated. Mr. Burlakoff, along with his co-conspirators, reduced or eliminated bribes and kickbacks paid to those practitioners who failed to meet the minimum prescription requirements or failed to generate enough revenue to justify additional bribes and kickbacks.

As a result of this conviction, FDA sent Mr. Burlakoff by certified mail on July 16, 2020, a notice proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application. The proposal was based on a finding, under section 306(a)(2)(B) of the FD&C Act, that Mr. Burlakoff was convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the FD&C Act. The proposal also offered Mr. Burlakoff an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted an election not to use the opportunity for a hearing and a waiver of any contentions concerning this action. Mr. Burlakoff received the proposal on July 25, 2020. He did not request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(a)(2)(B) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Alec Burlakoff has been convicted of a felony under Federal law for conduct otherwise relating to the regulation of a drug product under the FD&C Act.

As a result of the foregoing finding, Mr. Burlakoff, is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application, effective (see **DATES**) (see sections 306(a)(2)(B) and (c)(2)(A)(ii) of the FD&C Act). Any person with an approved or pending drug product application who knowingly employs or retains as a consultant or contractor, or otherwise uses the services of Mr. Burlakoff, in any capacity during his debarment, will be subject to civil money penalties (section 307(a)(6) of the FD&C Act (21 U.S.C. 335b(a)(6))). If Mr. Burlakoff provides services in any capacity to a person with an approved or pending drug product application during his period of debarment, he will be subject to civil money penalties (section 307(a)(7) of the FD&C Act). In addition, FDA will not accept or review any abbreviated new drug application from Mr. Burlakoff during his period of debarment, other than in connection with an audit under section 306 of the FD&C Act (section 306(c)(1)(B) of the FD&C Act). Note that, for purposes of section 306 of the FD&C Act, a ''drug product'' is defined as a drug subject to regulation under 21 U.S.C. 355, 360b, or 382 or under section 351 of the Public Health Service Act (42 U.S.C. 262) (section 201(dd) of the FD&C Act (21 U.S.C. 321(dd)).

Any application by Mr. Burlakoff for special termination of debarment under section 306(d)(4) of the FD&C Act should be identified with Docket No. FDA–2020–N–1372 and sent to the Dockets Management Staff (see **ADDRESSES**). The public availability of information in these submissions is governed by 21 CFR 10.20.

Publicly available submissions will be placed in the docket and will be viewable at *https://www.regulations.gov* or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

Dated: December 28, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–29046 Filed 12–31–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–1412]

Joseph A. Rowan: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) permanently debarring Joseph A. Rowan from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Joseph A. Rowan was convicted of a felony under Federal law for conduct that relates to the regulation of a drug product under the FD&C Act. Mr. Rowan was given notice of the proposed permanent debarment and an opportunity to request a hearing to show why he should not be debarred. As of August 6, 2020 (30 days after receipt of the notice), Mr. Rowan had not responded. Mr. Rowan's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this action.

DATES: This order is applicable January 4, 2021.

ADDRESSES: Submit applications for termination of debarment to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, or at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa (ELEM–4029), Division of Enforcement, Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 240–402–8743, or at *debarments@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(a)(2)(B) of the FD&C Act (21 U.S.C. 335a(a)(2)(B)) requires debarment of an individual from providing services in any capacity to a person that has an approved or pending drug product application if FDA finds that the individual has been convicted of a felony under Federal law for conduct relating to the regulation of any drug product under the FD&C Act. On January 21, 2020, Mr. Rowan was convicted as defined in section 306(*l*)(1) of the FD&C Act when judgment was entered against him in the U.S. District Court for the District of Massachusetts, after a jury verdict, on one count of Racketeering Conspiracy in violation of 18 U.S.C. 1962(d). The pattern of racketeering activity he was convicted of included engaging in multiple acts of mail fraud (18 U.S.C. 1341) and wire fraud (18 U.S.C. 1343).

The factual basis for this conviction is as follows: Mr. Rowan held executive management positions, including Regional Sales Manager and Regional Director of the East Region of Insys Therapeutics Inc. (Insys), a Delaware corporation, with headquarters in Chandler, Arizona. Insys developed and owned a drug called SUBSYS, a liquid formulation of fentanyl to be applied under the tongue. FDA approved SUBSYS for the management of breakthrough pain in adult cancer patients who are already receiving and are already tolerant to opioid therapy for

their underlying persistent cancer pain. From May 2012 and continuing until December 2015, Mr. Rowan participated in a conspiracy whereby employees of Insys bribed medical practitioners in various States to get those practitioners to increase prescribing SUBSYS to their patients, many of whom did not have cancer. Mr. Rowan, along with his co-conspirators, measured the effect of these bribes on each practitioner's prescribing habits and on the revenue that each bribed practitioner generated for Insys. Mr. Rowan, along with his co-conspirators, reduced or eliminated bribes paid to those practitioners who failed to meet the minimum prescription requirements or failed to generate enough revenue to justify additional bribes.

To further this conspiracy, Mr. Rowan was involved in a scheme with his co-conspirators whereby Insys executives conspired to mislead and defraud health insurance providers to ensure those providers approved payment for SUBSYS. Insys achieved this goal by establishing the ''Insys Reimbursement Center,'' which was designed to shift the burden of seeking prior authorization for SUBSYS from practitioners to Insys. This allowed Insys to determine what medical information was presented to insurers. Mr. Rowan and his co-conspirators directed Insys employees to mislead insurers to obtain payment authorization.

As a result of this conviction, FDA sent Mr. Rowan by certified mail on August 3, 2020, a notice proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application. The proposal was based on a finding, under section 306(a)(2)(B) of the FD&C Act, that Mr. Rowan was convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the FD&C Act. The proposal also offered Mr. Rowan an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted an election not to use the opportunity for a hearing and a waiver of any contentions concerning this action. Mr. Rowan received the proposal on August 7, 2020. He did not request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(a)(2)(B) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Mr. Rowan has been convicted of a felony under Federal law for conduct otherwise relating to the regulation of a drug product under the FD&C Act.

As a result of the foregoing finding, Mr. Rowan is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application, effective (see **DATES**) (see sections 306(a)(2)(B) and 306(c)(2)(A)(ii) of the FD&C Act). Any person with an approved or pending drug product application who knowingly employs or retains as a consultant or contractor, or otherwise uses the services of Mr. Rowan, in any capacity during his debarment, will be subject to civil money penalties (section 307(a)(6) of the FD&C Act (21 U.S.C. 335b(a)(6))). If Mr. Rowan provides services in any capacity to a person with an approved or pending drug product application during his period of debarment, he will be subject to civil money penalties (section 307(a)(7) of the FD&C Act (21 U.S.C. 335b(a)(7))). In addition, FDA will not accept or review any abbreviated new drug application from Mr. Rowan during his period of debarment, other than in connection with an audit under section 306 of the FD&C Act (section 306(c)(1)(B) of the FD&C Act). Note that, for purposes of section 306 of the FD&C Act, a ''drug product'' is defined as a drug subject to regulation under section 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382) or under section 351 of the Public Health Service Act (42 U.S.C. 262) (see section 201(dd) of the FD&C Act (21 U.S.C. 321(dd))).

Any application by Mr. Rowan for special termination of debarment under section 306(d)(4) of the FD&C Act should be identified with Docket No. FDA–2020–N–1412 and sent to the Dockets Management Staff (see **ADDRESSES**). The public availability of information in these submissions is governed by 21 CFR 10.20.

Publicly available submissions will be placed in the docket and will be viewable at *https://www.regulations.gov* or at the Dockets Management Staff (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

Dated: December 28, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–29045 Filed 12–31–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1129]

Agency Information Collection Activities; Proposed Collection; Comment Request; National Agriculture and Food Defense Strategy Survey

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 information collection requirements for a voluntary survey for the Department of Health and Human Services (HHS), the U.S. Department of Agriculture (USDA), and the Department of Homeland Security (DHS), which will inform the FDA Food Safety Modernization Act (FSMA), National Agriculture and Food Defense Strategy (NAFDS) Report to Congress. The proposed survey will be used to determine what food defense activities, if any, State, local, territorial, and/or tribal (SLTT) agencies have completed to date. The information will be compared to the initial baseline data collected by State(s) in 2018.

DATES: Submit either electronic or written comments on the collection of information by March 5, 2021.

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 March 5, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of March 5, 2021. 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–2018–N–1129 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; National Agriculture and Food Defense Strategy Survey.'' 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, 240–402–7500.

• 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, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *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.

National Agriculture and Food Defense Strategy Survey

OMB Control Number 0910–0855—Extension

We are seeking OMB approval of the NAFDS under section 108 of FSMA. This is a voluntary survey of SLTT governments intended to gauge government activities in food and agriculture defense from intentional contamination and emerging threats. The collected information will be included in the mandatory NAFDS followup Report to Congress. The authority for us to collect the information derives from the Commissioner of Food and Drugs' authority provided in section 1003(d)(2)(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(d)(2)(c)).

Protecting the nation's food and agriculture supply against intentional contamination and other emerging threats is an important responsibility shared by SLTT governments as well as private sector partners. On January 4, 2011, the President signed into law FSMA. FSMA focuses on ensuring the safety of the U.S. food supply by shifting the efforts of Federal regulators from response to prevention and recognizes the importance of strengthening existing collaboration among all stakeholders to achieve common public health and security goals. FSMA identifies some key priorities for working with partners in areas such as reliance on Federal, State, and local agencies for inspections; improving foodborne illness surveillance; and leveraging and enhancing State and local food safety and defense capacities. Section 108 of FSMA (NAFDS) requires HHS and USDA, in coordination with DHS, to work together with State, local,

territorial, and tribal governments to monitor and measure progress in food defense.

In 2015, the initial NAFDS Report to Congress detailed the specific Federal response to food and agriculture defense goals, objectives, key initiatives, and activities that HHS, USDA, DHS, and other stakeholders planned to accomplish to meet the objectives outlined in FSMA. The NAFDS charts a direction for how Federal Agencies, in cooperation with SLTT governments and private sector partners, protect the nation's food supply against intentional contamination. Not later than 4 years after the initial NAFDS Report to Congress (2015), and every 4 years thereafter (*i.e.,* 2019, 2023, 2027, etc.), HHS, USDA, and DHS are required to revise and submit an updated report to the relevant committees of Congress.

FDA is the Agency primarily responsible for obtaining the information from Federal and SLTT partners to complete the NAFDS Report to Congress. An interagency working group will conduct the survey and collect and update the NAFDS as directed by FSMA, including developing metrics and measuring progress for the evaluation process.

The survey of Federal and State partners will be used to determine what food defense activities, if any, Federal and/or SLTT agencies have completed (or are planning on completing) from 2021 to 2025. Planning for the local, territorial, and tribal information collections will commence during this period of renewal. The survey will continue to be repeated approximately every 2 to 4 years, as described in section 108 of FSMA. The NAFDS survey is being administered for the purpose of monitoring progress in food and agricultural defense by government agencies.

A purposive sampling strategy is employed, such that the government agencies participating in food and agricultural defense are asked to respond to the voluntary survey. Food defense leaders responsible for conducting food defense activities during a food emergency for their jurisdiction are identified and will receive an emailed invitation to complete the survey online; they will be provided with a web link to the survey. The survey will be conducted electronically on the *FDA.gov* web portal, and results will be analyzed by the interagency working group.

Description of Respondents: Respondents to this collection are SLTT government representatives (survey respondents) who are food defense leaders responsible for conducting food defense activities during a food emergency for their jurisdictions.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
SLTT Surveys	500	1	500	0.33 (20 minutes)	165

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The FDA Office of Partnerships reviewed the questionnaire and provided the estimate of time to complete the survey. The total burden is based on our previous experiences conducting surveys. The burden has been revised to reflect the total number of states and possible number of local, tribal, and territorial entities that may partake of the survey. Based on a review of the information collection since our last request for OMB approval, we have increased our burden estimate by 149 hours (from 16.17 to 165 hours) and 451 respondents (from 49 to 500 respondents).

Dated: December 29, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–29082 Filed 12–31–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2020–D–1825 and FDA–2020–D–1138]

Guidance Documents Related to Coronavirus Disease 2019; 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 FDA guidance documents related to the Coronavirus Disease 2019 (COVID–19) public health emergency (PHE). This notice of availability (NOA) is pursuant to the process that FDA announced, in the **Federal Register** of March 25, 2020, for making available to the public COVID–19-related guidances. The guidances identified in this notice address issues related to the COVID–19 PHE and have been issued in accordance with the process announced in the March 25, 2020, notice. The guidances have been implemented without prior comment, but they remain subject to comment in accordance with the Agency's good guidance practices.

DATES: The announcement of the guidances is published in the **Federal Register** on January 4, 2021.

ADDRESSES: You may submit either electronic or written comments on Agency guidances 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 name of the guidance document that the comments address and the docket number for the guidance (see table 1). Received comments will be placed in the docket(s) 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, 240–402–7500.

• 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, 240–402–7500.

You may submit comments on any guidance at any time (see § 10.115(g)(5) (21 CFR 10.115(g)(5))).

Submit written requests for single copies of these guidances to the address noted in table 1. Send two self-addressed adhesive labels to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidances.

FOR FURTHER INFORMATION CONTACT: Stephen Ripley, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911, or Erica Takai, Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5456, Silver Spring, MD 20993–0002, 301–796–6353.

SUPPLEMENTARY INFORMATION:

I. Background

On January 31, 2020, as a result of confirmed cases of COVID–19, and after consultation with public health officials as necessary, Alex M. Azar II, Secretary of Health and Human Services (HHS), pursuant to the authority under section 319 of the Public Health Service Act (42 U.S.C. 247d) (PHS Act), determined that a PHE exists and has existed since January 27, 2020, nationwide.[1] On March 13, 2020, President Donald J. Trump declared that the COVID–19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020.[2]

In the **Federal Register** of March 25, 2020 (85 FR 16949) (the March 25, 2020, notice) (available at *https://www.govinfo.gov/content/pkg/FR-2020-03-25/pdf/2020-06222.pdf*), FDA announced procedures for making available FDA guidances related to the COVID–19 PHE. These procedures, which operate within FDA's established good guidance practices regulations, are intended to allow FDA to rapidly disseminate Agency recommendations and policies related to COVID–19 to industry, FDA staff, and other stakeholders. The March 25, 2020, notice stated that due to the need to act quickly and efficiently to respond to the COVID–19 PHE, FDA believes that prior public participation will not be feasible or appropriate before FDA implements COVID–19-related guidances. Therefore, FDA will issue COVID–19-related guidances for immediate implementation without prior public comment (see section 701(h)(1)(C) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 371(h)(1)(C)) and § 10.115(g)(2)). The guidances are available on FDA's web pages entitled ''COVID–19-Related Guidance Documents for Industry, FDA Staff, and Other Stakeholders'' (available at *https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/covid-19-related-guidance-documents-industry-fda-staff-and-other-stakeholders*) and ''Search for FDA Guidance Documents'' (available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents*).

The March 25, 2020, notice further stated that, in general, rather than publishing a separate NOA for each COVID–19-related guidance, FDA intends to publish periodically a consolidated NOA announcing the availability of certain COVID–19-related guidances that FDA issued during the relevant period, as included in table 1. This notice announces COVID–19-related guidances that are posted on FDA's website.

II. Availability of COVID–19-Related Guidance Documents

Pursuant to the process described in the March 25, 2020, notice, FDA is announcing the availability of the following COVID–19-related guidances:

[1] Secretary of Health and Human Services Alex M. Azar, II, ''Determination that a Public Health Emergency Exists'' (originally issued on January 31, 2020, and subsequently renewed), available at: *https://www.phe.gov/emergency/news/healthactions/phe/Pages/default.aspx.*

[2] Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak (March 13, 2020), available at: *https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.*

TABLE 1—GUIDANCES RELATED TO THE COVID–19 PUBLIC HEALTH EMERGENCY

Docket No.	Center	Title of guidance	Contact information to request single copies
FDA–2020–D–1825	CBER	Investigational COVID–19 Convalescent Plasma (Updated November 2020).	Office of Communication, Outreach and Development, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002; 1–800–835–4709 or 240–402–8010; email *ocod@fda.hhs.gov.*
FDA–2020–D–1138	CDRH	Notifying CDRH of a Permanent Discontinuance or Interruption in Manufacturing of a Device Under Section 506J of the FD&C Act During the COVID–19 Public Health Emergency (Revised) (November 2020).	*CDRH-Guidance@fda.hhs.gov.* Please include the document number 20032–R2 and complete title of the guidance in the request.
FDA–2020–D–1138	CDRH	Enforcement Policy for Bioburden Reduction Systems Using Dry Heat to Support Single-User Reuse of Certain Filtering Facepiece Respirators During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (November 2020).	*CDRH-Guidance@fda.hhs.gov.* Please include the document number 20044 and complete title of the guidance in the request.
FDA–2020–D–1138	CDRH	Enforcement Policy for the Quality Standards of the Mammography Quality Standards Act During the COVID–19 Public Health Emergency (December 2020).	*CDRH-Guidance@fda.hhs.gov.* Please include the document number 20047 and complete title of the guidance in the request.

Although these guidances have been implemented immediately without prior comment, FDA will consider all comments received and revise the guidances as appropriate (see § 10.115(g)(3)).

These guidances are being issued consistent with FDA's good guidance practices regulation (§ 10.115). The guidances represent the current thinking of FDA. They do not establish any rights for any person and are 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. Paperwork Reduction Act of 1995

A. CBER Guidance

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information (listed in table 2). Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations and guidances have been approved by OMB as listed in the following table:

TABLE 2—CBER GUIDANCE AND COLLECTIONS

COVID–19 guidance title	CFR cite referenced in COVID–19 guidance	Another guidance title referenced in COVID–19 guidance	OMB control No(s).
Investigational COVID–19 Convalescent Plasma (Updated November 2020).	21 CFR part 312	.....	0910–0014
	21 CFR parts 610, 606, and 630	.....	0910–0116
		Form FDA 3926	0910–0814

B. CDRH Guidances

While these guidances contain no collection of information, they do refer to previously approved FDA collections of information (listed in table 3). Therefore, clearance by OMB under the PRA (44 U.S.C. 3501–3521) is not required for these guidances. These previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA statutory provision, regulations and guidances have been approved by OMB as listed in the following table. These guidances also contain a collection of information that has been granted a PHE waiver from the PRA by HHS on March 19, 2020, under section 319(f) of the PHS Act. Information concerning the PHE PRA waiver can be found on the HHS website at *https://aspe.hhs.gov/public-health-emergency-declaration-pra-waivers.*

TABLE 3—CDRH GUIDANCES AND COLLECTIONS

COVID–19 guidance title	Citation referenced in COVID–19 guidance	Another guidance referenced in COVID–19 guidance	OMB control No(s).	New collection covered by PHE PRA waiver
Notifying CDRH of a Permanent Discontinuance or Interruption in Manufacturing of a Device Under Section 506J of the FD&C Act During the COVID–19 Public Health Emergency (Revised) (November 2020).	Section 506J (21 U.S.C.356j) of the FD&C Act.	.....	0910–0491	
	21 CFR Part 807, subparts A through D.	.....	0910–0625	

TABLE 3—CDRH GUIDANCES AND COLLECTIONS—Continued

COVID–19 guidance title	Citation referenced in COVID–19 guidance	Another guidance referenced in COVID–19 guidance	OMB control No(s).	New collection covered by PHE PRA waiver
		Emergency Use Authorization of Medical Products and Related Authorities; Guidance for Industry and Other Stakeholders.	0910–0595	Updates to FDA every 6 weeks after initial notification on the shortage situation. Voluntary submission of other information.
Enforcement Policy for Bioburden Reduction Systems Using Dry Heat to Support Single-User Reuse of Certain Filtering Facepiece Respirators During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (November 2020).	.....	Emergency Use Authorization of Medical Products and Related Authorities; Guidance for Industry and Other Stakeholders.	0910–0595	Labeling of the bioburden reduction system.
Enforcement Policy for the Quality Standards of the Mammography Quality Standards Act [MQSA] During the COVID–19 Public Health Emergency (December 2020).	21 CFR Part 900.	.....	0910–0309	Document the time period that the facility was temporarily closed and present information during the facility's MQSA inspection. Document and provide the circumstances re: lack of medical physicist survey within 14 months of the last annual survey. Information on inability to meet the survey timeframes described in the guidance. Provide documentation of the dates and events that led to noncompliance and that facility will ensure compliance as soon as possible after COVID–19 restrictions are lifted.

IV. Electronic Access

Persons with access to the internet may obtain COVID–19-related guidances at:

- FDA web page entitled ''COVID–19-Related Guidance Documents for Industry, FDA Staff, and Other Stakeholders,'' available at *https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/covid-19-related-guidance-documents-industry-fda-staff-and-other-stakeholders;*
- FDA web page entitled ''Search for FDA Guidance Documents'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents;* or
- *https://www.regulations.gov.*

Dated: December 29, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–29058 Filed 12–31–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1414]

Agency Information Collection Activities; Proposed Collection; Comment Request; Class II Special Controls Guidance Document: Labeling Natural Rubber Latex Condoms

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 information collection for the labeling of natural rubber latex condoms.

DATES: Submit either electronic or written comments on the collection of information by March 5, 2021.

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 March 5, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of March 5, 2021. 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–2014–N–1414 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Class II Special Controls Guidance Document: Labeling Natural Rubber Latex Condoms.'' 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, 240–402–7500.

• 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, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *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.

Class II Special Controls Guidance Document: Labeling for Natural Rubber Latex Condoms—21 CFR 884.5300 OMB Control Number 0910–0633—Extension

Under the Medical Device Amendments of 1976 (Pub. L. 94–295), class II devices were defined as those devices for which there was insufficient information to show that general controls themselves would provide a reasonable assurance of safety and effectiveness but for which there was sufficient information to establish performance standards to provide such assurance. Accordingly, FDA has established the above captioned Special Controls Guidance Document regarding the labeling of natural rubber latex condoms.

Condoms without spermicidal lubricant containing nonoxynol 9 are classified in class II. They were originally classified before the enactment of provisions of the Safe Medical Devices Act of 1990 (Pub. L. 101–629), which broadened the definition of class II devices and now permits FDA to establish special controls beyond performance standards, including guidance documents, to help provide reasonable assurance of the safety and effectiveness of such devices.

In December 2000, Congress enacted Public Law 106–554, which directed FDA to ''reexamine existing condom labels'' and ''determine whether the labels are medically accurate regarding the overall effectiveness or lack of effectiveness in preventing sexually transmitted diseases . . . .'' In response, FDA recommended labeling intended to provide important information for condom users, including the extent of protection provided by condoms against various types of sexually transmitted diseases.

Respondents to this collection of information are manufacturers and repackagers of male condoms made of natural rubber latex without spermicidal lubricant. FDA expects approximately five new manufacturers or repackagers to enter the market yearly and to collectively have a third-party disclosure burden of 60 hours. The average burden per disclosure was derived from a study performed for FDA by Eastern Research Group, Inc., an economic consulting firm, to estimate the impact of the 1999 over-the-counter (OTC) human drug labeling requirements final rule (64 FR 13254, March 17, 1999). Because the packaging requirements for condoms are similar to those of many OTC drugs, we believe the burden to design the labeling for OTC drugs is an appropriate proxy for the estimated burden to design condom labeling.

The special controls guidance document also refers to previously approved collections of information found in FDA regulations. The collections of information in 21 CFR part 801 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073.

The collection of information under 21 CFR 801.437 does not constitute a ''collection of information'' under the PRA. Rather, it is a ''public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
''Class II Special Controls Guidance Document: Labeling for Natural Rubber Latex Condoms Classified Under 21 CFR 884.5300''	5	1	5	12	60

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: December 29, 2020.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2020–29091 Filed 12–31–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Toxicology Program Board of Scientific Counselors; Announcement of Meeting; Request for Comments

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This notice announces the next meeting of the National Toxicology Program (NTP) Board of Scientific Counselors (BSC). The BSC, a federally chartered, external advisory group composed of scientists from the public and private sectors, will review and provide advice on programmatic activities. This meeting is a virtual meeting and is open to the public. Written comments will be accepted and registration is required to present oral comments. Information about the meeting and registration is available at *https://ntp.niehs.nih.gov/go/165.*

DATES:

Meeting: Scheduled for February 2, 2021, 12:30 p.m.–5:00 p.m. Eastern Standard Time (EST). Written Public Comment Submissions: Deadline is January 26, 2021.

Registration for Oral Comments: Deadline is January 26, 2021.

ADDRESSES:

Meeting Web page: The preliminary agenda, registration, and other meeting materials are available at *https://ntp.niehs.nih.gov/go/165.*

Virtual Meeting: The URL for viewing the virtual meeting will be provided on the meeting web page.

FOR FURTHER INFORMATION CONTACT: Dr. Sheena Scruggs, Designated Federal Official for the BSC, Office of Liaison, Policy and Review, Division of NTP, NIEHS, P.O. Box 12233, K2–03, Research Triangle Park, NC 27709. Phone: 984–287–3355, Fax: 301–451–5759, Email: *sheena.scruggs@nih.gov.* Hand Deliver/Courier address: 530 Davis Drive, Room K2130, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION: The BSC will provide input to the NTP on programmatic activities and issues. The preliminary agenda topics include presentations from two of the Division of the National Toxicology Program (DNTP)'s research program areas. The preliminary agenda, roster of BSC members, background materials, public comments, and any additional information, when available, will be posted on the BSC meeting web page (*https://ntp.niehs.nih.gov/go/165*) or may be requested in hardcopy from the Designated Federal Official for the BSC. Following the meeting, summary minutes will be prepared and made available on the BSC meeting web page.

Meeting Attendance Registration: The meeting is open to the public with time scheduled for oral public comments. Registration is not required to view the virtual meeting; the URL for the virtual meeting is provided on the BSC meeting web page (*https://ntp.niehs.nih.gov/go/165*). TTY users should contact the Federal TTY Relay Service at 800–877–8339. Requests should be made at least five business days in advance of the event.

Written Public Comments: NTP invites written public comments. Guidelines for public comments are available at *https://ntp.niehs.nih.gov/ntp/about_ntp/guidelines_public_comments_508.pdf.*

The deadline for submission of written comments is January 26, 2021. Written public comments should be submitted through the meeting web page. Persons submitting written comments should include name, affiliation, mailing address, phone, email, and sponsoring organization (if any). Written comments received in response to this notice will be posted on the NTP web page, and the submitter will be identified by name, affiliation, and sponsoring organization (if any).

Oral Public Comment Registration: The agenda allows for two formal public comment periods—one comment period for each program area (up to 3 commenters, up to 5 minutes per speaker, per topic). Persons wishing to

make an oral comment are required to register online at *https://ntp.niehs.nih.gov/go/165* by January 26, 2021. Oral comments will be received only during the formal comment periods indicated on the preliminary agenda. Oral comments will only be by teleconference line. The access number for the teleconference line will be provided to registrants by email prior to the meeting. Registration is on a first-come, first-served basis. Each organization is allowed one time slot per topic. After the maximum number of speakers per comment period is exceeded, individuals registered to provide oral comment will be placed on a wait list and notified should an opening become available. Commenters will be notified approximately one week before the meeting about the actual time allotted per speaker.

If possible, oral public commenters should send a copy of their slides and/or statement or talking points to *NTP-Meetings@icf.com* by January 26, 2021.

Meeting Materials: The preliminary meeting agenda is available on the meeting web page (*https://ntp.niehs.nih.gov/go/165*) and will be updated one week before the meeting. Individuals are encouraged to access the meeting web page to stay abreast of the most current information regarding the meeting.

Background Information on the BSC: The BSC is a technical advisory body comprised of scientists from the public and private sectors that provides primary scientific oversight to the NTP. Specifically, the BSC advises the NTP on matters of scientific program content, both present and future, and conducts periodic review of the program for the purpose of determining and advising on the scientific merit of its activities and their overall scientific quality. Its members are selected from recognized authorities knowledgeable in fields such as toxicology, pharmacology, pathology, epidemiology, risk assessment, carcinogenesis, mutagenesis, cellular biology, computational toxicology, neurotoxicology, genetic toxicology, reproductive toxicology or teratology, and biostatistics. Members serve overlapping terms of up to four years. The BSC usually meets periodically. The authority for the BSC is provided by 42 U.S.C. 217a, section 222 of the Public Health Service Act (PHS), as amended.

The BSC is governed by the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. app.), which sets forth standards for the formation and use of advisory committees.

Dated: December 29, 2020.

Brian R. Berridge,

Associate Director, National Toxicology Program.

[FR Doc. 2020–29079 Filed 12–31–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine and Oral Fluid Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs using Urine or Oral Fluid (Mandatory Guidelines).

FOR FURTHER INFORMATION CONTACT: Anastasia Donovan, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N06B, Rockville, Maryland 20857; 240–276–2600 (voice); *Anastasia.Donovan@samhsa.hhs.gov* (email).

SUPPLEMENTARY INFORMATION: A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at *https://www.samhsa.gov/workplace/resources/drug-testing/certified-lab-list.*

The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines) using Urine and of the laboratories currently certified to meet the standards of the Mandatory Guidelines using Oral Fluid.

The Mandatory Guidelines using Urine were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); April 30, 2010 (75 FR 22809); and on January 23, 2017 (82 FR 7920).

The Mandatory Guidelines using Oral Fluid were first published in the **Federal Register** on October 25, 2019 (84 FR 57554) with an effective date of January 1, 2020.

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71 and allowed urine drug testing only. The Mandatory Guidelines using Urine have since been revised, and new Mandatory Guidelines allowing for oral fluid drug testing have been published. The Mandatory Guidelines require strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on specimens for federal agencies. HHS does not allow IITFs to conduct oral fluid testing.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines using Urine and/or Oral Fluid. An HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that the test facility has met minimum standards. HHS does not allow IITFs to conduct oral fluid testing.

HHS-Certified Laboratories Approved To Conduct Oral Fluid Drug Testing

In accordance with the Mandatory Guidelines using Oral Fluid dated October 25, 2019 (84 FR 57554), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on oral fluid specimens:

At this time, there are no laboratories certified to conduct drug and specimen validity tests on oral fluid specimens.

HHS-Certified Instrumented Initial Testing Facilities Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Dynacare, 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780–784–1190. (Formerly: Gamma-Dynacare Medical Laboratories)

HHS-Certified Laboratories Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823. (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130. (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

Cordant Health Solutions, 2617 East L Street, Tacoma, WA 98421, 800–442–0438. (Formerly: STERLING Reference Laboratories)

Desert Tox, LLC, 5425 E Bell Rd., Suite 125, Scottsdale, AZ, 85254, 602–457–5411/623–748–5045

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

Dynacare,* 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630. (Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

Laboratory Corporation of America Holdings, 7207 N Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986. (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984. (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339. (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845. (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

Legacy Laboratory Services Toxicology, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

MedTox Laboratories, Inc., 402 W County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088. Testing for Veterans Affairs (VA) Employees Only

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942. (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432. (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216. (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Redwood Toxicology Laboratory, 3700 Westwind Blvd., Santa Rosa, CA 95403, 800–255–2159

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085. Testing for Department of Defense (DoD) Employees Only

Anastasia Marie Donovan,

Policy Analyst.

[FR Doc. 2020–29059 Filed 12–31–20; 8:45 am]

BILLING CODE 4160–20–P

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on January 23, 2017 (82 FR 7920). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2020–0040; OMB No. 1660–0150]

Agency Information Collection Activities: Proposed Collection; Comment Request; Rated Orders, Adjustments, Exceptions, or Appeals Under the Emergency Management Priorities and Allocations System (EMPAS)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning information necessary to support the President's priorities and allocations authority under the DPA implemented by the Emergency Management Priorities and Allocations System (EMPAS) regulation, which was added by FEMA's May 13, 2020, *Emergency Management Priorities and Allocations System Interim Final Rule.*

DATES: Comments must be submitted on or before March 5, 2021.

ADDRESSES: Submit comments at *www.regulations.gov* under Docket ID

FEMA–2020–0040. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID, and will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Marc Geier, Office of Policy and Program Analysis, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, 202.924.0196 or *FEMA-DPA@fema.dhs.gov.* You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: This information is necessary to support the President's priorities and allocations authority under the DPA implemented by the Emergency Management Priorities and Allocations System (EMPAS) regulation (44 CFR part 333), which was added by FEMA's May 13, 2020, *Emergency Management Priorities and Allocations System Interim Final Rule* (RIN 1660–AB04). The purpose of this authority is to ensure the timely delivery of products, materials, and services to meet current national defense requirements. The definition of ''national defense'' in Section 702(14) of the DPA provides that this term includes ''homeland security,'' ''emergency preparedness activities'' conducted pursuant to Section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. 5195a), and ''critical infrastructure protection and restoration.''

Collection of Information

Title: Rated Orders, Adjustments, Exceptions, or Appeals Under the Emergency Management Priorities and Allocations System (EMPAS).

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0150.

FEMA Forms: No forms.

Abstract: To help ensure the timely delivery of goods and services in support of approved emergency management programs, section 333.13 of the EMPAS regulation requires suppliers to accept or reject priority rated orders for these goods and services within established time periods (10 working days for a ''DX'' rated order and 15 working days for a ''DO'' rated order). Rated orders may be placed directly by the Federal Government on a contractor or supplier, or they may ''flow down'' from a contractor to subsequent subcontractors or suppliers. Additionally, FEMA may facilitate sales to third parties. Section 333.13 also requires that certain emergency preparedness rated orders must be accepted or rejected within shorter time periods as specified in section 333.12(b). Section 333.13(d)(3) of the EMPAS regulation requires that, if after acceptance of a rated order the supplier discovers that shipment or performance against the order will be delayed, the supplier must notify the customer immediately in written electronic format, giving the reasons for the delay and advising the customer of a new shipment or performance date. This collection of information involves order communications between a Federal Government prime contractor and its subcontractors, unless FEMA is facilitating a sale to a third party. In those situations, FEMA would collect information on the customer as part of the sale facilitation.

Finally, under section 333.70 each request for adjustment or exception must be in writing and contain a complete statement of all the facts and circumstances related to 44 CFR part 333 or official action from which adjustment is sought and a full and precise statement of the reasons why relief should be provided. Under section 333.71, any person who has had a request for adjustment or exception denied by FEMA under section 333.70 may appeal to the Administrator. Each appeal must be in writing and contain a complete statement of all the facts and circumstances related to the action appealed from a full and precise statement of the reasons the decision should be modified or reversed.

Affected Public: For Profit Business; Private Non-Profit; State, local or Tribal government.

Estimated Number of Respondents: 26.

Estimated Number of Responses: 26.

Estimated Total Annual Burden Hours: 8.5.

Estimated Total Annual Respondent Cost: $533.

Estimated Respondents' Operation and Maintenance Costs: None.

Estimated Respondents' Capital and Start-Up Costs: None.

Estimated Total Annual Cost to the Federal Government: $188.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Millicent L. Brown,

Acting Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2020–29029 Filed 12–31–20; 8:45 am]

BILLING CODE 9111–19–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of determination.

SUMMARY: The Acting Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations, and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border in Imperial County, California.

DATES: This determination takes effect on January 4, 2021.

SUPPLEMENTARY INFORMATION: Important mission requirements of the Department of Homeland Security (''DHS'') include border security and the detection and prevention of illegal entry into the United States. Border security is critical to the nation's national security. Recognizing the critical importance of border security, Congress has mandated DHS to achieve and maintain

operational control of the international land border. Secure Fence Act of 2006, Public Law 109–367, sec. 2, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1701 note). Congress defined ''operational control'' as the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband. *Id.* Consistent with that mandate from Congress, the President's Executive Order on Border Security and Immigration Enforcement Improvements directed executive departments and agencies to deploy all lawful means to secure the southern border. Executive Order 13767, sec. 1. In order to achieve that end, the President directed, among other things, that I take immediate steps to prevent all unlawful entries into the United States, including the immediate construction of physical infrastructure to prevent illegal entry. Executive Order 13767, sec. 4(a).

Congress has provided to the Secretary of Homeland Security a number of authorities necessary to carry out DHS's border security mission. One of those authorities is found at section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended (''IIRIRA''). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, sec. 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, sec. 564, 121 Stat. 2090 (Dec. 26, 2007). In section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In section 102(b) of IIRIRA, Congress mandated the installation of additional fencing, barriers, roads, lighting, cameras, and sensors on the southwest border. Finally, in section 102(c) of IIRIRA, Congress granted to the Secretary of Homeland Security the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

Determination and Waiver

Section 1

The United States Border Patrol's El Centro Sector is an area of high illegal entry. In fiscal year 2020, the United States Border Patrol (''Border Patrol'') apprehended over 11,000 illegal aliens attempting to enter the United States between border crossings in the El Centro Sector. In that same time period, between border crossings in the El Centro Sector the Border Patrol seized over 200 pounds of marijuana, over 50 pounds of cocaine, over 30 pounds of heroin, over 3,100 pounds of methamphetamine, and over 60 pounds of fentanyl.

Due to the high levels of illegal entry within the El Centro Sector, I must use my authority under section 102 of IIRIRA to install additional physical barriers and roads in the El Centro Sector. Therefore, DHS will take immediate action to construct primary and secondary barriers in the El Centro Sector. The areas in the vicinity of the border within which such construction will occur are referred to herein as the ''project areas'' and are more specifically described in Section 2 below.

Section 2

I determine that the following areas in the vicinity of the United States border, located in the State of California in the Border Patrol's El Centro Sector are areas of high illegal entry (the ''project areas''):

- Starting one-half (0.5) of a mile west of the San Diego County—Imperial County line and extending east to approximately one mile east of Border Monument 210

There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States in the project areas pursuant to sections 102(a) and 102(b) of IIRIRA. In order to ensure the expeditious construction of the barriers and roads in the project areas, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of IIRIRA.

Accordingly, pursuant to section 102(c) of IIRIRA, I hereby waive in their entirety, with respect to all contracting actions associated with the construction of physical barriers and roads (including, but not limited to, accessing the project areas, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of physical barriers, roads, supporting elements, drainage, erosion controls, safety features, lighting, cameras, and sensors) in the project areas, all of the following statutes and regulations, including any legal requirements of, deriving from, or related to the subject of, the following statutes and regulations: 41 U.S.C. 3301; 41 U.S.C. 3302(b)–(e); 41 U.S.C. 3304; 41 U.S.C. 3306(a); 41 U.S.C. 3309(b)–(e); 41 U.S.C. 3502; 41 U.S.C. 4103(c), (d)(3)–(4); 41 U.S.C. 4104(b); 41 U.S.C. 4106(c)–(d); 41 U.S.C. 6101(b)(1); 41 U.S.C. 1126; 41 U.S.C. 1708(a), (c), (e); Section 880 of Division A, Title VIII of Public Law 115–232; 15 U.S.C. 644; 15 U.S.C. 657q; 15 U.S.C. 631(j); 15 U.S.C. 637(d)–(f), and (h); 13 CFR part 125; 48 CFR 22.404–5; 48 CFR 16.504(c); and 48 CFR 16.505(a)(4) and (5), (a)(8)(i) and (iii), (b).

This waiver does not revoke or supersede any other waiver determination made pursuant to section 102(c) of IIRIRA. Such waivers shall remain in full force and effect in accordance with their terms. I reserve the authority to execute further waivers from time to time as I may determine to be necessary under section 102 of IIRIRA.

Signature

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, is delegating the authority to electronically sign this document to Ian J. Brekke, who is Deputy General Counsel for DHS, for purposes of publication in the **Federal Register**.

Ian J. Brekke,

Deputy General Counsel for DHS.

[FR Doc. 2020–29128 Filed 12–30–20; 4:15 pm]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7028–N–09]

60-Day Notice of Proposed Information Collection: Transfer and Consolidation of Public Housing Programs; OMB Control No.: 2577–0280

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of

information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date: March 5, 2021.*

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: Dacia Rogers, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW, (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Rogers.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Public Housing Program—Transfer and Consolidation of Public Housing Programs.

OMB Approval Number: 2577–0280.

Type of Request: Extension of a previously approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: State legislatures or other local governing bodies may from time to time direct or agree that the public interest is best served if one public housing agency (PHA) cedes its public housing program to another PHA, or that two or more PHAs should be combined into one multijurisdictional PHA. This proposed information collection serves to protect HUD's several interests in either transaction: (1) Insuring the continued used of the property as public housing; (2) that HUD's interests are secured; and (3) that the operating and capital subsidies that HUD pays to support the operation and maintenance of public housing is properly paid to the correct PHA on behalf of the correct properties. In addition to submitting documentation to HUD, PHAs are required to make conforming changes to HUD's Public Housing Information Center (PIC).

Total Estimated Burdens:

TOTAL BURDEN HOUR ESTIMATES FOR PHAS

Number of transfer or consolidation actions	Number of respondents	Frequency of requirement *	×	Est. Avg. time for requirement (hours)	=	Est. annual burden (hours)
3 Transfers	6	1		120		720
2 Consolidations	4	1		200		800
Subtotals	10			320		1,520

* The frequency shown assumes that the receiving or consolidated PHA makes one submission for all other PHAs involved in either the transfer or consolidation.

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: December 16, 2020.

Merrie Nichols-Dixon,

Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2020–28705 Filed 12–31–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2020–N157; [FF09M28100, FXMB1231092MFR0, 212]; OMB Control Number 1018–New]

Agency Information Collection Activities; Online Eastern Population Sandhill Crane Survey Data Entry Portal

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the United States Fish and Wildlife Service (Service), are proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before March 5, 2021.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number ''1018–Sandhill Cranes'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320, all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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) How might the agency 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 response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Migratory Bird Treaty Act (16 U.S.C. 703–712) designates the Department of the Interior as the primary agency responsible for managing migratory bird populations frequenting the United States and setting hunting regulations that allow for the well-being of migratory bird populations. These responsibilities dictate that we gather accurate data on various characteristics of migratory bird populations.

The Service's fall survey for eastern population sandhill crane was established in 1979. It is implemented by state and Federal agencies and public volunteers from eight states in the Atlantic and Mississippi Flyways, as well as Ontario, Canada. Sandhill cranes are widely dispersed during the breeding and wintering seasons and are difficult to count. The optimal time to survey cranes is during the last week of October when the majority of eastern population cranes breeding in Canada migrate to traditional staging grounds in the Great Lake States (*e.g.,* Jasper-Pulaski Fish and Wildlife Area, Medaryville, Indiana). Since the initial survey in 1979, crane numbers have increased to over 90,000 birds.

The information collected through this survey is vital in assessing the relative changes in the geographic distribution of the species. We use the information primarily to inform managers of changes in sandhill crane distribution and population trends. Without information on the population's status, we might promulgate hunting regulations that:

- Are not sufficiently restrictive, which could cause harm to the sandhill crane population, or
- Are too restrictive, which would unduly restrict recreational opportunities afforded by sandhill crane hunting.

Notifications for the survey are sent to volunteers and data results are entered into the data portal in order to calculate an abundance of sandhill cranes. This survey is conducted via an online survey platform to reduce cost, improve data quality, and decrease respondent burden. This survey has no statistical design. We collect the following information in conjunction with the account setup process and survey data submission:

- Account setup process:
  - Email address,
  - User name,
  - Photo (optional),
  - Option for other users to contact the registrant,
  - Time zone,
  - First and last name,
  - Phone number, and
  - Start date.
- Survey data submission:
  - Data submission location via online map,
  - Date and time of observation,
  - Number of cranes,
  - Method (ground count or point count),
  - Habitat (agricultural field, sandbar, wetland, or mixed-wetland agricultural field), and
  - Any additional notes the user would like to submit.

We received OMB approval to conduct usability testing of the data entry portal in 2019 under Interior's Fast Track clearance process ''DOI Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' (OMB Control No. 1090–0011). After conducting the usability testing of the data entry portal for one year, we are now ready to seek OMB's full approval of this information collection under the PRA.

Title of Collection: Online Eastern Population Sandhill Crane Survey Data Entry Portal.

OMB Control Number: 1018–New.

Form Number: None.

Type of Review: New.

Respondents/Affected Public: Individuals and state agencies.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time for the initial registration, and on occasion for survey submission.

Total Estimated Annual Nonhour Burden Cost: None.

Requirement	Average number of annual respondents	Average number of responses each	Average number of annual responses *	Average completion time per response (mins)	Estimated annual burden hours *
Account Registration:					
Individuals	33	1	33	5	3

Requirement	Average number of annual respondents	Average number of responses each	Average number of annual responses *	Average completion time per response (mins)	Estimated annual burden hours *
State agencies	18	1	18	5	2
Online Survey Submission:					
Individuals	38	2	76	3	4
State agencies	23	1.3	30	3	2
Totals	*112*		*157*		*11*

* Rounded.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: December 29, 2020.

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2020–29047 Filed 12–31–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–ES–2019–0058; FF09E15000–FXES111609B0000–190]

John H. Chafee Coastal Barrier Resources System; Okaloosa and Walton Counties, FL; Beaufort and Charleston Counties, SC; Availability of Draft Revised Boundaries and Request for Comments

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: The Coastal Barrier Resources Reauthorization Act of 2006 requires the Secretary of the Interior to prepare digital versions of the John H. Chafee Coastal Barrier Resources System (CBRS) maps and make recommendations for the expansion of the CBRS. We, the U.S. Fish and Wildlife Service, have prepared draft revised boundaries for two existing CBRS units in Okaloosa and Walton Counties, Florida, and for four existing units and two proposed new units in Beaufort and Charleston Counties, South Carolina. This notice announces the availability of the proposed boundaries for public review and comment.

DATES:

Accessing documents: Requests for the stakeholder outreach toolkit described under Availability of Proposed Coastal Barrier Resources System Boundaries and Related Information, below, should be made by February 3, 2021 to encourage any local outreach to be conducted early in the comment period, leaving ample time for the public to review and submit comments. However, requests made after this date, within a reasonable time, will be fulfilled.

Submitting comments: To ensure consideration, we must receive your written comments by March 5, 2021.

ADDRESSES: You may submit written comments by one of the following methods:

- *Electronically:* Go to the Federal e-Rulemaking Portal: *https://www.regulations.gov.* Search for FWS–HQ–ES–2019–0058, which is the docket number for this notice.
- *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: Docket No. FWS–HQ–ES–2019–0058, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB/3W, Falls Church, VA 22041–3808.

We request that you send comments by only one of the methods described above. We will post all information received on *https://www.regulations.gov.* If you provide personal identifying information in your comment, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT: Katie Niemi, Coastal Barriers Coordinator, via telephone at 703–358–2071, by email at *CBRA@fws.gov,* or via the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: The Coastal Barrier Resources Reauthorization Act of 2006 (CBRRA; section 4 of Pub. L. 109–226) requires the Secretary of the Interior (Secretary) to prepare digital versions of the John H. Chafee Coastal Barrier Resources System (CBRS) maps and make recommendations for the expansion of the CBRS. We, the U.S. Fish and Wildlife Service (Service), have prepared draft revised boundaries for two existing CBRS units in Okaloosa and Walton Counties, Florida, and for four existing units and two proposed new units in Beaufort and Charleston Counties, South Carolina. This notice announces the availability of the proposed boundaries for public review and comment.

Background on the Coastal Barrier Resources System

Coastal barrier ecosystems are inherently dynamic systems located at the interface of land and sea. Coastal barriers and their associated aquatic habitat (wetlands and open water) provide important habitat for fish and wildlife, and serve as the mainland's first line of defense against the impacts of severe storms. With the passage of the Coastal Barrier Resources Act (CBRA) in 1982 (16 U.S.C. 3501 *et seq.*), Congress recognized that certain actions and programs of the Federal Government have historically subsidized and encouraged development on storm-prone and highly dynamic coastal barriers, and the result has been the loss of natural resources; threats to human life, health, and property; and the expenditure of billions of tax dollars.

CBRA established the CBRS, which originally comprised 186 geographic units encompassing approximately 453,000 acres of relatively undeveloped lands and associated aquatic habitat along the Atlantic and Gulf of Mexico coasts. The CBRS was expanded by the Coastal Barrier Improvement Act of 1990 (CBIA; Pub. L. 101–591) to include additional areas along the Atlantic and Gulf of Mexico coasts, as well as areas along the coasts of the Great Lakes, the U.S. Virgin Islands, and Puerto Rico.

The CBRS now comprises a total of 870 geographic units, encompassing approximately 3.5 million acres of land and associated aquatic habitat. These areas are depicted on a series of maps and known as the John H. Chafee Coastal Barrier Resources System. Most new Federal expenditures and financial assistance that would have the effect of encouraging development are prohibited within the CBRS. Development can still occur within the CBRS, provided that

private developers or other non-Federal parties bear the full cost.

The CBRS includes two types of units, System Units and Otherwise Protected Areas (OPAs). System Units contain areas that were relatively undeveloped and predominantly privately owned at the time of designation, though they may also contain areas held for conservation and/or recreation. Most new Federal expenditures and financial assistance, including Federal flood insurance, are prohibited within System Units. OPAs are predominantly comprised of conservation and/or recreation areas such as national wildlife refuges, State and national parks, and local and private conservation areas, though they may also contain private areas not held for conservation and/or recreation. OPAs are denoted with a ''P'' at the end of the unit number. The only Federal spending prohibition within OPAs is the prohibition related to Federal flood insurance.

The Secretary, through the Service, is responsible for administering CBRA, which includes maintaining the official maps of the CBRS, determining whether certain areas are located within the CBRS, consulting with Federal agencies that propose to spend funds within the CBRS, preparing updated maps of the CBRS, and making recommendations to Congress regarding changes to the CBRS. Aside from three minor exceptions, only Congress—through legislation—can modify the maps of the CBRS to add or remove land. These exceptions, which allow the Secretary to make limited modifications to the CBRS (16 U.S.C. 3503(c)–(e)), are for: (1) Changes that have occurred to the CBRS as a result of natural forces, (2) voluntary additions to the CBRS by property owners, and (3) additions of excess Federal property to the CBRS.

The Service receives numerous requests from property owners and other interested parties who seek to remove areas from the CBRS. When assessing potential removals from and additions to the CBRS, the Service considers a set of guiding principles and criteria which are further described under Types of Boundary Changes, below. The Service generally does not recommend removals from the CBRS, unless there is clear and compelling evidence that a mapping error was made. In cases where mapping errors are found, the Service recommends changes to the maps and works with Congress and other interested parties to create comprehensively revised maps using modern digital technology.

Coastal Barrier Resources System Remapping Methodology

The methodology described below is the general process through which the Service prepares comprehensively revised CBRS boundaries, including those produced through this technical correction for certain Florida and South Carolina units. This methodology is consistent with the methodology used for prior comprehensive remapping efforts, including the Service's Hurricane Sandy Remapping Project (affecting nine States in the northeast) that is described in a notice the Service published in the **Federal Register** on March 12, 2018 (83 FR 10739).

Data Mining and Research

The Service procures the best available data and information necessary to: (1) Determine whether the existing CBRS unit boundaries appropriately follow the features they were intended to follow on-the-ground; (2) determine the level of development that was on-the-ground when the areas were originally included within the CBRS (*e.g.,* dates of construction and density of development); (3) identify qualifying additions; and (4) evaluate unit type classifications (*i.e.,* System Unit or OPA).

We review all applicable historical background records of the CBRS units (maintained by the Service), reports to Congress, public laws, legislative history, testimony from Congressional hearings, **Federal Register** notices, current and historical CBRS maps, the 1982 and 1994 CBRS photographic atlases (a set of aerial photography maintained by the Service with the CBRS unit boundaries overlaid), materials submitted by interested parties and their representatives in Congress, and other data and information.

When necessary, we also obtain and assess both geospatial and non-geospatial data from a variety of Federal sources (*e.g.,* Federal Emergency Management Agency, National Oceanic and Atmospheric Administration, U.S. Army Corps of Engineers, U.S. Department of Agriculture, Service's National Wetlands Inventory and refuge programs, and U.S. Geological Survey), as well as State, local, and nongovernmental sources. These data may include, but are not limited to, current and historical aerial imagery, natural resource and natural hazard data (*e.g.,* wetlands data, shoreline change data, and flood hazard data), land ownership and development data (*e.g.,* property parcel data and construction date information), and conservation and recreation area data (*e.g.,* park and wildlife refuge parcel boundaries, conservation easement data, and parcel acquisition dates). Some of these data sets are available for download on the internet or through specific requests to the data steward, while others can only be reviewed online through mappers, websites, and/or databases.

Proposed CBRS boundaries prepared by the Service are based upon the best available information that the Service is able to obtain. In some cases, there are challenges associated with the data mining and research process. Data may be unavailable, unobtainable within a reasonable time frame, incomplete, outdated, and/or in conflict with other data of the same type from a different source. Construction dates and both present and historical land ownership information can be difficult to obtain and validate for certain areas (in particular, ownership information for undeveloped wetland areas). It is also difficult in some cases to determine structure type and use (*e.g.,* residential, commercial, or other).

Initial Stakeholder Outreach

During the data mining and research phase of the technical correction review, the Service generally conducts outreach with certain landowners and/or managers of coastal barrier areas that are ''otherwise protected'' (as defined by the CBIA), meaning within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization (defined under the Internal Revenue Code (26 U.S.C. 170(h)(3)), primarily for wildlife refuge, sanctuary, recreational purposes, or natural resource conservation purposes. Such outreach is generally not conducted with the landowners and/or managers of areas that do not meet the definition of ''otherwise protected.'' This includes areas zoned or regulated by State or local governments for the purpose of restricting the nature or density of development, but where such regulation does not necessarily reflect the intent of the property owners to protect the area for conservation and/or recreation in perpetuity (*e.g.,* local zoning categories such as dune districts, inlet hazard areas, and setback zones and areas subject to conservation easements or leases that have limited restrictions).

Conservation/recreation area landowners and/or managers are contacted during the data mining and research phase in cases where the following information is necessary to prepare the proposed boundaries: (1) The location of conservation and/or recreation area boundaries (primarily in cases where the CBRS unit boundary

was intended to be coincident with that boundary and there is conflicting information about the parcel boundary location), and/or (2) the acquisition date(s) of the conservation and/or recreation area. Additionally, conservation/recreation area landowners and/or managers are contacted when the Service requires additional information necessary to determine the appropriate CBRS unit type classification (*i.e.,* System Unit or OPA) for a particular conservation and/or recreation area.

Given the large number of conservation and/or recreation area stakeholders within certain areas and complexities associated with mapping numerous small parcels, we generally limit our initial outreach to those stakeholders that own and/or manage conservation and/or recreation areas that are greater than approximately 10 acres in size within the existing and/or proposed System Units. See Types of Boundary Changes, below, for additional information about the mapping of conservation/recreation areas within the CBRS.

Additional outreach to these groups and a broader group of stakeholders is being conducted as part of the public review process; see Request for Comments, below, for further information.

Acreage Calculations

The Service calculates the acreage of the CBRS units to help assess the areal extent of the units and to quantify proposed changes. The total acreage of a CBRS unit is comprised of fastland (land above mean high tide) and associated aquatic habitat (wetlands and open water). For the purpose of calculating acreage for CBRS remapping projects, the wetland/fastland acreage breakdown of the units is derived from the Service's National Wetlands Inventory (NWI) data. A shoreline is delineated (as described below) to be used in conjunction with the boundaries of the unit to calculate acreage, and only areas landward of this shoreline are included in the calculation. The associated aquatic habitat acreage numbers include open water landward of the coastal barrier, but not nearshore or offshore waters seaward of the shoreline. The offshore acreage of the units is not calculated, because a fixed seaward boundary for the units is generally not drawn due to the highly dynamic nature of the littoral zone.

Although acreage for offshore areas is not calculated, the entire sand sharing system on the seaward side, including the beach and nearshore area, is included within the CBRS units. The sand sharing system of coastal barriers is normally defined by the 30-foot bathymetric contour. In the Great Lakes and in large coastal embayments (*e.g.,* Chesapeake Bay, Delaware Bay, and Narragansett Bay), the sand sharing system is more limited in extent. In these cases, the sand sharing system is defined by the 20-foot bathymetric contour or a line approximately 1 mile seaward of the shoreline, whichever is nearer the coastal barrier.

Shoreline Calculations

The Service calculates the shoreline of the units to help assess the linear extent of the CBRS and to facilitate the calculation of the acreage of the units as described above. For the purposes of CBRS remapping projects, the Service digitizes a shoreline boundary to artificially close off the units along the seaward shoreline. This shoreline boundary generally follows the wet/dry sand line along the seaward side of the unit as interpreted from the base imagery. Additionally, the shoreline boundary spans any inlets and/or other dividing water bodies within each unit. In some cases, highly convoluted shorelines are generalized. Due to the complexities of shoreline delineations, acreage numbers (rather than shoreline miles) are the most reliable way to quantify proposed changes to the CBRS for individual units.

Types of Boundary Changes

The Service applies objective mapping protocols, statutory criteria, and a set of guiding principles for assessing modifications to the CBRS. In 1982 and 1985, the Department published guidance in the **Federal Register** (47 FR 35696 (August 16, 1982) and 50 FR 8698 (March 4, 1985)) for delineating CBRS unit boundaries. The Department's *Undeveloped Coastal Barriers: Report to Congress* (1982) and *Report to Congress: Coastal Barrier Resources System* (1988) and the Service's *Final Report to Congress: John H. Chafee Coastal Barrier Resources System Digital Mapping Pilot Project* (2016) also contain protocols, criteria, and guiding principles for CBRS mapping. The different types of changes proposed through CBRS remapping projects include modifications to reflect geomorphic change; alignment with geomorphic, development, and cultural features; additions to and removals from the CBRS; and modifications to CBRS boundaries in channels. Additionally, CBRS unit type classifications (and reclassifications) are determined according to a standard protocol described below.

Modifications To Reflect Geomorphic Change

CBRA requires that the Service review the maps of the CBRS at least once every 5 years and make modifications to the boundaries of the units to account for changes caused by natural forces such as accretion and erosion (16 U.S.C. 3503(c)). This type of change can be made by the Service administratively; however, it is also incorporated into comprehensive remapping efforts for efficiency and cost-saving purposes. The boundaries of System Units and OPAs are modified where appropriate to account for natural changes that have occurred since the maps were last updated.

Alignment With Geomorphic Features

CBRS boundaries are often intended to follow geomorphic features such as a shoreline or the interface between wetlands and fastlands. This applies mostly to System Units, though there are many cases where OPA boundaries follow geomorphic features. The boundaries of System Units and OPAs are modified where appropriate to align with underlying geomorphic features.

Alignment With Development Features

CBRS boundaries are often intended to follow development features, such as the edge of a road, a bridge, or the ''break-in-development'' that existed on-the-ground when the area was included within the CBRS. The break-in-development is where development ended, immediately adjacent to the last structure in a cluster or row of structures, or at the property parcel boundary of the last structure. This applies mostly to System Units, though there are cases where OPA boundaries follow development features. The boundaries of System Units and OPAs are modified where appropriate to align with development features.

Alignment With Cultural Features

CBRS boundaries are often intended to follow cultural features such as roads and political boundaries (*e.g.,* State, county, and town boundaries) or conservation/recreation area boundaries. Both System Units and OPAs follow cultural features; however, this applies especially to OPAs, which often coincide with the boundaries of the underlying conservation and/or recreation areas (although there are exceptions). The boundaries of System Units and OPAs are modified where appropriate to align with cultural features.

Additions to the Coastal Barrier Resources System

In carrying out CBRS remapping projects, the Service often finds areas of undeveloped fastland and associated aquatic habitat that are not currently within the CBRS but are appropriate for inclusion (either as additions to existing units or as entirely new units). When assessing whether an area may be appropriate for addition to the CBRS, the Service considers the following guiding principles:

(1) Whether the area may reasonably be considered to be a coastal barrier feature, or related to a coastal barrier ecosystem (this generally includes areas that are inherently vulnerable to coastal hazards such as flooding, storm surge, wind, erosion, and sea level rise) and

(2) Whether inclusion of the area within the CBRS is rationally related to the purposes of CBRA (*i.e.,* to minimize the loss of human life, wasteful expenditure of Federal revenues, and damage to fish, wildlife, and other natural resources).

When assessing potential additions to the CBRS, the Service also considers the following criteria:

(1) The level of development on-the-ground (*i.e.,* whether the number of structures or complement of infrastructure on-the-ground exceeds the threshold for the area to be considered undeveloped) (16 U.S.C. 3503(g)(1)) and/or

(2) In the case of certain additions to existing units, the location of geomorphic, cultural, and development features on-the-ground at the time the adjacent area was included within the CBRS (*i.e.,* whether the CBRS boundary lines on the maps precisely follow the underlying features they were intended to follow on-the-ground).

The boundaries of System Units and OPAs are modified where appropriate to add undeveloped fastland and associated aquatic habitat to the CBRS (either as additions to existing units or as entirely new units). Such additions to the CBRS are consistent with section 4(c)(3) of the 2006 Coastal Barrier Resources Reauthorization Act, which directs the Secretary to make recommendations for expansion of the CBRS. The unit type classification (*i.e.,* System Unit versus OPA) is determined according to the protocol described below, under Coastal Barrier Resources System Unit Type Classification.

Additionally, the Service accommodates requests from landowners for voluntary additions to the CBRS or reclassifications of conservation/recreation areas from OPA to System Unit status. Voluntary additions to the CBRS can be made by the Service administratively (16 U.S.C. 3503(d)); however, they are also incorporated into ongoing CBRS mapping projects like this one for efficiency and cost-saving purposes.

Removals From the Coastal Barrier Resources System

In carrying out CBRS remapping projects, the Service also finds areas that were inappropriately included within the CBRS and constitute technical mapping errors. When assessing whether an area may be appropriate for removal from the CBRS, the Service considers the following guiding principles:

(1) Whether the area may reasonably be considered to be a coastal barrier feature, or related to a coastal barrier ecosystem (this generally includes areas that are inherently vulnerable to coastal hazards such as flooding, storm surge, wind, erosion, and sea level rise) and

(2) Whether inclusion of the area within the CBRS is rationally related to the purposes of CBRA (*i.e.,* to minimize the loss of human life, wasteful expenditure of Federal revenues, and damage to fish, wildlife, and other natural resources).

The Service considers a technical mapping error to be a mistake in the delineation of the CBRS boundaries that was made as a result of incorrect, outdated, or incomplete information (often stemming from inaccuracies on the original base maps). When assessing whether an area may be appropriate for removal, the Service also considers the following criteria:

(1) The level of development on-the-ground at the time the area was included within the CBRS (*i.e.,* the number of structures or complement of infrastructure on-the-ground exceeded the threshold for the area to be considered undeveloped) (16 U.S.C. 3503(g)(1)) and/or

(2) The location of geomorphic, cultural, and development features on-the-ground at the time the area was included within the CBRS (*i.e.,* the CBRS boundary lines on the maps do not precisely follow the underlying features they were intended to follow on-the-ground).

The boundaries of System Units and OPAs are modified where appropriate to remove areas that were inappropriately included within the CBRS and constitute technical mapping errors.

Modifications to Coastal Barrier Resources System Boundaries in Channels

In carrying out CBRS remapping projects, the Service finds that the CBRS unit boundaries following channels in some cases include the entire channel and in other cases include none of the channel within the unit. The boundaries of System Units and OPAs are modified where appropriate to include the entire extent of the channel within the unit. In cases where a System Unit and an OPA share a coincident boundary that follows a channel located between the two units, the entire channel is generally included within the System Unit. In cases where two System Units or two OPAs fall within a channel, the coincident boundary is generally placed at the center of the channel. A buffer (of about 20 feet) is generally applied along developed shorelines (*i.e.,* where structures and/or infrastructure such as seawalls, bulkheads, and roads are very close to and run parallel to or are coincident with the shoreline) to ensure that existing development and infrastructure located on the shoreline are not inadvertently included within the CBRS.

Coastal Barrier Resources System Unit Type Classification

In carrying out CBRS remapping projects, the Service considers the qualifying coastal barrier feature and delineates the unit boundaries in accordance with the protocols, criteria, and guiding principles identified above, regardless of whether the area is (or was previously) owned or managed for conservation and/or recreation. In other words, the boundaries of both System Units and OPAs are generally drawn using the same protocols, criteria, and guiding principles. The Service then determines the unit type classification (for proposed additions) and reclassification (for existing units) in accordance with the protocols below.

The unit type classification (*i.e.,* System Unit versus OPA) is based on whether or not the unit was predominantly held for conservation and/or recreation at the time of designation, and is modified where appropriate and practicable. Such unit type modifications for areas that are currently within the CBRS are referred to as ''reclassifications.'' The reclassified areas are either added to an existing adjacent unit of the same type or assigned a new unit number. The following considerations are applied for unit type classification and reclassification.

Areas Not Held for Conservation/Recreation Within Otherwise Protected Areas

Areas that are not held for conservation/recreation may be included within OPAs if they are: (1)

Interspersed with and/or adjacent to a larger conservation/recreation area, and (2) located in coastal barrier areas that were undeveloped according to CBRA's statutory development criteria (16 U.S.C. 3503(g)(1)) at the time they were included within the CBRS (or are currently undeveloped in the case of proposed additions). Additionally, privately held inholdings (developed or undeveloped private tracts that are contained within the exterior boundaries of the conservation and/or recreation area) may also be included within OPAs.

Conservation/Recreation Areas Within System Units

Areas Held for Conservation/Recreation Prior to CBRS Designation

Areas that are held for conservation/recreation may be included within System Units if they are: (1) Interspersed with and/or adjacent to a larger area that is not held for conservation/recreation and (2) undeveloped according to CBRA's statutory development criteria (16 U.S.C. 3503(g)(1)) at the time they were included within the CBRS (or are currently undeveloped in the case of proposed additions).

For conservation/recreation areas greater than 10 acres, the Service coordinates with the landowners (or managers) to seek their concurrence on inclusion of their area within the System Unit. If the owners do not concur with System Unit status, the Service classifies such areas as OPAs to the extent practicable. However, minor conservation/recreation areas (fastlands and wetlands smaller than 10 acres) and certain areas of open water would be impractical from a mapping perspective to delineate separately as OPAs and therefore may be included within System Units. Outreach is generally not conducted for these minor areas during the initial stakeholder outreach phase of the project (described above under Coastal Barrier Resources System Remapping Methodology). Descriptions of such ''minor'' areas within System Units are included in the set of unit summaries that describe the Service's proposed changes to the CBRS. See Availability of Proposed Coastal Barrier Resources System Boundaries and Related Information, below, for information on where to access the unit summaries.

The Service's records indicate that some conservation/recreation areas were intentionally added to the CBRS as System Units in the past. The Service generally does not seek concurrence from conservation/recreation area owners (regardless of size) when there is evidence of such prior intent, including letters from the stakeholder in the Service's records indicating that the organization supported inclusion of the property within the System Unit in the past, or records of specific changes to the Department's recommended maps made by the Congressional committees that reviewed them prior to their enactment.

Areas Held for Conservation/Recreation After Area Designated as CBRS

If an area is dedicated to conservation and/or recreation after its initial inclusion within a System Unit, it is generally not reclassified to an OPA.

Proposed Modifications to the CBRS

The Service has prepared draft revised boundaries that propose modifications to the CBRS in Florida and South Carolina in accordance with the methodology described above. The proposed revisions would remove areas that were inappropriately included within the CBRS in the past and add areas that meet CBRA's criteria for inclusion within the CBRS (16 U.S.C. 3503(g)(1)). The proposed revisions would also reclassify certain areas from System Unit to OPA, and vice versa.

A summary of metrics associated with the proposed changes by county/State is provided below. More detailed information regarding the specific proposed changes to each unit is available in a set of unit summaries. See Availability of Proposed Coastal Barrier Resources System Boundaries and Related Information, below, for information on where to access the unit summaries.

Okaloosa and Walton Counties, Florida

The Service has prepared comprehensively revised proposed boundaries for Moreno Point Unit P32/P32P in Okaloosa and Walton Counties, Florida. The proposed boundaries for the Florida units would remove 17 acres from the CBRS (14 acres of fastland and 3 acres of associated aquatic habitat) and add 57 acres to the CBRS (7 acres of fastland and 50 acres of associated aquatic habitat). The proposed boundaries would remove 31 structures from the CBRS and add no structures to the CBRS.

Beaufort County and Charleston Counties, South Carolina

The Service has prepared comprehensively revised proposed boundaries for Morris Island Complex M06 in Charleston County, South Carolina, and for Harbor Island Unit M11, St. Phillips Unit M12, and Hunting Island Unit SC–09P in Beaufort County, South Carolina. The proposed boundaries include two proposed new OPAs, Morris Island Complex M06P and St. Phillips Unit M12P, which are within the vicinity of the existing units in Beaufort and Charleston Counties. These proposed new units are comprised entirely of areas that are not currently contained within the CBRS.

The proposed boundaries for the South Carolina units would remove 13 acres from the CBRS (all fastland) and add 9,956 acres to the CBRS (593 acres of fastland and 9,363 acres of associated aquatic habitat). The proposed boundaries would remove nine structures from the CBRS and add one structure to the CBRS.

Proposed Additions to the Coastal Barrier Resources System

The draft revised boundaries for the Florida and South Carolina units would make additions to the CBRS (including the creation of two new units) that are consistent with a directive in section 4 of the 2006 CBRRA concerning recommendations for expansion of the CBRS. The proposed boundaries are based upon the best data available to the Service at the time the areas were reviewed. Our assessment indicated that any new areas proposed for addition to the CBRS were relatively undeveloped at the time the proposed boundaries were created.

CBRA (16 U.S.C. 3503(g)) requires that we consider the following criteria when assessing the development status of a potential addition to the CBRS: (1) Whether the density of development is less than one structure per 5 acres of land above mean high tide (which generally suggests eligibility for inclusion within the CBRS); and (2) whether there is existing infrastructure consisting of a road, with a reinforced road bed, to each lot or building site in the area; a wastewater disposal system sufficient to serve each lot or building site in the area; electric service for each lot or building site in the area; and a fresh water supply for each lot or building site in the area (which generally suggests ineligibility for inclusion within the CBRS).

If, upon review of the proposed boundaries, interested parties find that any areas proposed for addition to the CBRS are currently developed (according to the criteria codified at 16 U.S.C. 3503(g)), they may submit supporting documentation of such development to the Service during this public comment period. For any areas proposed for addition to the CBRS, we will consider the density of development and level of infrastructure

on-the-ground as of the close of the comment period (see **DATES**, above).

Request for Comments

Section 4 of the 2006 CBRRA requires the Secretary to provide an opportunity for the submission of public comments. We invite the public to review and comment on the proposed CBRS boundaries for CBRS Units P32/P32P, M06/M06P, M11, M12/M12P, and SC–09P. The Service is specifically notifying the following stakeholders concerning the availability of the proposed boundaries: The Chair and Ranking Member of the House of Representatives Committee on Natural Resources; the Chair and Ranking Member of the Senate Committee on Environment and Public Works; the members of the Senate and House of Representatives for the affected areas; the Governors of Florida and South Carolina; organizations that own (or manage) land held for conservation and/or recreation within the existing and proposed units (where such ownership information and mailing addresses were publicly available); other appropriate Federal, State, and local officials; and appropriate nongovernmental organizations.

The Service is generally not notifying individual private property owners concerning the availability of the proposed boundaries (except for individuals who have specifically contacted us in the past concerning a technical correction request). However, the Service encourages local officials to distribute the ''Dear Interested Party'' notification letter included in the stakeholder outreach toolkit, described below under Availability of Proposed Coastal Barrier Resources System Boundaries and Related Information, to affected property owners in their communities.

Interested parties may submit written comments and accompanying data as described in **ADDRESSES**, above. Comments regarding specific CBRS unit(s) should reference the appropriate unit number(s) and unit name(s). We must receive comments on or before the date listed above in **DATES**.

Following the close of the comment period, we will review all comments we receive on the proposed boundaries and make adjustments to the boundaries, as appropriate, based on information received through public comments, updated aerial imagery, CBRA criteria, and objective mapping protocols. We will then prepare final recommended maps to be submitted to Congress. The final recommended maps will become effective only if they are adopted by Congress through legislation.

Availability of Proposed Coastal Barrier Resources System Boundaries and Related Information

The CBRS Projects Mapper (an online interface for the public to view the proposed boundaries and obtain information about the proposed changes) and unit summaries (containing historical changes and proposed changes to the individual units) can be accessed from the Service's website at *https://www.fws.gov/cbra.* A shapefile of the proposed CBRS boundaries, which can be used with GIS software, is also available for download. The shapefile is best viewed using the base imagery to which the boundaries were drawn; the base imagery sources and dates are included in the metadata for the shapefile. The Service is not responsible for any misuse or misinterpretation of the shapefile. You may submit a public comment using one of the methods listed above in **ADDRESSES**.

Additionally, a stakeholder outreach toolkit (comprising unit summaries, a shapefile of the draft revised boundaries, and a ''Dear Interested Party'' notification letter) will be made available to local officials upon request. Local officials may use this toolkit to increase awareness of the project within their communities. Local officials may contact the individual identified in **FOR FURTHER INFORMATION CONTACT**, above, for more information regarding the toolkit. We recommend that any local community officials who want to use the outreach toolkit request it as soon as possible to allow outreach activities to occur in time for the public to submit comments before the comment period closes (see **DATES**).

Interested parties who are unable to access the proposed boundaries or other information online may contact the individual identified in **FOR FURTHER INFORMATION CONTACT**, above, and reasonable accommodations will be made.

Gary Frazer,

Assistant Director for Ecological Services, U.S. Fish and Wildlife Service.

[FR Doc. 2020–29043 Filed 12–31–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–NWRS–2020–N155; FXRS12630900000/FF09R81000; OMB Control Number 1018–New]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; U.S. Fish and Wildlife Service Concessions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing a new information collection in use without an OMB Control Number.

DATES: Interested persons are invited to submit comments on or before February 3, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB/PERMA (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018—Concessions in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the information collection request (ICR) at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection

requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On June 1, 2020, we published in the **Federal Register** (85 FR 33193) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on July 31, 2020. We received one comment in response to that notice, but it did not address the information collection requirements. No response to that comment is required.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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) How might the agency 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 response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Secretary of the Interior is authorized to ensure that we provide opportunities within the Service for compatible wildlife-dependent recreational uses across the National Wildlife Refuge System (System). Furthermore, the Secretary is authorized to award concessions contracts under the following Acts:

- The National Wildlife Refuge System Administration Act of 1966 (Administration Act, 16 U.S.C. 668dd–668ee), as amended by the National Wildlife Refuge System Improvement Act of 1997, authorizes the Secretary of the Interior to negotiate and award contracts and issue regulations to carry out the Act.
- The Refuge Recreation Act of 1962 (16 U.S.C. 460k–460k–3) allows the use of refuges for public recreation when such use is not inconsistent with or does not interfere with the primary purpose(s) of the refuge.
- The Refuge Revenue Sharing Act (16 U.S.C. 715s) authorizes the Secretary to grant privileges and collect revenues from leases for public accommodations or facilities established for the System.

Specifically, the Administration Act provides that, with respect to the Refuge System, it is the policy of the United States that—

a. Each refuge shall be managed to fulfill the mission of the System, as well as the specific purposes for which that refuge was established;

b. Compatible wildlife-dependent recreation is a legitimate and appropriate general public use of the System, directly related to the mission of the System and the purposes of many refuges, and which generally fosters refuge management and through which the American public can develop an appreciation for fish and wildlife;

c. Compatible wildlife-dependent recreational uses are the priority general public uses of the System and shall receive priority consideration in refuge planning and management; and

d. When the Secretary determines that a proposed wildlife-dependent recreational use is a compatible use within a refuge, that activity should be facilitated, subject to such restrictions or regulations as may be necessary, reasonable, and appropriate.

The Administration Act also provides that, in administering the Refuge System, the Secretary shall—

a. Recognize compatible wildlife-dependent recreational uses as the priority general public uses of the System, through which the American public can develop an appreciation for fish and wildlife;

b. Ensure that opportunities are provided within the System for compatible wildlife-dependent recreational uses;

c. Ensure that priority general public uses of the System receive enhanced consideration over other general public uses in planning and management within the System; and

d. Provide increased opportunities for families to experience compatible wildlife-dependent recreation, particularly opportunities for parents and their children to safely engage in traditional outdoor activities, such as fishing and hunting.

Private businesses and non-profit organization under contract to the Service provide recreational, educational, and interpretive enjoyment of our lands and waters by managing lodging, food, transportation, and supplies and equipment for the enjoyment of the visiting public. These services gross approximately $3,000,000 every year and provide jobs for more than 100 people annually.

The regulations at 50 CFR subpart F (§ 25.61) primarily implement the authorities governing public use facilities operated by concessionaires or cooperators under appropriate contact or legal agreement on national wildlife refuges where there is a demonstrated justified need for services or facilities, including but not limited to boat rentals, swimming facilities, conducted tours of special natural attractions, shelters, tables, trailer lots, food, lodging, and related service.

Service Manual chapters 630 FW 6–8 discuss the Service's current policy for concession management and provide guidance for permitting and administering concession operations on Service lands. We use concession contracts to assist us in providing wildlife-dependent recreation activities to the visiting public by using contracts between the Service and a private entity, where the private entity is allowed to charge a fee for services provided at a field station to the visiting public.

We collect information in a narrative (non-form) format. Details concerning the specific information required are contained in 50 CFR 25.61 and the recently updated Service Manual chapters available to the public on the Service's website at *https://www.fws.gov/policy/manuals/part.cfm?series=600&seriestitle=LAND%20USE%20AND%20MANAGEMENT%20SERIES.* The amount of information or degree of detail requested varies widely, depending upon the size and scope of the business opportunity. For example, a much greater amount of detailed information would be required for a multi-unit camping and food service operation than would be required for a small bait sales operation. We use the information provided by prospective concessionaires to objectively evaluate offers received for a particular business opportunity, assure adequate protection of refuge resources, and to determine

which offeror will provide the best service to visitors.

Below are examples of types of information the Service collects from a potential or current concessionaire.

General Concessionaire Information

• Description of how the respondent will conduct operations to minimize disturbance to wildlife; protect refuge resources; and provide visitors with a high-quality, safe, and enjoyable visitor experience.

• Proposal to protect, conserve, and preserve resources of the refuge. The proposal must respond to specific resource management objectives and issues at the refuge and regarding the contract in question.

• Proposal to provide necessary and appropriate visitor services at reasonable rates. This proposal must respond to specific visitor service questions at the refuge and regarding the contract in question.

• Experience and related background of the offeror, including past performance and expertise of the offeror in providing the same or similar visitor services as those to be provided under the draft concession contract.

• Financial capability of the offeror to carry out its proposal. In particular, we require projected financials, including initial investments, startup expenses, income statement, operating assumptions, cash flow statement, recapture of investments, and all associated assumptions.

• The amount of the proposed minimum franchise fee and other forms of financial consideration.

Proposal for Concession Opportunity

• Offeror's transmittal letter, including the name and contact information of the entity offering a proposal to operate a concession contract.

• Business type of the offeror, such as corporation, limited liability company, partnership, etc.

• Business history information, including adverse history that could impact future operations under a concession contract.

• Credit report, so that we can understand the offeror's credit history and any risks of contracting with the entity.

• Proposed staffing/management operation information, including organization charts and delegations of authority, to ensure adequate staffing.

• Proof of indemnification, including public liability insurance that co-names the Government as co-insured.

Reporting Requirements

• Annual financial reports providing concessioner financial information, as required by each concession contract.

• Quarterly and annual progress reports to monitor performance.

• Inspections and inspection reports conducted in concert with the on-site concession manager.

Approval To Sell or Transfer Concession Operation

• Information to assess the transferee's ability to manage the business successfully and fulfill the terms of the concession contract, in order for the Regional Director to grant approval.

Recordkeeping Requirements

• In accordance with Service Manual chapter 630 FW 8.3, a concessioner (and any subconcessioner) must keep and make available to the Service records for the term of the concession contract.

Title of Collection: U.S. Fish and Wildlife Service Concessions.

OMB Control Number: 1018–New.

Form Number: None.

Type of Review: Existing collection in use without an OMB control number.

Respondents/Affected Public: Businesses and nonprofit organizations.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for proposals, amendments, and appeals; annually for financial reports; quarterly for progress reports; and ongoing for recordkeeping.

Total Estimated Annual Nonhour Burden Cost: $69,900 (associated with administrative overhead, as well as costs associated with the development of proposals in response to concessions opportunities).

Activity	Total annual responses	Completion time per response (hours)	Total annual burden hours *
General Concessionaire Information:			
Inspection form	80	3	240
Proposal for Concessions Opportunities:			
Large Concessions	6	40	240
Small Concessions	3	16	48
Reporting Requirements:			
Annual Financial Report	10	16	160
Quarterly Progress Report	12	4	48
Annual Progress Report	10	16	160
Approval to Sell/Transfer A Concession Operation	1	8	8
Recordkeeping Requirements:			
Large Concessions	5	40	200
Small Concessions	5	20	100
Totals	132	.....	1,204

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: December 29, 2020.

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2020–29074 Filed 12–31–20; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–468 and 731–TA–1166–1167 (Second Review)]

Magnesia Carbon Bricks From China and Mexico; Institution of Five-Year Reviews

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the countervailing duty order on certain magnesia carbon bricks from China and the antidumping duty orders on certain magnesia carbon bricks from China and Mexico would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted January 4, 2021. To be assured of consideration, the deadline for responses is February 3, 2021. Comments on the adequacy of responses may be filed with the Commission by March 18, 2021.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On September 20, 2010, the Department of Commerce (''Commerce'') issued antidumping duty orders on imports of certain magnesia carbon bricks from China and Mexico (75 FR 57257). On September 21, 2010, Commerce issued a countervailing duty order on imports of certain magnesia carbon bricks from China (75 FR 57442). Following the first five-year reviews by Commerce and the Commission, effective February 12, 2016, Commerce issued a continuation of the countervailing duty order on imports of certain magnesia carbon bricks from China and the antidumping duty orders on imports of certain magnesia carbon bricks from China and Mexico (81 FR 7502). The Commission is now conducting second reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are China and Mexico.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations and its expedited first five-year review determinations, the Commission defined a single *Domestic Like Product* consisting of magnesia carbon bricks that are within Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as all producers of the *Domestic Like Product,* certain magnesia carbon bricks.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the

Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is February 3, 2021. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is March 18, 2021. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 20–5–478, expiration date June 30, 2023. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information to be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise*, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2014.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the

following information on your firm's operations on that product during calendar year 2020, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2020 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2020 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2014, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

AUTHORITY: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: December 23, 2020.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2020–28941 Filed 12–31–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Active Matrix OLED Display Devices and Components Thereof, DN 3518;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United

States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (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 has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Solas OLED Ltd. on December 28, 2020. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain active matrix OLED display devices and components thereof. The complaint names as respondents: BOE Technology Group Co. Ltd. of China; Beijing BOE Display Technology Co., Ltd. of China; BOE Technology America, Inc. of Santa Clara, CA; LG Electronics Inc. of Korea; LG Electronics USA, Inc. of Englewood Cliffs, NJ; LG Display America, Inc. of San Jose, CA; LG Display Co., Ltd. of Korea; Samsung Electronics Co., Ltd. of Korea; Samsung Electronics America, Inc. of Ridgefield Park, NJ; Samsung Display Co., Ltd. of Korea and Sony Electronics Inc. of San Diego, CA. The complainant requests that the Commission issue a permanent limited exclusion order, cease and desist orders, and impose a bond on importation and sales of infringing products during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3518'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures).[1] Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: December 29, 2020.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2020–29102 Filed 12–31–20; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–1237]

Certain Cloud-Connected Wood-Pellet Grills and Components Thereof; Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 25, 2020, under section 337 of the Tariff Act of 1930, as amended, on behalf of Traeger Pellet Grills LLC of Salt Lake City, Utah. A letter supplementing the complaint was filed

on December 10, 2020. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain cloud-connected wood-pellet grills and components thereof by reason of infringement of certain claims of U.S. Patent No. 10,158,720 (''the '720 Patent''), and U.S. Patent No. 10,218,833 (''the '833 Patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, Office of Docket Services, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2020).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on December 28, 2020, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 2, 12, 16, 21, and 22 of the '720 patent and claims 1–3, 6–9, 11–14, 18, and 22–24 of the '833 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''cloud-connected wood-pellet grills and components thereof, including the digital controller'';

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Traeger Pellet Grills LLC, 1215 East Wilmington Ave., Suite 200, Salt Lake City, Utah 84106.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served: GMG Products LLC, 72315 US Highway 101, Lakeside, OR 97449.

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party to this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: December 28, 2020.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2020–29009 Filed 12–31–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Russell Kirk, et al.,* Civil No. 4:18–cv–00371–JEG–HCA, was lodged with the United States District Court for the Southern District of Iowa on December 28, 2020.

This proposed Consent Decree concerns a complaint filed by the United States against Russell Kirk, Breaking Gate, LLC, and Ottumwa Northshore, LLC, pursuant to 33 U.S.C. 1311(a), to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to restore impacted areas, perform mitigation, and pay a civil penalty.

The Department of Justice will accept written comments relating to the proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Patrick R. Jacobi, Environmental Defense Section, Denver Place Building, 999 18th Street, Suite 370—South Terrace, Denver, CO 80202, and refer to *United States* v. *Russell Kirk, et al.,* DJ #90–5–1–1–21241.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Southern District of Iowa, 123 East Walnut Street, Des Moines, IA 50309. In addition, the proposed Consent Decree may be examined electronically at *http://www.justice.gov/enrd/consent-decrees.*

Cherie Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2020–29039 Filed 12–31–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Exemption Application No. D–12030]

Proposed Exemption for Certain Prohibited Transaction Restrictions Involving The Goldman Sachs Group, Inc. (Goldman Sachs or the Applicant) Located in New York, New York

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document provides notice of the pendency before the Department of Labor (the Department) of a proposed individual exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code). If this proposed exemption is granted, certain entities with specified relationships to Goldman Sacs will not be precluded from relying on the exemptive relief provided by Prohibited Transaction Class Exemption 84–14.

DATES: If granted, this proposed exemption will be in effect for five years beginning on the Conviction Date. Written comments and requests for a public hearing on the proposed exemption should be submitted to the Department by February 10, 2021.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, U.S. Department of Labor, 200 Constitution Avenue NW, Suite 400, Washington, DC 20210, Attention: Application No. D–12030 or via private delivery service or courier to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, U.S. Department of Labor, 122 C St. NW, Suite 400, Washington, DC 20001. Attention: Application No. D–12030. Interested persons may also submit comments and/or hearing requests to EBSA via email to *e-OED@dol.gov* or by FAX to (202) 693–8474, or online through *http://www.regulations.gov.* Any such comments or requests should be sent by the end of the scheduled comment period. The application for exemption and the comments received will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1515, 200 Constitution Avenue NW, Washington, DC 20210. See **SUPPLEMENTARY INFORMATION** below for additional information regarding comments.

FOR FURTHER INFORMATION CONTACT: Joseph Brennan of the Department at (202) 693–8456. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Comments: Comments should state the nature of the person's interest in the proposed exemption and the manner in which the person would be adversely affected by the exemption, if granted. Any person who may be adversely affected by an exemption can request a hearing on the exemption. A request for a hearing must state: (1) The name, address, telephone number, and email address of the person making the request; (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption; and (3) a statement of the issues to be addressed and a general description of the evidence to be presented at the hearing. The Department will grant a request for a hearing made in accordance with the requirements above where a hearing is necessary to fully explore material factual issues identified by the person requesting the hearing. A notice of such hearing shall be published by the Department in the **Federal Register**. The Department may decline to hold a hearing if: (1) The request for the hearing does not meet the requirements above; (2) the only issues identified for exploration at the hearing are matters of law; or (3) the factual issues identified can be fully explored through the submission of evidence in written (including electronic) form.

Warning: All comments received will be included in the public record without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential or other information whose disclosure is restricted by statute. If you submit a comment, EBSA recommends that you include your name and other contact information in the body of your comment, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as Social Security number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. However, if EBSA cannot read your comment due to technical difficulties and cannot contact you for clarification, EBSA might not be able to consider your comment. Additionally, the *http://www.regulations.gov* website is an ''anonymous access'' system, which means EBSA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to EBSA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the internet.

Background: The Department is considering granting an exemption under the authority of 408(a) of the Act and section 4975(c)(2) of the Code, in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76 FR 46637, 66644, October 27, 2011).[1] If the proposed exemption is granted, the Goldman Sachs Affiliated QPAMs and the Goldman Sachs Related QPAMs, as defined below, will not be precluded from relying on the exemptive relief provided by Prohibited Transaction Class Exemption 84–14 (PTE 84–14 or the QPAM Exemption),[2] notwithstanding the judgment of conviction against Goldman Sachs (Malaysia) Sdn. Bhd. (Goldman Sachs Malaysia), an indirect, wholly-owned subsidiary of Goldman (the Goldman Sachs Malaysia FCPA Conviction),[3] for conspiracy to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977 (FCPA). This proposed exemption will be effective for a period of up to five (5) years, beginning on the date a judgment of conviction against Goldman Sachs Malaysia, in Cr. No. 20–438 (MKB), is entered in the United States District Court for the Eastern District of New York (the Conviction Date), provided that the conditions set out below in Section I are satisfied.

[1] For purposes of this proposed exemption reference to specific provisions of Title I of the Act, unless otherwise specified, should be read to refer as well to the corresponding provisions of the Code.

[2] 49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430 (October 10, 1985), as amended at 70 FR 49305 (August 23, 2005), and as amended at 75 FR 38837 (July 6, 2010).

[3] Section I(g) of PTE 84–14 generally provides that ''[n]either the QPAM nor any affiliate thereof . . . nor any owner . . . of a 5 percent or more interest in the QPAM is a person who within the 10 years immediately preceding the transaction has been either convicted or released from imprisonment, whichever is later, as a result of'' certain felonies including violation of the Sherman Antitrust Act, Title 15 United States Code, Section 1.

Summary of Facts and Representations [4]

The Applicant

1. The Goldman Sachs Group, Inc. (Goldman) is a global investment banking, securities and investment management firm with approximately 36,000 employees and offices in over 30 countries. Goldman has a number of affiliated asset managers, including: The Goldman Sachs Trust Company, N.A.; Goldman Sachs Bank USA; Goldman Sachs & Co. LLC; Goldman Sachs Asset Management, L.P.; Goldman Sachs Asset Management International; Goldman Sachs Hedge Fund Strategies LLC; GS Investment Strategies, LLC; GSAM Stable Value, LLC; The Ayco Company, L.P.; Aptitude Investment Management LP; Rocaton Investment Advisors, LLC; United Capital Financial Advisers, LLC; and PFE Advisors, Inc. (together, the Goldman Sachs Affiliated QPAMs). Goldman may be related to, but does not own a controlling interest in, a number of other asset managers. Similarly, Goldman Sachs Malaysia may be related to, but does not own a controlling interest in, a number of other asset managers (the Goldman Sachs Related QPAMs).

2. The Goldman affiliated asset managers' clients include plans subject to Part IV of Title I of ERISA and plans subject to section 4975 of the Code, with respect to which the Goldman Sachs Affiliated QPAMs rely on PTE 84–14, or with respect to which the Goldman Sachs Affiliated QPAMs (or a Goldman Sachs affiliate) have expressly represented that the managers qualify as a QPAM or rely on the QPAM Exemption.[5] These plans are hereinafter referred to as Covered Plans.

Relevant ERISA Provisions and PTE 84–14

3. The rules set forth in section 406 of ERISA and section 4975(c)(1) of the Code proscribe certain ''prohibited transactions'' between plans and related parties with respect to those plans. Under ERISA, such parties are known as ''parties in interest.'' Under section 3(14) of ERISA, parties in interest with respect to a plan include, among others, the plan fiduciary, a sponsoring employer of the plan, a union whose members are covered by the plan, service providers with respect to the plan, and certain of their affiliates.[6]

4. The prohibited transaction provisions under section 406(a) of ERISA and 4975(c)(1) of the Code prohibit, in relevant part, sales, leases, loans or the provision of services between a party in interest and a plan (or an entity whose assets are deemed to constitute the assets of a plan), as well as the use of plan assets by or for the benefit of, or a transfer of plan assets to, a party in interest.[7] Under the authority of section 408(a) of ERISA and section 4975(c)(2) of the Code, the Department has the authority to grant exemptions from such ''prohibited transactions'' in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011).

5. PTE 84–14 reflects the Department's conclusion that it could provide broad relief from the prohibited transaction provisions of section 406(a) of ERISA and 4975(c)(1) of the Code, in the circumstances set forth in that exemption, only if the commitments and the investments of plan assets, and the negotiations leading thereto, are the sole responsibility of an independent, discretionary manager.

6. Section I(g) of PTE 84–14 prevents an entity that may otherwise meet the definition of a QPAM from utilizing the exemptive relief provided by PTE 84–14, for itself and its client plans, if that entity or an ''affiliate'' [8] thereof or any owner, direct or indirect, of a 5 percent or more interest in the QPAM has, within 10 years immediately preceding the transaction, been either convicted or released from imprisonment, whichever is later, as a result of criminal activity described in that section.

7. The inclusion of Section I(g) in PTE 84–14 is, in part, based on an expectation that QPAMs will maintain a high standard of integrity. This expectation extends not only to the QPAM itself, but also to those who may be in a position to influence the policies of the QPAM.

Goldman Sachs Malaysia FCPA Conviction

8. On October 21, 2020, Goldman Sachs Malaysia entered a guilty plea for conspiracy to commit offenses against the United States, in violation of the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977 (FCPA). The following day, the District Court for the Eastern District of New York accepted Goldman Sachs Malaysia's guilty plea Goldman Sachs Malaysia FCPA Conviction. For purposes of Section I(g) of PTE 84–14, the date Goldman is sentenced is the Conviction Date. Therefore Goldman Sachs (Malaysia) Sdn. Bhd. (Goldman Sachs Malaysia), and the Goldman Sachs Affiliated and Related QPAMs will no longer be able to rely on the relief provided by PTE 84–14 as of the date of Goldman Sachs Malaysia's sentencing.

Statement of Facts That Served as the Basis for the Plea Agreement

9. According to the Plea Agreement's Statement of Facts,[9] between 2009 and 2014, Goldman, together with several of its wholly-owned subsidiaries and affiliated entities,[10] through certain of its agents and employees including Tim Leissner and Roger Ng, knowingly and willfully conspired and agreed with others to corruptly provide payments and things of value to, or for the benefit of, certain foreign officials and their relatives. The purpose of these payments was to induce those foreign officials to influence the decisions of 1Malaysia Development Berhad (1MDB), a strategic investment and development company wholly owned by the Government of Malaysia through its Ministry of Finance; International Petroleum Investment Company (IPIC), an investment fund wholly owned by the Government of Abu Dhabi; and Aabar Investments PJS (Aabar), a subsidiary of IPIC, to obtain and retain business for Goldman, including in positions as an advisor to 1MDB on the acquisitions of Malaysian energy assets,

[4] The Summary of Facts and Representations is based on the Applicant's representations, unless indicated otherwise.

[5] 49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430 (October 10, 1985), as amended at 70 FR 49305 (August 23, 2005), and as amended at 75 FR 38837 (July 6, 2010).

[6] Under the Code such parties, or similar parties, are referred to as ''disqualified persons.''

[7] The prohibited transaction provisions also include certain fiduciary prohibited transactions under section 406(b) of ERISA and 4975(c)(1)(E) and (F) of the Code. These include transactions involving fiduciary self-dealing, fiduciary conflicts of interest, and kickbacks to fiduciaries. PTE 84–14 provides only very narrow conditional relief for transactions described in Section 406(b) of ERISA.

[8] Section VI(d) of PTE 84–14 defines the term ''affiliate'' for purposes of Section I(g) as ''(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person, (2) Any director of, relative of, or partner in, any such person, (3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a 5 percent or more partner or owner, and (4) Any employee or officer of the person who—(A) Is a highly compensated employee (as defined in Section 4975(e)(2)(H) of the Code) or officer (earning 10 percent or more of the yearly wages of such person), or (B) Has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.''

[9] Plea Agreement entered into between the United States of America, by and through the United States Department of Justice, Criminal Division, Fraud Section and Money Laundering and Asset Recovery Section, and the United States Attorney's Office for the Eastern District of New York and Goldman Sachs (Malaysia) Sdn. Bhd., Cr. No. 20–438 (MKB), filed Oct. 21, 2020.

[10] Goldman Sachs (Malaysia) Sdn. Bhd, Goldman Sachs (Singapore) Pte., Goldman Sachs International, Goldman Sachs Bank USA, Goldman Sachs & Co. L.L.C. and Goldman Sachs (Asia) L.L.C.

as underwriter of the 1MDB bonds, and as underwriter of certain other 1MDB business, including the contemplated initial public offering of 1MDB's Malaysian energy assets (the Goldman Sachs Malaysia FCPA Misconduct).

10. Tim Leissner (Leissner) was employed by Goldman between 1998 and 2016, and was a Participating Managing Director between November 2006 and February 2016. Additionally, he held various senior positions in Goldman's Investment Banking Division in Asia between 2011 and 2016, including Chairman of Southeast Asia, a region that included Malaysia, between July 2014 and February 2016, and he served on the Board of Directors for Goldman Malaysia. Leissner's job included obtaining and executing business for Goldman.[11]

Ng Chong Hwa, also known as ''Roger Ng'' (Ng), was employed by various Goldman subsidiaries between 2005 and 2014, including Goldman Malaysia. Between April 2010 and May 2014, Ng was a Managing Director of Goldman. For part of that time, Ng served as Head of Investment Banking and on the Board of Directors for Goldman Malaysia, and was then employed by another Goldman subsidiary in Malaysia.

11. The bribes resulted in Goldman being engaged on, among other projects, three bond offerings that were related to 1MDB's energy acquisitions and that raised a total of approximately $6.5 billion for 1MDB in 2012 and 2013. The bribes were also intended to help Goldman secure a role on an anticipated IPO with respect to 1MDB's energy acquisitions. These three bond offerings and a related acquisition, along with a transaction involving Jho Low (Low) and IPIC, ultimately earned Goldman in excess of $600 million in fees and revenue across its divisions, and increased Goldman's stature in Southeast Asia. The parties made payments and communications in furtherance of the scheme by wire.

12. Pursuant to Goldman's internal accounting controls, each 1MDB bond transaction required Goldman management's general and specific authorization. Moreover, because Goldman initially purchased the full value of each bond from 1MDB using Goldman's assets, the transactions had to be authorized and properly recorded in accordance with Goldman's procedures. Goldman's internal accounting controls included the Firmwide Capital Committee (FWCC), which Goldman's Chief Executive Officer authorized to provide global oversight and approval of bond transactions, including those transactions in which Goldman used its own assets to purchase financial instruments, such as the 1MDB bonds. Goldman's internal accounting controls also included approval of the bonds by Goldman's Business Intelligence Group and Compliance Group, both of which were represented on the FWCC.[12]

13. As detailed in the Plea Agreement's Statement of Facts, Low, an individual known to have relationships with high-ranking officials in Malaysia and Abu Dhabi, and whom Goldman had rejected as a client multiple times because of his unexplained source of wealth, conspired with Leissner and Ng to facilitate the bribery scheme. Despite the rejections, Leissner, Ng and others at Goldman continued their relationship with Low and used him to obtain and retain business for Goldman from 1MDB and others. Between 2012 and 2013, Leissner, Ng, Employee 1 and other Goldman employees worked with Low to help 1MDB raise more than $6.5 billion through three separate bond offering transactions, referred to internally at Goldman as ''Project Magnolia,'' ''Project Maximus'' and ''Project Catalyze,'' respectively. Employee 1 served as a Goldman participating managing director between October 2007 and November 2018 and, during the relevant time period, held various leadership positions in Goldman's Asia operations.

14. Leissner, Ng and Employee 1 used Low's connections within the Governments of Malaysia and Abu Dhabi to obtain and retain this and other business for Goldman and, in turn, concealed Low's involvement in the deals from certain employees and agents of Goldman. In total, Goldman conspired to provide approximately $1.6077 billion to, or for the benefit of, foreign officials and their relatives. Approximately $18.1 million was paid from accounts controlled by Leissner.

15. Certain of Goldman's employees and agents, including Leissner, Ng and Employee 1, circumvented Goldman's internal accounting and other controls, and other Goldman employees and agents responsible for implementing Goldman's internal accounting controls failed to do so in connection with the 1MDB bond deals. Specifically, although employees serving in Goldman's compliance control functions (*i.e.,* the parts of Goldman Sachs responsible for overseeing and enforcing Goldman Sachs' compliance with rules designed to ensure that no improper transactions have or will occur) knew that any transaction involving Low posed a significant risk, and although they were on notice that he was involved in the transactions, they did not take reasonable steps to prevent his involvement. Additionally, there were significant red flags raised during the due diligence process and afterward, including, but not limited to, Low's involvement in the deals, that were either ignored or only nominally addressed so that the transactions would be approved and Goldman could continue to do business with 1MDB.

16. In February 2012, 1MDB engaged Goldman as its financial advisor for its anticipated purchase of a Malaysian energy company (Malaysian Energy Company A) through a bond transaction. Low helped secure Goldman's role in assisting 1MDB in its pursuit of Malaysian Energy Company A. In early 2012, Leissner, Ng, Low and 1MDB officials met in Malaysia to discuss obtaining a guarantee from IPIC to Goldman, which would purchase all of the bonds initially and then sell the bonds to other investors. It is the Department's understanding that the guarantee was designed to ensure that Goldman was protected in the event the bonds dropped in price between the time the bonds were issued and the time the bonds were sold to investors.

17. In February 2012, Leissner and Ng traveled to London to meet with Low and others to discuss the proposed bond transaction. Leissner and Ng expended Goldman resources on their travel to London. At that meeting, Low explained that government officials from Abu Dhabi and Malaysia would have to be bribed to obtain the guarantee from IPIC and get the necessary approvals from Malaysia and 1MDB. Low advised that a high-ranking official of IPIC and a Malaysian official would have to be paid the largest bribes to approve the transaction, and that other lower-level officials would need to be bribed as well. Subsequently, Leissner and Ng each separately informed Employee 1 about the discussion on bribing foreign officials.

18. Meanwhile, although employees within Goldman's control functions

[11] To the Department's knowledge, on numerous occasions, the timing of Goldman's misconduct is uncertain. Therefore, the dates herein regarding their misconduct are approximate.

[12] According to the U.S. Securities and Exchange Commission's Order Instituting Cease-and-Desist Proceedings In the Matter of the Goldman Sachs Group Inc. (Administrative Proceeding File No. 3–20132), Goldman had a general anti-corruption policy, including both a written Statement of Principles Regarding Anti-Bribery and related policies and procedures (collectively, the Anti-Bribery Policy) applicable to all employees that expressly prohibited improper payments to government officials intended to obtain or retain business for the company. Goldman's Anti-Bribery Policy was overseen and enforced by its compliance function (the Compliance Group) and its Business Intelligence Group.

suspected that Low may be involved in the deal, the only step taken by the control functions to investigate that suspicion was to ask members of the deal team whether Low was involved and to accept their denials without reasonable confirmation. For example, during a telephone call in March 2012, a high-ranking employee in the Business Intelligence Group (BIG), who was a managing director, voiced suspicions that Low was involved in Project Magnolia. During this call, Leissner denied that Low was involved. Similarly, on April 3, 2012, the day before a FWCC meeting to discuss Project Magnolia, a high-ranking executive in BIG, who was also an advisor to the FWCC, emailed other members of BIG that ''Leissner said Jho Low not involved at all in deal as far as he [is] aware but that Low was present when Leissner met an IPIC in Abu Dhabi.''

19. On April 4, 2012, Goldman executives in New York participated in an FWCC meeting by phone. During this meeting, Leissner was asked whether Low was involved in Project Magnolia and Leissner said that, other than arranging a meeting between Leissner and IPIC Official 1, Low was not involved. Goldman's compliance control functions accepted the statements of the deal team members about Low's involvement at face value, rather than taking additional steps that Goldman's compliance control functions took in other deals, such as reviewing the electronic communications of members of the deal team to look for evidence of Low's involvement. Had Goldman conducted a review of Leissner's electronic communications at this time, it would have discovered multiple messages linking Low to, among others, the bond deal, 1MDB officials, Malaysian officials and Abu Dhabi officials, as well as the use of personal email addresses by Leissner and Ng to discuss Goldman business.

20. On May 16, 2012, Goldman's committees approved Project Magnolia and on May 21, 2012, the $1.75 billion bond issuance closed. Goldman purchased the entire bond issuance from 1MDB. On May 22, 2012, Goldman caused approximately $907,500,000 in proceeds from Project Magnolia to be wired to a 1MDB subsidiary, through a correspondent bank account in New York, New York. Goldman booked approximately $192,500,000 in fees for this bond transaction and an additional approximately $16,800,000 in fees for advising on the acquisition of Malaysian Energy Company A. Low and others subsequently caused multiple transfers of funds from the proceeds of Project Magnolia to various shell companies.

21. Within weeks of closing Project Magnolia, in May 2012, 1MDB sought assistance from Goldman to purchase a second Malaysian energy company (Malaysian Energy Company B) and to issue a bond to raise funds for the acquisition. In August 2012, 1MDB agreed to purchase Malaysian Energy Company B for approximately $814 million and planned to finance the purchase with another $1.75 billion bond guaranteed indirectly by IPIC.

22. Once again, Goldman's compliance control functions simply accepted at face value the representations of the deal team members and failed to further investigate Low's suspected involvement in this bond deal. For example, on June 20, 2012, a member of Goldman's control functions asked members of the deal team, ''Is Jho Low involve[d] in this transaction? Please also keep us posted if there are any other politically exposed person involve[d] in this transaction in a non-official capacity.'' A deal team member responded ''no.''

23. Additionally, on October 10, 2012, in response to committee questions, Leissner told a firmwide committee that neither Low nor any intermediary was involved in Project Maximus. Despite their continued concern, as evidenced by their repeated questions, Goldman's compliance control functions did not engage in electronic surveillance of Leissner's correspondence or activities to determine whether Low was involved in the deal.

24. Goldman's continued compliance control failures were further compounded when Goldman ignored additional red flags raised by Project Maximus, including that 1MDB was seeking to raise additional funds within a few months of raising $1.75 billion through Project Magnolia without having utilized the full amount from that deal, and was also seeking to raise far more than was needed to acquire Malaysian Energy Company B. Goldman's compliance control functions also failed to verify how Project Magnolia's proceeds were used.

25. Project Maximus closed on October 19, 2012, and Goldman purchased the entire bond issuance from 1MDB. On October 19, 2012, Goldman caused approximately $1.64 billion to be transferred by wire through correspondent accounts in the United States to another 1MDB subsidiary. Goldman booked approximately $110,000,000 in fees in connection with Project Maximus. Further, Low and others caused multiple transfers of funds from the proceeds of Project Maximus to a number of different shell companies.

26. In November 2012, almost immediately after Project Maximus closed, Leissner and Low began working on another bond issuance known as Project Catalyze that was purportedly intended to fund 1MDB's portion of a joint venture with Aabar. Ultimately, Goldman underwrote this third bond issuance that raised an additional $3 billion for 1MDB with Goldman acting as arranger and underwriter.

27. Goldman's compliance control functions had continuing suspicions that Low was working on the Project Catalyze bond deal. Once again, however, the compliance control functions relied solely on the deal team members' denials of Low's involvement without any further scrutiny. On April 24, 2013, a senior Goldman executive who was a member of Goldman's approval committee located in New York, New York, emailed Leissner about ''1MDB,'' asking: ''Is there a story circulating about an intermediary on the Magnolia trades??'' Leissner responded, ''Not that I am aware of . . . There definitely was no intermediary on any of the trades. The blogs in Malaysia always try to link a young Chinese business man [sic], Jho Low, to 1MDB. That is not the case other than he was an advisor alongside other prominent figures to the King of Malaysia at the time of the creation of 1MDB.'' There was no follow-up by Goldman's compliance control functions about Low.

28. Goldman also failed to address other red flags that were raised by the proposed $3 billion transaction, including, 1MDB raising large sums of money with no identified use of proceeds within months of Project Magnolia and Project Maximus, and Goldman's failure to verify use of past bond proceeds.

29. Goldman's committees nevertheless approved Project Catalyze on March 13, 2013, and the proceeds from Project Catalyze were issued on March 19, 2013. Goldman purchased the entire bond issuance from 1MDB and booked approximately $279,000,000 in fees on Project Catalyze.

30. Low and Leissner continued to pay bribes to government officials from the bond proceeds. On March 19, 2013, Goldman transferred via wire from and through the United States approximately $2.7 billion from Project Catalyze to an account for another 1MDB subsidiary (1MDB Subsidiary 3) at Foreign Financial Institution A. Subsequently, Low caused approximately $1,440,188,045 to be

transferred through a series of pass-through accounts to accounts beneficially owned or controlled by Low and Individual 1. Low then directed multiple transfers to various government officials.

31. After the bond deals were completed, in and between March 2013 and February 2016, additional red flags were raised in the press and on internal phone calls among Goldman's employees and executives about Low's involvement in the deals and the possible payment of bribes in connection with the deals. Goldman failed to investigate these red flags or to perform an internal review of its role in the bond deals despite the clear implication that the deals had involved criminal wrongdoing. Further, high ranking employees of Goldman failed to escalate concerns about bribery and other criminal conduct related to the bond deals pursuant to Goldman's escalation policy, which required any Goldman employee who became aware of any conduct that could raise, among other things, ''a legal, compliance, reputational, ethical, accounting, [or] internal accounting control'' issue, to report such conduct immediately to a supervisor and to Goldman's compliance control functions.

32. In May 2013, a Goldman participating managing director (Employee 3) who had been involved in the 1MDB deals, discussed the deals in a series of phone calls with Goldman senior executives that were recorded on Goldman phone lines. For example, on May 8, 2013, Employee 3 called a senior Goldman executive about, among other things, Project Catalyze. Employee 3 stated, ''the main reason for the delay for [IPIC] not having funded their three billion into the JV with 1MDB is [Abu Dhabi Official 1] is trying to get something on the side in his pocket.'' He continued later, ''I think it's quite disturbing to have come across this piece of information . . . .'' The senior Goldman executive replied, ''What's disturbing about that? It's nothing new, is it?'' In response, Employee 3 agreed that the situation was nothing new. Employee 3 had at least one substantially similar phone conversation with at least one other senior Goldman executive.

33. Subsequently, in May 2015 and again in October 2015, amid negative media reporting linking Low with the 1MDB bond deals and Malaysian Official 1, Goldman executives and employees discussed Low's involvement in the 1MDB deals. For example, on a recorded call on October 13, 2015, Employee 3 told the senior Goldman executive that a senior IPIC officer had informed his subordinate that ''there are a number of key people who are involved in, let's call it the situation. [Abu Dhabi Official 1] is one. Jho Low for sure. He thinks Jho Low is the leader of the pack. And he has a very strong view that [Leissner] is involved.'' The compliance control functions never took steps to address these red flags.

34. There were also subsequent emails and recorded phone calls between Employee 3 and senior Goldman executives in the compliance control functions about the disparity between how due diligence and risk issues were handled on various deals. In particular, they discussed the unusual latitude granted to certain employees, such as Leissner and Employee 1.

35. For example, in January 2016, on a recorded call between Employee 2, who had been involved in BIG's review of each of the relevant transactions, and Employee 3, they discussed, among other things, Leissner's conduct, including Leissner's false statements that Low was not involved in the 1MDB deals. Employee 2 then noted that there were several similarly ''problematic'' people from a compliance perspective at Goldman, and Employee 3 agreed, immediately mentioning Employee 1 as an example of a ''problematic'' person. Employee 3 also noted the ''double standard'' between the minor repercussions meted out to favored employees like Leissner and Employee 1 when they got caught trying to circumvent the compliance control functions, and the more serious repercussions to other, less favored employees who engaged in similar behavior. Employee 2 agreed, stating, ''Yes, double standard, and it looks stupid.'' In the course of the call, Employee 2 also noted that Leissner's email communications had been searched as part of an internal investigation into a separate incident involving the use of an intermediary that occurred subsequent to the 1MDB deals, which Employee 2 stated ''seems to me should have been done ages ago.'' Employee 3 similarly discussed on a recorded call in February 2016 with a high-ranking employee in compliance, who was a managing director, how repercussions for compliance control function violations varied radically between deals.

Exemption Request

36. On October 15, 2020, the Applicant filed an exemption request for Goldman Sachs Affiliated QPAMs and Goldman Sachs Related QPAMs to continue to rely on PTE 84–14, notwithstanding the Goldman Sachs Malaysia FCPA Conviction they expected would be entered against Goldman Sachs Malaysia. As noted above, Section I(g) of PTE 84–14 prevents an entity that may otherwise meet the definition of a QPAM from utilizing the exemptive relief provided by PTE 84–14, if that entity or an ''affiliate'' thereof or any owner, direct or indirect, of a 5 percent or more interest in the QPAM has, within 10 years immediately preceding the transaction, been convicted as a result of criminal activity described in that section. Since the Goldman Sachs Affiliated QPAMs are affiliated with Goldman Sachs Malaysia as defined in PTE 84–14, the Goldman Sachs Affiliated QPAMs will no longer be able to rely on the relief provided by PTE 84–14 following the Conviction Date. Further, since Goldman Sachs Malaysia may own five or more percent of an asset manager that is not otherwise affiliated with Goldman Sachs Malaysia (*i.e.,* a Goldman Sachs Related QPAM), the Goldman Sachs Related QPAMs will no longer be able to rely on the relief provided by PTE 84–14 following the Conviction Date.[13]

The Applicant represents that the exemption will enable the Covered Plans to continue their current investment strategy with their current investment manager or trustee. According to the Applicant, if the Department denies the requested exemption, Covered Plans could decide to find other managers, at significant costs to them. The Applicant states that many of the assets of the Covered Plan accounts could be difficult to transition, and the interruption of certain investment strategies, such as stable value, could create significant disruption and liquidation costs for Covered Plans with assets invested in those strategies.

37. The Applicant represents that disqualification from PTE 84–14 would deprive Covered Plans of the investment management services (some of which are highly specialized) that these plans expected to receive when they appointed the Goldman Sachs Affiliated or Related Asset Manager, and could result in the termination of relationships that the fiduciaries of the plans have

[13] The Department notes that this proposed exemption requires each Goldman Sachs Affiliated QPAM to immediately develop, maintain, implement, and follow written policies and procedures (the Policies). The Policies must require, and must be reasonably designed to ensure, that, among other things: The asset management decisions of the Goldman Sachs Affiliated QPAM are conducted independently of Goldman's corporate management and business activities, and the corporate management and business activities of Goldman Sachs Malaysia.

determined to be in the best interests of the plans.

38. The Applicant represents that, with respect to many Covered Plan transactions, virtually every counterparty to a Covered Plan may be a service provider to that Covered Plan. Transactions between the Covered Plan and the party-in-interest service provider would be prohibited under one or more provisions of Section 406 of ERISA, absent an exemption. The Applicant states that, because counterparties are comfortable with the QPAM Exemption, it is generally the most commonly used prohibited transaction exemption. The Applicant represents further that, with respect to a potential transaction between a Covered Plan and a counterparty, the counterparty may provide less advantageous pricing with respect to the transaction, or may not bid at all, if the Covered Plan's investment manager is not a QPAM, and various strategies in which Covered Plans are managed may depend significantly on the QPAM Exemption.

39. The Applicant represents that it would be disruptive and expensive to cause plan fiduciaries to reconsider their arrangements with their chosen investment manager because of uncertainties relating to the QPAM Exemption. This uncertainty, according to the Applicant, could disrupt certain investment strategies and could result in significant redemptions from pooled funds, which would frustrate efforts to effectively manage the pooled funds' assets, harm remaining plan investors, and increase the expense ratios of the investment funds.

Applicant's Request for an Exemption With a Ten-Year Duration

40. In its exemption request, the Applicant seeks a ten-year exemption term. The Department has determined that, given the magnitude, gravity, duration and pervasiveness of the Goldman Sachs Malaysia FCPA Misconduct, along with numerous Goldman compliance control failures associated with the Goldman Sachs Malaysia FCPA Misconduct, limiting relief to five years would be in the interest of, and provide more adequate protection for, the Covered Plans. If the Applicant seeks additional exemptive relief, it can submit a new exemption request before the end of this exemption's five year term, if granted. At that time, the Department will review the application, the audit reports required by this exemption, and other information it deems necessary to determine whether additional relief is warranted.

Other Changes Sought by the Applicant

41. The Department's most recent QPAM Section I(g) individual exemptions contain conditions that are substantially similar to the conditions set forth in this proposed exemption.[14] These conditions were carefully designed, after consideration of comments from the public, including the applicants to those exemptions, to protect Covered Plans. As part of its exemption request, the Applicant requested numerous changes to those conditions. Except as described below, the Department declines to make the Applicant's requested changes. The Applicant did not demonstrate that the requested revisions would be in the interest of, or sufficiently protective of, Covered Plans. The Department believes that the proposed revisions would generally weaken important Covered Plan protections.[15]

Conditions

42. In developing administrative exemptions under Section 408(a) of ERISA, the Department implements its statutory directive to grant only exemptions that are appropriately protective of, and in the interest of, affected plans and IRAs. The Department is proposing this exemption with a number of protective conditions that would protect Covered Plans (and their participants and beneficiaries) and allow them to continue to utilize the services of the Goldman Sachs Affiliated and Related QPAMs. If this proposed exemption is granted as proposed, it would allow these Covered Plans to avoid the costs and expenses that may arise if such plans and IRAs are forced on short notice to hire a different QPAM because the Goldman asset managers are no longer able to rely on the relief provided by PTE 84–14, due to the Goldman Sachs Malaysia FCPA Conviction.

43. It is a material condition of this exemption that, with the exception of one individual who worked in a non-fiduciary business within a Goldman Sachs Affiliated QPAM, and who had no responsibility for, and exercised no authority in connection with, the management of plan assets, the Goldman Sachs Affiliated QPAMs and Goldman Sachs Related QPAMs: (a) Did not know of, did not have reason to know of, and the Goldman Sachs Malaysia FCPA Misconduct; and (b) did not receive direct compensation, or knowingly receive indirect compensation, in connection with the Goldman Sachs Malaysia FCPA Misconduct.[16]

44. The protective conditions in this proposed exemption include a requirement that the fiduciary and asset management functions of the Goldman Sachs Affiliated QPAMs must, at all times, remain isolated from the Goldman Sachs Malaysia FCPA Misconduct that underlies the Goldman Sachs Malaysia FCPA Conviction. Further, under the proposed exemption's conditions, Goldman Sachs Affiliated QPAMs may not employ or knowingly engage any of the individuals who participated in the Goldman Sachs Malaysia FCPA Misconduct.

45. This proposed exemption requires that no Goldman Sachs Affiliated QPAM may use its authority or influence to direct an ''investment fund'' (as defined in Section VI(b) of PTE 84–14) that is subject to ERISA or the Code to enter into any transaction with Goldman Sachs Malaysia, or to engage Goldman Sachs Malaysia to provide any service to such investment fund, regardless of whether such transaction or service may otherwise be within the scope of relief provided by an administrative or statutory exemption. Other than with respect to

[14] See PTE 2017–03, 82 FR 61816 (December 29, 2017); PTE 2017–04, 82 FR 61840 (December 29, 2017); PTE 2017–05, 82 FR 61864 (December 29, 2017); PTE 2017–06, 82 FR 61881 (December 29, 2017); PTE 2017.

[15] For example, ''(b)ecause GS Malaysia does not exercise (and would not exercise) any control over the GS Related QPAMs,'' the Applicant requested that the Goldman Sachs Related QPAMs receive a ten-year exemption, subject only to the conditions that they did not know of or participate in the Goldman Sachs Malaysia FCPA Conduct, and did not receive compensation as a result of that conduct. Granting this request would permit the Goldman Sachs Related QPAMs to be subject to fewer conditions than those set forth in the Department's prior exemptions involving Section I(g) criminal convictions for entities related by direct or indirect 5% ownership, including that: Any failure of the Goldman Sachs Related QPAMs to satisfy Section I(g) of PTE 84–14 arose solely from the Goldman Sachs Malaysia FCPA Conviction; and the Goldman Sachs Related QPAMs did not exercise authority over the assets of any ERISA-covered plan or IRA in a manner that it knew or should have known would further the criminal conduct that is the subject of the Goldman Sachs Malaysia FCPA Conviction, or cause the relevant Related QPAM or its affiliates to directly or indirectly profit from the criminal conduct that is the subject of the Goldman Sachs Malaysia FCPA Conviction. The Department notes that the conditions above are consistent with the Department's prior QPAM Section I(g) exemptions, the Applicant's representations, and the Department's understanding of the facts that gave rise to the Goldman Sachs Malaysia FCPA Conviction. Accordingly, the proposed exemption includes these additional conditions with respect to Goldman Sachs Related QPAMs.

[16] For the purposes of this proposed exemption, ''participate in'' refers not only to active participation in the Goldman Sachs Malaysia FCPA Misconduct, but also to knowing approval of, or knowledge of the conduct without taking active steps to prevent the Goldman Sachs Malaysia FCPA Misconduct.

employee benefit plans maintained or sponsored for its own employees or the employees of an affiliate, Goldman Sachs Malaysia will not act as a fiduciary within the meaning of section 3(21)(A)(i) or (iii) of ERISA, or section 4975(e)(3)(A) and (C) of the Code, with respect to ERISA-covered plan and IRA assets.

46. Each Goldman Sachs Affiliated QPAM must develop, implement and maintain written policies and procedures (the Policies) that are reasonably designed to ensure: (a) That the asset management decisions of the Goldman Sachs Affiliated QPAMs are conducted independently of Goldman and Goldman Sachs Malaysia's corporate management and business activities; (b) that the Goldman Sachs Affiliated QPAMs fully comply with ERISA's fiduciary duties, and with ERISA's and the Code's prohibited transaction provisions; (c) that the Goldman Sachs Affiliated QPAMs do not knowingly participate in any other person's violation of ERISA or the Code with respect to Covered Plans; (d) that any filings or statements made by the Goldman Sachs Affiliated QPAMs to regulators on behalf of, or in relation to, Covered Plans are materially accurate and complete; (e) that the Goldman Sachs Affiliated QPAMs do not make material misrepresentations or omit material information in their communications with such regulators, or in their communications with Covered Plans; and (f) that the Goldman Sachs Affiliated QPAMs comply with the terms of the exemption.

47. This proposed exemption requires each Goldman Sachs Affiliated QPAM to develop, implement and maintain a program of training (the Training), to be conducted at least annually, for all relevant asset/portfolio management, trading, legal, compliance, and internal audit personnel. This required Training must, at a minimum, cover the Policies, ERISA and Code compliance, ethical conduct, the consequences for not complying with the conditions described in this proposal, and the requirement for prompt reporting of wrongdoing.

48. This proposed exemption requires that each Goldman Sachs Affiliated QPAM submit to three audits, conducted by an independent auditor, to evaluate the adequacy of and compliance with, the Policies and Training required by the exemption, as described below. The independent auditor must be prudently selected and have appropriate technical training and proficiency with ERISA and the Code to perform the tasks required by the exemption. The Goldman Sachs Affiliated QPAMs must grant the auditor unconditional access to their business, and the auditor's engagement must specifically require the auditor to test each Goldman Sachs Affiliated QPAM's operational compliance with the Policies and Training.

49. The independent auditor must issue a written audit report (the Audit Report) to Goldman and the Goldman Sachs Affiliated QPAM to which the audit applies, that describes the procedures performed by the auditor in connection with its examination. Further, the Goldman Sachs Affiliated QPAMs must promptly address any identified noncompliance, and must promptly address or prepare a written plan of action to address any determination as to the adequacy of the Policies and Training and the auditor's recommendations, if any, with respect to strengthening the Policies and Training of the respective Goldman Sachs Affiliated QPAM.

50. This proposed exemption further requires that the General Counsel, or one of the three most senior executive officers of the Goldman Sachs Affiliated QPAM to which the Audit Report applies, certify in writing, under penalty of perjury, that the officer has reviewed the Audit Report and the exemption, if granted, and that the Goldman Sachs Affiliated QPAM has addressed, corrected, and remedied (or has an appropriate written plan to address) any identified instance of noncompliance or inadequacy regarding the Policies and Training identified in the Audit Report.

51. With respect to any arrangement, agreement, or contract between a Goldman Sachs Affiliated QPAM and a Covered Plan, this proposal requires the Goldman Sachs Affiliated QPAMs to agree and warrant: (a) To comply with ERISA and the Code, including the standards of prudence and loyalty set forth in section 404 of ERISA; (b) to refrain from engaging in prohibited transactions that are not otherwise exempt; (c) to indemnify and hold harmless the Covered Plan for any actual losses resulting directly from, among other things, the Goldman Sachs Affiliated QPAM's violation of ERISA's fiduciary duties; (d) with narrow exceptions, not to restrict the ability of such Covered Plan to terminate or withdraw from its arrangement with the Goldman Sachs Affiliated QPAM with respect to any investment in a separately managed account or pooled fund subject to ERISA and managed by such QPAM; (e) with narrow exceptions, not to impose any fees, penalties, or charges for such termination or withdrawal; and (f) not to include exculpatory provisions disclaiming or otherwise limiting the liability of the Goldman Sachs Affiliated QPAM for a violation of such agreement's terms.

52. Each Goldman Sachs Affiliated QPAM must provide a notice of its obligations under this exemption to each Covered Plan. Each Goldman Sachs Affiliated QPAM also must provide to each sponsor and beneficial owner of a Covered Plan a **Federal Register** copy of the notice of the exemption, a separate summary describing the facts that led to the Goldman Sachs Malaysia FCPA Conviction (the Summary), and a prominently displayed statement (the Statement) that the Goldman Sachs Malaysia FCPA Conviction results in a failure to meet a condition in PTE 84–14.

53. This proposed exemption requires Goldman to designate a senior compliance officer (the Compliance Officer) who will be responsible for compliance with the Policies and Training requirements described in this exemption. The Compliance Officer must conduct five reviews, one for each of the five consecutive twelve month periods that comprise the Exemption Period (the Exemption Review), to determine the adequacy and effectiveness of the implementation of the Policies and Training, and issue a written report (the Exemption Report) on the findings.

54. This proposal requires Goldman to impose internal procedures, controls, and protocols on Goldman Sachs Malaysia to reduce the likelihood of any recurrence of conduct that is the subject of the Goldman Sachs Malaysia FCPA Conviction.

Statutory Findings

55. Section 408(a) of ERISA provides, in part, that the Department may not grant an exemption unless the Department finds that the exemption is administratively feasible, in the interest of affected plans and of their participants and beneficiaries, and protective of the rights of such participants and beneficiaries. These criteria are discussed below.

56. "*Administratively Feasible.*" The Department has tentatively determined that the proposal is administratively feasible since, among other things, a qualified independent auditor will be required to perform an in-depth audit covering, among other things, each Goldman Sachs Affiliated QPAM's compliance with the terms of the exemption, and a corresponding written audit report will be provided to the Department and available to the public. The independent audit will provide an

incentive for compliance, while reducing the immediate need for review and oversight by the Department.

57. ''*In the interest of.*'' The Department has tentatively determined that the proposed exemption is in the interests of the participants and beneficiaries of affected Covered Plans. It is the Department's understanding, based on representations from the Applicant, that if the requested exemption is denied, Covered Plans could decide to find other managers, at significant costs to them. According to the Applicant, disqualification from PTE 84–14 would deprive the Covered Plans of the investment management services that these plans expected to receive when they appointed these managers, and could result in the termination of relationships that the fiduciaries of the Covered Plans have determined to be in the best interests of those plans.[17]

58. ''Protective of.'' The Department has tentatively determined that the proposed exemption is protective of the interests of the participants and beneficiaries of affected Covered Plans. As described above, the proposed exemption is subject to a suite of conditions including but not limited to: (a) The development and maintenance of the Policies; (b) the implementation of the Training; (c) a robust series of audits conducted by a qualified independent auditor; (d) the provision of certain agreements and warranties on the part of the Goldman Sachs Affiliated QPAMs; (e) specific notices and disclosures concerning the circumstances necessitating the need for exemptive relief, and the Goldman Sachs Affiliated QPAMS' obligations under this proposed exemption; and (f) the designation of a Compliance Officer with responsibility to ensure compliance with the Policies and Training requirements under this proposed exemption, and the Compliance Officer's completion of an annual Exemption Review and corresponding Exemption Report. Further, no person, including any person referenced in the Department of Justice's Statement of Facts that gave rise to the Plea Agreement, who knew of, or should have known of, or participated in, any misconduct described in the Statement of Facts, by any party, may be involved with various responsibilities required of Goldman by the exemption, unless the person took active documented steps to stop the misconduct.

59. Department's Notes: This proposed five-year exemption provides relief from certain of the restrictions set forth in sections 406 and 407 of ERISA. No relief or waiver of a violation of any other law is provided by the exemption. The relief in this proposed five-year exemption would terminate immediately if, among other things, an entity within the Goldman Sachs Malaysia corporate structure is convicted of any crime covered by Section I(g) of PTE 84–14 (other than the Goldman Sachs Malaysia FCPA Conviction during the effective period of the proposed five-year exemption). While such an entity could apply for a new exemption in that circumstance, the Department is not obligated to grant a requested exemption.

60. When interpreting and implementing this exemption, the Applicant and the Goldman Sachs Affiliated QPAMs should resolve any ambiguities in light of the exemption's protective purposes. To the extent additional clarification is necessary, these persons or entities should contact EBSA's Office of Exemption Determinations, at 202–693–8540.

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons within seven (7) days of the publication of the notice of proposed five-year exemption in the **Federal Register**. The notice will be provided to all interested persons in the manner approved by the Department and will contain the documents described therein and a supplemental statement, as required pursuant to 29 CFR 2570.43(a)(2). The supplemental statement will inform interested persons of their right to comment on and to request a hearing with respect to the pending exemption. All written comments and/or requests for a hearing must be received by the Department within thirty seven (37) days of the date of publication of this proposed five-year exemption in the **Federal Register**. All comments will be made available to the public.

Warning: If you submit a comment, EBSA recommends that you include your name and other contact information in the body of your comment, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as Social Security number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. All comments may be posted on the internet and can be retrieved by most internet search engines.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Proposed Exemption

The Department is considering granting a five-year exemption under the authority of section 408(a) of the Act (or ERISA) and section 4975(c)(2) of the Internal Revenue Code (or Code), and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76

[17] The Department specifically requests comments on the scope and magnitude of any impacts, including any increased costs, that Covered Plans and IRAs would sustain if the Department were to deny the exemption.

FR 66637, 66644, October 27, 2011).[18] Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of proposed exemption is issued solely by the Department.

Section I. Covered Transactions

If this proposed exemption is granted, the Goldman Sachs Affiliated QPAMs and the Goldman Sachs Related QPAMs (as defined in Section II(d) and (e)) will not be precluded from relying on the exemptive relief provided by Prohibited Transaction Class Exemption 84–14 (PTE 84–14 or the QPAM Exemption) [19] during the Exemption Period, notwithstanding the Goldman Sachs Malaysia FCPA Conviction, as defined in Section II(a), provided that the following conditions are satisfied:

(a) Other than Tim Leissner, who worked for a non-fiduciary business within a Goldman Sachs Affiliated QPAM, and who had no responsibility for, and exercised no authority in connection with, the management of plan assets, the Goldman Sachs Affiliated QPAMs and Goldman Sachs Related QPAMs (including their officers, directors, agents (other than Goldman Sachs Malaysia), and the employees of the Goldman Sachs Affiliated QPAMs and Goldman Sachs Related QPAMs) did not know of, did not have reason to know of, or did not participate in the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia FCPA Conviction. Further, any other party engaged on behalf of the Goldman Sachs Affiliated QPAMs and Goldman Sachs Related QPAMs who had responsibility for, or exercised authority in connection with the management of plan assets did not know of, did not have reason to know of, or participate in the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia FCPA Conviction. For purposes of this proposed exemption, ''participate in'' refers not only to active participation in the criminal conduct that is the subject of the Goldman Sachs Malaysia FCPA Conviction, but also to knowing approval of the criminal conduct, or knowledge of such conduct without taking active steps to prohibit such conduct, including reporting the conduct to such individual's supervisors, and to the Board of Directors;

(b) Other than Tim Leissner, who worked for a non-fiduciary business within a Goldman Sachs Affiliated QPAM, and who had no responsibility for, and exercised no authority in connection with, the management of plan assets, the Goldman Sachs Affiliated QPAMs and the Goldman Sachs Related QPAMs (including their officers, directors, agents (other than Goldman Sachs Malaysia), and employees of such Goldman Sachs Affiliated QPAMs) did not receive direct compensation, or knowingly receive indirect compensation, in connection with the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia FCPA Conviction. Further, any other party engaged on behalf of the Goldman Sachs Affiliated QPAMs and the Goldman Sachs Related QPAMs who had responsibility for, or exercised authority in connection with the management of plan assets did not receive direct compensation, or knowingly receive indirect compensation, in connection with the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia FCPA Conviction;

(c) The Goldman Sachs Affiliated QPAMs do not currently and will not in the future employ or knowingly engage any of the individuals who participated in the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia FCPA Conviction;

(d) At all times during the Exemption Period, no Goldman Sachs Affiliated QPAM will use its authority or influence to direct an ''investment fund'' (as defined in Section VI(b) of PTE 84–14) that is subject to ERISA or the Code and managed by such Goldman Sachs Affiliated QPAM with respect to one or more Covered Plans (as defined in Section II(b)) to enter into any transaction with Goldman Sachs Malaysia or to engage Goldman Sachs Malaysia to provide any service to such investment fund, for a direct or indirect fee borne by such investment fund, regardless of whether such transaction or service may otherwise be within the scope of relief provided by an administrative or statutory exemption;

(e) Any failure of a Goldman Sachs Affiliated QPAM or a Goldman Sachs Related QPAM to satisfy Section I(g) of PTE 84–14 arose solely from the Goldman Sachs Malaysia FCPA Conviction;

(f) A Goldman Sachs Affiliated QPAM or a Goldman Sachs Related QPAM did not exercise authority over the assets of any plan subject to Part 4 of Title I of ERISA (an ERISA-covered plan) or section 4975 of the Code (an IRA) in a manner that it knew or should have known would further the criminal conduct that is the subject of the Goldman Sachs Malaysia FCPA Conviction; or cause the Goldman Sachs Affiliated QPAM, Related QPAM or its affiliates to directly or indirectly profit from the criminal conduct that is the subject of the Goldman Sachs Malaysia FCPA Conviction;

(g) Other than with respect to employee benefit plans maintained or sponsored for its own employees or the employees of an affiliate, Goldman Sachs Malaysia will not act as a fiduciary within the meaning of section 3(21)(A)(i) or (iii) of ERISA, or section 4975(e)(3)(A) and (C) of the Code, with respect to ERISA-covered plan and IRA assets; provided, however, that Goldman Sachs Malaysia will not be treated as violating the conditions of this exemption, if granted, solely because they acted as an investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA or section 4975(e)(3)(B) of the Code;

(h)(1) Within four months of the effective date of this five-year exemption, each Goldman Sachs Affiliated QPAM must immediately develop, maintain, implement, and follow written policies and procedures (the Policies). The Policies must require, and must be reasonably designed to ensure that:

(i) The asset management decisions of the Goldman Sachs Affiliated QPAM are conducted independently of Goldman's corporate management and business activities, and the corporate management and business activities of Goldman Sachs Malaysia. This condition does not preclude a Goldman Sachs Affiliated QPAM from receiving publicly available research and other widely available information from Goldman Sachs Malaysia;

(ii) The Goldman Sachs Affiliated QPAM fully complies with ERISA's fiduciary duties, and with ERISA and the Code's prohibited transaction provisions, in each case as applicable with respect to each Covered Plan, and does not knowingly participate in any violation of these duties and provisions with respect to Covered Plans;

(iii) The Goldman Sachs Affiliated QPAM does not knowingly participate in any other person's violation of ERISA

[18] For purposes of this proposed five-year exemption, references to section 406 of Title I of the Act, unless otherwise specified, should be read to refer as well to the corresponding provisions of section 4975 of the Code.

[19] 49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430, (October 10, 1985), as amended at 70 FR 49305 (August 23, 2005), and as amended at 75 FR 38837 (July 6, 2010).

or the Code with respect to Covered Plans;

(iv) Any filings or statements made by the Goldman Sachs Affiliated QPAM to regulators, including, but not limited to, the Department, the Department of the Treasury, the Department of Justice, and the Pension Benefit Guaranty Corporation, on behalf of or in relation to Covered Plans, are materially accurate and complete, to the best of such QPAM's knowledge at that time;

(v) To the best of its knowledge at that time, the Goldman Sachs Affiliated QPAM does not make material misrepresentations or omit material information in its communications with such regulators with respect to Covered Plans, or make material misrepresentations or omit material information in its communications with Covered Plans; and

(vi) The Goldman Sachs Affiliated QPAM complies with the terms of this five-year exemption;

(2) Any violation of, or failure to comply with an item in subparagraphs (h)(1)(ii) through (vi), is corrected as soon as reasonably possible upon discovery, or as soon after the QPAM reasonably should have known of the noncompliance (whichever is earlier), and any such violation or compliance failure not so corrected is reported, upon the discovery of such failure to so correct, in writing. This report must be made to the head of compliance and the general counsel (or their functional equivalent) of the relevant Goldman Sachs Affiliated QPAM that engaged in the violation or failure, and the independent auditor responsible for reviewing compliance with the Policies. A Goldman Sachs Affiliated QPAM will not be treated as having failed to develop, implement, maintain, or follow the Policies, provided that it corrects any instance of noncompliance as soon as reasonably possible upon discovery, or as soon as reasonably possible after the Goldman Sachs Affiliated QPAM reasonably should have known of the noncompliance (whichever is earlier), and provided that it adheres to the reporting requirements set forth in this subparagraph (2);

(3) Within six months of the effective date of the exemption, each Goldman Sachs Affiliated QPAM must immediately develop, maintain, adjust (to the extent necessary) and implement a program of training during the Exemption Period, to be conducted at least annually, for all relevant Goldman Sachs Affiliated QPAM asset/portfolio management, trading, legal, compliance, and internal audit personnel. The Training must:

(i) At a minimum, cover the Policies, ERISA and Code compliance (including applicable fiduciary duties and the prohibited transaction provisions), ethical conduct, the consequences for not complying with the conditions of this exemption (including any loss of exemptive relief provided herein), and the requirement for prompt reporting of wrongdoing; and

(ii) Be conducted by a professional who has been prudently selected and who has appropriate technical training and proficiency with ERISA and the Code to perform the tasks required by this exemption, if granted;

(i)(1) Each Goldman Sachs Affiliated QPAM submits to three audits conducted by an independent auditor, who has been prudently selected and who has appropriate technical training and proficiency with ERISA and the Code, to evaluate the adequacy of, and each Goldman Sachs Affiliated QPAM's compliance with, the Policies and Training described herein. The audit requirement must be incorporated in the Policies. The first audit must cover the twelve month period that ends on the date that is two years following the date of the Goldman Sachs Malaysia FCPA Conviction, and must be completed within sixty days thereafter. The second audit must cover the twelve month period that ends on the date that is four years following the date of the Goldman Sachs Malaysia FCPA Conviction, and must be within completed sixty days thereafter. The third audit must cover the fifth year covered by this exemption, and must be completed within sixty days thereafter. The corresponding certified Audit Reports must be submitted to the Department no later than 45 days following the completion of the audit.

(2) Within the scope of the audit and to the extent necessary for the auditor, in its sole opinion, to complete its audit and comply with the conditions for relief described herein, and only to the extent such disclosure is not prevented by state or federal statute, or involves communications subject to attorney-client privilege, each Goldman Sachs Affiliated QPAM and, if applicable, Goldman, will grant the auditor unconditional access to its business, including, but not limited to: Its computer systems; business records; transactional data; workplace locations; training materials; and personnel. Such access is limited to information relevant to the auditor's objectives as specified by the terms of this exemption;

(3) The auditor's engagement must specifically require the auditor to determine whether each Goldman Sachs Affiliated QPAM has developed, implemented, maintained, and followed the Policies in accordance with the conditions of this five-year exemption, and has developed and implemented the Training, as required herein;

(4) The auditor's engagement must specifically require the auditor to test each Goldman Sachs Affiliated QPAM's operational compliance with the Policies and Training. In this regard, the auditor must test, for each Goldman Sachs Affiliated QPAM, a sample of such Goldman Sachs Affiliated QPAM's transactions involving Covered Plans, sufficient in size and nature to afford the auditor a reasonable basis to determine such Goldman Sachs Affiliated QPAM's operational compliance with the Policies and Training;

(5) For each audit, on or before the end of the relevant period described in Section I(i)(1) for completing the audit, the auditor must issue a written report (the Audit Report) to Goldman and the Goldman Sachs Affiliated QPAM to which the audit applies that describes the procedures performed by the auditor in connection with its examination. The auditor, at its discretion, may issue a single consolidated Audit Report that covers all the Goldman Sachs Affiliated QPAMs. The Audit Report must include the auditor's specific determinations regarding:

(i) The adequacy of each Goldman Sachs Affiliated QPAM's Policies and Training; each Goldman Sachs Affiliated QPAM's compliance with the Policies and Training; the need, if any, to strengthen such Policies and Training; and any instance of the respective Goldman Sachs Affiliated QPAM's noncompliance with the written Policies and Training described in Section I(h) above. The Goldman Sachs Affiliated QPAM must promptly address any noncompliance. The Goldman Sachs Affiliated QPAM must promptly address or prepare a written plan of action to address any determination as to the adequacy of the Policies and Training and the auditor's recommendations (if any) with respect to strengthening the Policies and Training of the respective Goldman Sachs Affiliated QPAM. Any action taken or the plan of action to be taken by the respective Goldman Sachs Affiliated QPAM must be included in an addendum to the Audit Report (such addendum must be completed prior to the certification described in Section I(i)(7) below). In the event such a plan of action to address the auditor's recommendation regarding the adequacy of the Policies and Training is not completed by the time of submission of the Audit Report, the

following period's Audit Report must state whether the plan was satisfactorily completed. Any determination by the auditor that a Goldman Sachs Affiliated QPAM has implemented, maintained, and followed sufficient Policies and Training must not be based solely or in substantial part on an absence of evidence indicating noncompliance. In this last regard, any finding that a Goldman Sachs Affiliated QPAM has complied with the requirements under this subparagraph must be based on evidence that the particular Goldman Sachs Affiliated QPAM has actually implemented, maintained, and followed the Policies and Training required by this exemption, if granted. Furthermore, the auditor must not solely rely on the Exemption Report created by the Compliance Officer, as described in Section I(m) below, as the basis for the auditor's conclusions in lieu of independent determinations and testing performed by the auditor as required by Section I(i)(3) and (4) above; and

(ii) The adequacy of the Exemption Review described in Section I(m);

(6) The auditor must notify the respective Goldman Sachs Affiliated QPAM of any instance of noncompliance identified by the auditor within five (5) business days after such noncompliance is identified by the auditor, regardless of whether the audit has been completed as of that date;

(7) With respect to each Audit Report, the general counsel or one of the three most senior executive officers of the Goldman Sachs Affiliated QPAM to which the Audit Report applies, must certify in writing, under penalty of perjury, that the officer has reviewed the Audit Report and this exemption, if granted; that, to the best of such officer's knowledge at the time, the Goldman Sachs Affiliated QPAM has addressed, corrected, and remedied any noncompliance and inadequacy or has an appropriate written plan to address any inadequacy regarding the Policies and Training identified in the Audit Report. This certification must also include the signatory's determination that, to the best of the officer's knowledge at the time, the Policies and Training in effect at the time of signing are adequate to ensure compliance with the conditions of this exemption, if granted, and with the applicable provisions of ERISA and the Code. Notwithstanding the above, no person, including any person referenced in the Department of Justice's Statement of Facts that gave rise to the Plea Agreement, who knew of, or should have known of, or participated in, any misconduct described in the Statement of Facts, by any party, may provide the certification required by this exemption, unless the person took active documented steps to stop the misconduct;

(8) The Goldman Sachs Board of Directors is provided a copy of the Audit Report; and a senior executive officer of the Audit Committee established by the Goldman Sachs Board of Directors must review the Audit Report for each Goldman Sachs QPAM and must certify in writing, under penalty of perjury, that such officer has reviewed the Audit Report. Notwithstanding the above, no person, including any person referenced in the Department of Justice's Statement of Facts that gave rise to the Plea Agreement, who knew of, or should have known of, or participated in, any misconduct described in the Statement of Facts, by any party, may provide the certification required by this exemption, unless such person took active documented steps to prohibit the misconduct;

(9) Each Goldman Sachs Affiliated QPAM provides its certified Audit Report, by regular mail to: Office of Exemption Determinations (OED), 200 Constitution Avenue NW, Suite 400, Washington, DC 20210. This delivery must take place no later than 45 days following completion of the Audit Report. The Audit Reports will be made part of the public record regarding this five-year exemption. Furthermore, each Goldman Sachs Affiliated QPAM must make its Audit Reports unconditionally available, electronically or otherwise, for examination upon request by any duly authorized employee or representative of the Department, other relevant regulators, and any fiduciary of a Covered Plan;

(10) Any engagement agreement with an auditor to perform the audit required by this exemption must be submitted to OED no later than two months after the execution of such agreement;

(11) The auditor must provide the Department, upon request, for inspection and review, access to all the workpapers created and used in connection with the audit, provided such access and inspection is otherwise permitted by law; and

(12) Goldman or a Goldman Sachs Affiliated QPAM must notify the Department of a change in the independent auditor no later than two months after the engagement of a substitute or subsequent auditor and must provide an explanation for the substitution or change including a description of any material disputes involving the terminated auditor;

(j) As of the effective date of this five-year exemption, with respect to any arrangement, agreement, or contract between a Goldman Sachs Affiliated QPAM and a Covered Plan, the Goldman Sachs Affiliated QPAM agrees and warrants to Covered Plans:

(1) To comply with ERISA and the Code, as applicable with respect to such Covered Plan; to refrain from engaging in prohibited transactions that are not otherwise exempt (and to promptly correct any inadvertent prohibited transactions); and to comply with the standards of prudence and loyalty set forth in section 404 of ERISA with respect to each such ERISA-covered plan and IRA to the extent that section 404 is applicable;

(2) To indemnify and hold harmless the Covered Plan for any actual losses resulting directly from: A Goldman Sachs Affiliated QPAM's violation of ERISA's fiduciary duties, as applicable, and of the prohibited transaction provisions of ERISA and the Code, as applicable; a breach of contract by the QPAM; or any claim arising out of the failure of such Goldman Sachs Affiliated QPAM to qualify for the exemptive relief provided by PTE 84–14 as a result of a violation of Section I(g) of PTE 84–14, other than the Goldman Sachs Malaysia FCPA Conviction. This condition applies only to actual losses caused by the Goldman Sachs Affiliated QPAM's violations.

(3) Not to require (or otherwise cause) the Covered Plan to waive, limit, or qualify the liability of the Goldman Sachs Affiliated QPAM for violating ERISA or the Code or engaging in prohibited transactions;

(4) Not to restrict the ability of such Covered Plan to terminate or withdraw from its arrangement with the Goldman Sachs Affiliated QPAM with respect to any investment in a separately managed account or pooled fund subject to ERISA and managed by such QPAM, with the exception of reasonable restrictions, appropriately disclosed in advance, that are specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors. In connection with any such arrangements involving investments in pooled funds subject to ERISA entered into after the effective date of this exemption, the adverse consequences must relate to a lack of liquidity of the underlying assets, valuation issues, or regulatory reasons that prevent the fund from promptly redeeming an ERISA-covered plan's or IRA's investment, and such restrictions must be applicable to all such investors and be effective no longer than reasonably necessary to avoid the adverse consequences;

(5) Not to impose any fees, penalties, or charges for such termination or withdrawal with the exception of reasonable fees, appropriately disclosed in advance, that are specifically designed to prevent generally recognized abusive investment practices or specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors, provided that such fees are applied consistently and in a like manner to all such investors; and

(6) Not to include exculpatory provisions disclaiming or otherwise limiting liability of the Goldman Sachs Affiliated QPAM for a violation of such agreement's terms. To the extent consistent with Section 410 of ERISA, however, this provision does not prohibit disclaimers for liability caused by an error, misrepresentation, or misconduct of a plan fiduciary or other party hired by the plan fiduciary who is independent of Goldman and its affiliates, or damages arising from acts outside the control of the Goldman Sachs Affiliated QPAM;

(7) Within four (4) months of the effective date of this five-year exemption, each Goldman Sachs Affiliated QPAM must provide a notice of its obligations under this Section I(j) to each Covered Plan. For Covered Plans that enter into a written asset or investment management agreement with a Goldman Sachs Affiliated QPAM on or after the effective date of this exemption, if granted, the Goldman Sachs Affiliated QPAM must agree to its obligations under this Section I(j) in an updated investment management agreement between the Goldman Sachs Affiliated QPAM and such clients, or other written contractual agreement. Notwithstanding the above, a Goldman Sachs Affiliated QPAM will not violate the condition solely because a Plan or IRA refuses to sign an updated investment management agreement.

(k) Within 60 days of the effective date of this five-year exemption, each Goldman Sachs Affiliated QPAM will provide a **Federal Register** copy of the notice of the exemption, along with a separate summary describing the facts that led to the Goldman Sachs Malaysia FCPA Conviction (the Summary), which has been submitted to the Department, and a prominently displayed statement (the Statement) that the Goldman Sachs Malaysia FCPA Conviction results in a failure to meet a condition in PTE 84–14, to each sponsor and beneficial owner of a Covered Plan that has entered into a written asset or investment management agreement with a Goldman Sachs Affiliated QPAM, or the sponsor of an investment fund in any case where a Goldman Sachs Affiliated QPAM acts as a sub-advisor to the investment fund in which such ERISA-covered plan and IRA invests. All Covered Plan clients that enter into a written asset or investment management agreement with a Goldman Sachs Affiliated QPAM after that date must receive a copy of the notice of the exemption, the Summary, and the Statement prior to, or contemporaneously with, the Covered Plan's receipt of a written asset or investment management agreement from the Goldman Sachs Affiliated QPAM. The notices may be delivered electronically (including by an email that has a link to the five-year exemption);

(l) The Goldman Sachs Affiliated QPAMs must comply with each condition of PTE 84–14, as amended, with the sole exception of the violation of Section I(g) of PTE 84–14 that is attributable to the Goldman Sachs Malaysia FCPA Conviction. If, during the Exemption Period, an entity within the Goldman corporate structure is convicted of a crime described in Section I(g) of PTE 84–14 (other than the Goldman Sachs Malaysia FCPA Conviction), relief in this exemption, if granted, would terminate immediately;

(m)(1) Within 60 days of the effective date of this exemption, Goldman must designate a senior compliance officer (the Compliance Officer) who will be responsible for compliance with the Policies and Training requirements described herein. Notwithstanding the above, no person, including any person referenced in the Department of Justice's Statement of Facts that gave rise to the Plea Agreement, who knew of, or should have known of, or participated in, any misconduct described in the Statement of Facts, by any party, may be involved with the designation or responsibilities required by this condition, unless the person took active documented steps to stop the misconduct. The Compliance Officer must conduct a review of each twelve month period of the Exemption Period (the Exemption Review), to determine the adequacy and effectiveness of the implementation of the Policies and Training. With respect to the Compliance Officer, the following conditions must be met:

(i) The Compliance Officer must be a professional who has extensive experience with, and knowledge of, the regulation of financial services and products, including under ERISA and the Code; and

(ii) The Compliance Officer must have a direct reporting line within Goldmans' Audit Committee and a direct reporting line to the highest ranking corporate officer in charge of compliance for the applicable Goldman Sachs Affiliated QPAM;

(2) With respect to the Exemption Review, the following conditions must be met:

(i) The Exemption Review includes a review of the Goldman Sachs Affiliated QPAMs' compliance with and effectiveness of the Policies and Training and of the following: Any compliance matter related to the Policies or Training that was identified by, or reported to, the Compliance Officer or the Audit Committee, during the previous year; the most recent Audit Report issued pursuant to this exemption, if granted; any material change in the relevant business activities of the Goldman Sachs Affiliated QPAMs; and any change to ERISA, the Code, or regulations related to fiduciary duties and the prohibited transaction provisions that may be applicable to the activities of the Goldman Sachs Affiliated QPAMs;

(ii) The Compliance Officer prepares a written report for the Exemption Review (an Exemption Report) that (A) summarizes his or her material activities during the prior year; (B) sets forth any instance of noncompliance discovered during the prior year, and any related corrective action; (C) details any change to the Policies or Training to guard against any similar instance of noncompliance occurring again; and (D) makes recommendations, as necessary, for additional training, procedures, monitoring, or additional and/or changed processes or systems, and management's actions on such recommendations;

(iii) In the Exemption Report, the Compliance Officer must certify in writing that to the best of his or her knowledge at the time: (A) The report is accurate; (B) the Policies and Training are working in a manner which is reasonably designed to ensure that the Policies and Training requirements described herein are met; (C) any known instance of noncompliance during the prior year and any related correction taken to date have been identified in the Exemption Report; and (D) the Goldman Sachs Affiliated QPAMs have complied with the Policies and Training, and/or corrected (or are correcting) any known instances of noncompliance in accordance with Section I(h) above;

(iv) The Exemption Report must be provided to appropriate corporate officers of Goldman and Goldman Sachs Affiliated QPAM to which such report relates, and to the head of compliance and the general counsel (or their

functional equivalent) of the relevant Goldman Sachs Affiliated QPAM; and the report must be made unconditionally available to the independent auditor described in Section I(i) above;

(v) The first Exemption Review, including the Compliance Officer's written Exemption Report, must cover the twelve month period beginning on the date of the Goldman Sachs Malaysia FCPA Conviction. The next four Exemption Reviews and Exemption Reports must each cover a twelve month period that begins on the date that follows the end of a prior Exemption Review coverage period. Each Annual Review, including the Compliance Officer's written Annual Report, must be completed within three months following the end of the period to which it relates;

(n) Goldman imposes its internal procedures, controls, and protocols on Goldman Sachs Malaysia to reduce the likelihood of any recurrence of conduct that is the subject of the Goldman Sachs Malaysia FCPA Conviction;

(o) Goldman complies in all material respects with the requirements imposed by a U.S regulatory authority in connection with the Goldman Sachs Malaysia FCPA Conviction;

(p) Each Goldman Sachs Affiliated QPAM will maintain records necessary to demonstrate that the conditions of this exemption have been met for six years following the date of any transaction for which such Goldman Sachs Affiliated QPAM relies upon the relief in this exemption;

(q) During the Exemption Period, Goldman must: (1) Immediately disclose to the Department any Deferred Prosecution Agreement (a DPA) or Non-Prosecution Agreement (an NPA) with the U.S. Department of Justice, entered into by The Goldman Sachs Group, Inc. or any of its affiliates (as defined in Section VI(d) of PTE 84–14) in connection with conduct described in Section I(g) of PTE 84–14 or section 411 of ERISA; and (2) immediately provide the Department any information requested by the Department, as permitted by law, regarding the agreement and/or conduct and allegations that led to the agreement;

(r) Within 60 days of the effective date of the five-year exemption, each Goldman Sachs Affiliated QPAM, in its agreements with, or in other written disclosures provided to Covered Plans, will clearly and prominently inform Covered Plan clients of their right to obtain a copy of the Policies or a description (Summary Policies) which accurately summarizes key components of the Goldman Sachs Affiliated QPAM's written Policies developed in connection with this exemption. If the Policies are thereafter changed, each Covered Plan client must receive a new disclosure within six months following the end of the calendar year during which the Policies were changed.[20] With respect to this requirement, the description may be continuously maintained on a website, provided that such website link to the Policies or Summary Policies is clearly and prominently disclosed to each Covered Plan; and

(s) A Goldman Sachs Affiliated QPAM will not fail to meet the terms of this five-year exemption, if granted, solely because a different Goldman Sachs Affiliated QPAM fails to satisfy a condition for relief described in Sections I(c), (d), (h), (i), (j), (k), (l), (p) or (r); or if the independent auditor described in Section I(i) fails a provision of the exemption other than the requirement described in Section I(i)(11), provided that such failure did not result from any actions or inactions of Goldman.

Section II. Definitions

(a) The term ''Goldman Sachs Malaysia FCPA Conviction'' means the judgment of conviction against Goldman Sachs Malaysia in connection with a U.S. plea by Goldman Sachs Malaysia to one count of conspiracy to commit offenses against the United States, in violation of Title 18, United States Code, Section 371, that is, to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977, as amended, see Title 15, United States Code, Sections 78dd–1 and 78dd–3.

(b) The term ''Covered Plan'' means a plan subject to Part IV of Title I of ERISA (an ''ERISA-covered plan'') or a plan subject to section 4975 of the Code (an ''IRA''), in each case, with respect to which a Goldman Sachs Affiliated QPAM relies on PTE 84–14, or with respect to which a Goldman Sachs Affiliated QPAM (or any Goldman Sachs affiliate) has expressly represented that the manager qualifies as a QPAM or relies on the QPAM class exemption (PTE 84–14). A Covered Plan does not include an ERISA-covered plan or IRA to the extent the Goldman Sachs Affiliated QPAM has expressly disclaimed reliance on QPAM status or PTE 84–14 in entering into a contract, arrangement, or agreement with the ERISA-covered plan or IRA.

(c) The term ''Goldman'' means The Goldman Sachs Group, Inc.

(d) The term ''Goldman Sachs Affiliated QPAMs'' means The Goldman Sachs Trust Company, N.A.; Goldman Sachs Bank USA; Goldman Sachs & Co. LLC; Goldman Sachs Asset Management, L.P.; Goldman Sachs Asset Management International; Goldman Sachs Hedge Fund Strategies LLC; GS Investment Strategies, LLC; GSAM Stable Value, LLC; The Ayco Company, L.P.; Aptitude Investment Management LP; Rocaton Investment Advisors, LLC; United Capital Financial Advisers, LLC; and PFE Advisors, Inc., and any future ''affiliate'' of Goldman (as defined in Part VI(d) of PTE 84–14) that qualifies as a ''qualified professional asset manager'' (as defined in Section VI(a) of PTE 84–14)[21] and that relies on the relief provided by PTE 84–14. The term ''Goldman Sachs Affiliated QPAMs'' excludes Goldman Sachs Malaysia.

(e) The term ''Goldman Sachs Related QPAMs'' means any current or future ''qualified professional asset manager'' (as defined in Section VI(a) of PTE 84–14) that relies on the relief provided by PTE 84–14, and with respect to which Goldman Sachs Malaysia owns a direct or indirect five (5) percent or more interest, but with respect to which Goldman Sachs Malaysia is not an ''affiliate'' (as defined in section VI(d)(1) of PTE 84–14). The term ''Goldman Sachs Related QPAMs'' excludes Goldman Sachs Malaysia.

(f) The term ''Goldman Sachs Malaysia'' means Goldman Sachs (Malaysia) Sdn. Bhd.

(g) The term ''Exemption Period'' means the five-year period beginning on the date Goldman Sachs Malaysia is sentenced for one count of conspiracy to commit offenses against the United States, in violation of Title 18, United States Code, Section 371, that is, to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977, as amended, see Title 15, United States Code, Sections 78dd–1 and 78dd–3.

(h) The term ''Plea Agreement'' means the Plea Agreement entered into between the United States of America, by and through the United States Department of Justice, Criminal Division, Fraud Section and Money Laundering and Asset Recovery Section, and the United States Attorney's Office

[20] In the event the Applicant meets this disclosure requirement through Summary Policies, changes to the Policies shall not result in the requirement for a new disclosure unless, as a result of changes to the Policies, the Summary Policies are no longer accurate.

[21] In general terms, a QPAM is an independent fiduciary that is a bank, savings and loan association, insurance company, or investment adviser that meets certain equity or net worth requirements and other licensure requirements and that has acknowledged in a written management agreement that it is a fiduciary with respect to each plan that has retained the QPAM.

for the Eastern District of New York and Goldman Sachs (Malaysia) Sdn. Bhd. Cr. No. 20–438 (MKB), filed October 21, 2020.

(i) The term ''Conviction Date'' means the date that a judgment of conviction against Goldman Sachs (Malaysia) Sdn. Bhd., in Cr. No. 20–438 (MKB), is entered in the United States District Court for the Eastern District of New York.

Effective Date: This exemption will be in effect for a period of five years beginning on the Conviction Date.

Signed at Washington, DC, this 29th day of December, 2020.

Christopher Motta,

Chief, Division of Individual Exemptions, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2020–29113 Filed 12–31–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice To Ensure State Workforce Agencies Are Aware of the Revised Schedule of Remuneration for the Unemployment Compensation for Ex-Servicemembers (UCX) Program That Reflects the Military Pay Increase Effective January 1, 2021

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: Each year, the Department of Defense issues a Schedule of Remuneration used by states for UCX purposes. States must use the schedule to determine Federal military wages for UCX ''first claims'' only when the Federal Claims Control Center (FCCC) responds to a request for information indicating that there is no Copy 5 of the Certificate of Release or Discharge from Active Duty (DD Form 214) for an individual under the social security number provided. A response from the FCCC that indicates ''no DD214 on file'' will prompt the state to start the affidavit process and to use the attached schedule to calculate the Federal military wages for an unemployment insurance or UCX monetary determination. The schedule applies to UCX ''first claims'' filed beginning with the first day of the first week that begins on or after January 1, 2021. States must continue to use the 2020 schedule (or other appropriate schedule) for UCX ''first claims'' filed before the effective date of the revised schedule.

John Pallasch,

Assistant Secretary for Employment and Training, Labor.

Attachment I

2021 FEDERAL SCHEDULE OF REMUNERATION

[20 CFR 614.12(d)]

Pay grade	Monthly rate	Weekly (7/30th)	Daily (1/30th)
1. *Commissioned Officers:*			
O–10	20,925.54	4,882.63	697.52
O–9	20,925.54	4,882.63	697.52
O–8	20,285.99	4,733.40	676.20
O–7	18,152.10	4,235.49	605.07
O–6	15,954.25	3,722.66	531.81
O–5	13,412.47	3,129.58	447.08
O–4	11,505.96	2,684.72	383.53
O–3	9,081.63	2,119.05	302.72
O–2	7,343.63	1,713.51	244.79
O–1	5,722.97	1,335.36	190.77
2. *Commissioned Officers With Over 4 Years Active Duty As An Enlisted Member or Warrant Officer:*			
O–3 E	10,673.82	2,490.56	355.79
O–2 E	8,761.23	2,044.29	292.04
O–1 E	7,536.69	1,758.56	251.22
3. *Warrant Officer:*			
W–5	12,174.75	2,840.77	405.82
W–4	11,046.28	2,577.47	368.21
W–3	9,538.46	2,225.64	317.95
W–2	8,128.20	1,896.58	270.94
W–1	6,974.63	1,627.41	232.49
4. *Enlisted Personnel:*			
E–9	10,374.57	2,420.73	345.82
E–8	8,548.86	1,994.73	284.96
E–7	7,634.24	1,781.32	254.47
E–6	6,690.13	1,561.03	223.00
E–5	5,699.76	1,329.94	189.99
E–4	4,708.64	1,098.68	156.95
E–3	4,233.16	987.74	141.11
E–2	4,021.30	938.30	134.04
E–1	3,667.50	855.75	122.25

The Federal Schedule includes columns reflecting derived weekly and daily rates. This revised Federal Schedule of Remuneration is effective for UCX ''first claims'' filed beginning with the first day of the first week which begins on or after January 1, 2021, pursuant to 20 CFR 614.12(c).

[FR Doc. 2020–29140 Filed 12–30–20; 11:15 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; YouthBuild (YB) Reporting System

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''YouthBuild Reporting System.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by March 5, 2021.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Stephanie Pena by telephone at (202) 693–3153 (this is not a toll-free number), TTY 1–877–889–5627 (this is not a toll-free number), or by email at *pena.stephanie.l@dol.gov.* Submit written comments regarding, or requests for a copy of, this ICR by email: *pena.stephanie.l@dol.gov*; or by fax: (202) 693–3113.

FOR FURTHER INFORMATION CONTACT: Contact Stephanie Pena by telephone at (202) 693–3153 (this is not a toll-free number) or by email at *pena.stephanie.l@dol.gov.*

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure 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 can be properly assessed.

The YouthBuild legacy quarterly performance report (ETA–9136 and ETA–9138) includes aggregate and participant-level information on demographic characteristics, types of services received, placements, outcomes, and follow-up status. Specifically, these reports collect data on individuals who receive education, occupational skill training, leadership development services, and other services essential to preparing at-risk youth for in-demand occupations through YouthBuild programs. There are no changes proposed for ETA–9136 and ETA–9138 in this ICR, and ETA expects that these forms will sunset in the next few years as new grantees shift to a new reporting system associated with a different information collection. The Work Site Description and Housing Census (ETA–9143) form collects information about the proposed work sites for low-income or homeless individuals or families where YouthBuild participants receive training and participate in construction skills activities. This form also collects information annually on the number of housing units that grantees build or renovate each year, which allows ETA to demonstrate the annual increase in affordable housing supported by YouthBuild. ETA is proposing changes to the ETA–9143 form based on YouthBuild grantee feedback to clarify the information requested for collection and to provide improved instructions on the form.

The accuracy, reliability, and comparability of program reports submitted by grantees using Federal funds are fundamental elements of good public administration and are necessary tools for maintaining and demonstrating system integrity. The use of a standard set of data elements, definitions, and specifications at all levels of the workforce system helps improve the quality of performance information submitted to ETA. The Workforce Innovation and Opportunity Act (29 U.S.C. 3101) authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB 1205–0464.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; 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).

Agency: DOL–ETA.

Type of Review: REVISION.

Title of Collection: YOUTHBUILD (YB) REPORTING SYSTEM.

Form: ETA–9136, ETA–9138, ETA–9143.

OMB Control Number: 1205–0464.

Affected Public: Grantees.

Estimated Number of Respondents: 6,853.

Frequency: Varies.

Total Estimated Annual Responses: 7,490.

Estimated Average Time per Response: 1.5 hours.

Estimated Total Annual Burden Hours: 24,449 hours.

Total Estimated Annual Other Cost Burden: $174,636.20.

Authority: 44 U.S.C. 3506(c)(2)(A).

John Pallasch,

Assistant Secretary for Employment and Training.

[FR Doc. 2020–29011 Filed 12–31–20; 8:45 am]

BILLING CODE 4510–FT–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of January 4, 11, 18, 25, February 1, 8, 2021.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of January 4, 2021

There are no meetings scheduled for the week of January 4, 2021.

Week of January 11, 2021—Tentative

There are no meetings scheduled for the week of January 11, 2021.

Week of January 18, 2021—Tentative

There are no meetings scheduled for the week of January 18, 2021.

Week of January 25, 2021—Tentative

There are no meetings scheduled for the week of January 25, 2021.

Week of February 1, 2021—Tentative

There are no meetings scheduled for the week of February 1, 2021.

Week of February 8, 2021—Tentative

There are no meetings scheduled for the week of February 8, 2021.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Tyesha.Bush@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: December 30, 2020.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2020–29174 Filed 12–30–20; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2021–54 and CP2021–56; MC2021–55 and CP2021–57; MC2021–56 and CP2021–58; MC2021–57 and CP2021–59; MC2021–58 and CP2021–60; MC2021–59 and CP2021–61; MC2021–60 and CP2021–62; MC2021–61 and CP2021–63; MC2021–62 and CP2021–64; MC2021–63 and CP2021–65; MC2021–64 and CP2021–66; MC2021–65 and CP2021–67; MC2021–66 and CP2021–68]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 6, 2021, January 7, 2021, and January 8, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION: The January 6, 2021 comment due date applies to Docket Nos. MC2021–54 and CP2021–56; MC2021–55 and CP2021–57; MC2021–56 and CP2021–58; MC2021–57 and CP2021–59; MC2021–58 and CP2021–60.

The January 7, 2021 comment due date applies to Docket Nos. MC2021–59 and CP2021–61; MC2021–60 and CP2021–62; MC2021–61 and CP2021–63; MC2021–62 and CP2021–64; MC2021–63 and CP2021–65.

The January 8, 2021 comment due date applies to Docket Nos. MC2021–64 and CP2021–66; MC2021–65 and CP2021–67; MC2021–66 and CP2021–68.

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

1. *Docket No(s).:* MC2021–54 and CP2021–56; *Filing Title:* USPS Request to Add International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

Express International, Priority Mail International & First-Class Package International Service Contract 2 to Competitive Product List and Notice of Filing Materials Filed Under Seal; *Filing Acceptance Date:* December 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory Stanton; *Comments Due:* January 6, 2021.

2. *Docket No(s).:* MC2021–55 and CP2021–57; *Filing Title:* USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 10 to Competitive Product List and Notice of Filing Materials Filed Under Seal; *Filing Acceptance Date:* December 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Gregory Stanton; *Comments Due:* January 6, 2021.

3. *Docket No(s).:* MC2021–56 and CP2021–58; *Filing Title:* USPS Request to Add Priority Mail & Parcel Select Contract 5 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Matthew R. Ashford; *Comments Due:* January 6, 2021.

4. *Docket No(s).:* MC2021–57 and CP2021–59; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 186 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* January 6, 2021.

5. *Docket No(s).:* MC2021–58 and CP2021–60; *Filing Title:* USPS Request to Add Priority Mail Contract 686 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* January 6, 2021.

6. *Docket No(s).:* MC2021–59 and CP2021–61; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 73 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Matthew R. Ashford; *Comments Due:* January 7, 2021.

7. *Docket No(s).:* MC2021–60 and CP2021–62; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 122 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Lyudmila Y. Bzhilyanskaya; *Comments Due:* January 7, 2021.

8. *Docket No(s).:* MC2021–61 and CP2021–63; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 187 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* January 7, 2021.

9. *Docket No(s).:* MC2021–62 and CP2021–64; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 188 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* January 7, 2021.

10. *Docket No(s).:* MC2021–63 and CP2021–65; *Filing Title:* USPS Request to Add Parcel Select Contract 46 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Lyudmila Y. Bzhilyanskaya; *Comments Due:* January 7, 2021.

11. *Docket No(s).:* MC2021–64 and CP2021–66; *Filing Title:* USPS Request to Add Priority Mail Contract 687 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* January 8, 2021.

12. *Docket No(s).:* MC2021–65 and CP2021–67; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 189 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* January 8, 2021.

13. *Docket No(s).:* MC2021–66 and CP2021–68; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 8 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 28, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* January 8, 2021.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–29080 Filed 12–31–20; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

International Product Change—International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement: Postal Service™

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add an International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* January 4, 2021.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 28, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add International Priority Airmail, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 10 to Competitive Product List.* Documents

are available at *www.prc.gov,* Docket Nos. MC2021–55 and CP2021–57.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–29035 Filed 12–31–20; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

International Product Change—International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement: Postal Service™

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add an International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.

DATES: *Date of notice:* January 4, 2021.

FOR FURTHER INFORMATION CONTACT: Christopher C. Meyerson, (202) 268–7820.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 28, 2020, it filed with the Postal Regulatory Commission a *USPS Request to Add International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2021–54 and CP2021–56.

Joshua J. Hofer,

Attorney, Federal Compliance.

[FR Doc. 2020–29032 Filed 12–31–20; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90803; File No. SR–NYSE–2020–85]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend the NYSE Listed Company Manual To Revise the Shareholder Approval Requirements in Sections 312.03 and 312.04 and the Requirements for Related Party Transactions in Section 314.00

December 28, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 16, 2020, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Sections 312.03, 312.04 and 314.00 of the NYSE Listed Company Manual (''Manual''). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Paragraphs (b) and (c) of Sections 312.03 of the Manual require listed companies to obtain shareholder approval prior to certain kinds of equity issuances. The Exchange believes that these requirements can make it unnecessarily difficult for listed companies to raise necessary capital in private placement transactions that are in the interests of the company and its shareholders. Consequently, the Exchange proposes to modify these provisions, bringing its shareholder approval requirements into closer alignment with those of Nasdaq and NYSE American,[4] by providing listed companies with flexibility that exists under the rules of those other listing markets. The Exchange has waived certain requirements under Section 312.03 to provide listed companies with greater flexibility to raise capital during the COVID–19 crisis.[5] Among other things, the current proposal includes amendments that are identical in effect to the current waiver. The Exchange has observed that a significant number of companies have benefited from the flexibility provided by the waiver and has not observed any significant problems associated with companies' completion of transactions permitted by the waiver.

Proposed Amendments to Section 312.03(b)

Subject to an exception for early stage companies set forth therein, Section 312.03(b) of the Manual requires shareholder approval of certain issuances of common stock, or securities convertible into or exercisable for common stock, to:

- A director, officer or substantial security holder [6] of the company (each

[4] See Nasdaq Marketplace Rule 5635 and NYSE American Company Guide Sections 712 and 713.

[5] *See* Securities Exchange Act Release No. 34–88572 (April 6, 2020); 85 FR 20323 (April 10, 2020) (SR–NYSE–2020–30). (waiving certain requirements of Section 312.03 through June 30, 2020). *See also* Securities Exchange Act Release No. 89219 (July 2, 2020); 85 FR 41640 (July 10, 2020) (SR–NYSE–2020–58) (extending the waiver through September 30, 2020). *See also* Securities Exchange Act Release No. 90020 (September 28, 2020); 85 FR 62357 (October 2, 2020) (SR–NYSE–2020–79) (extending the waiver through December 31, 2020).

[6] For purposes of Section 312.03, Section 312.04(e) provides that: ''[a]n interest consisting of less than either five percent of the number of shares of common stock or five percent of the voting power outstanding of a company or entity shall not be considered a substantial interest or cause the holder of such an interest to be regarded as a substantial security holder.''

a ''Related Party'' for purposes of Section 312.03(b));

• a subsidiary, affiliate, or other closely related person of a Related Party; or

• Any company or entity in which a Related Party has a substantial direct or indirect interest.

This prior shareholder approval is required if the number of shares of common stock to be issued, or if the number of shares of common stock into which the securities may be convertible or exercisable, exceeds either 1% of the number of shares of common stock or 1% of the voting power outstanding before the issuance. A limited exception to these shareholder approval requirements permits cash sales relating to no more than 5% of the number of shares of common stock or voting power outstanding that meet a Minimum Price test set forth in the rule (the ''Minimum Price'').[7] However, this exception may only be used if the Related Party in question has Related Party status solely because it is a substantial security holder of the company.

The Exchange proposes to amend Section 312.03(b) in several respects.

• The Exchange proposes to modify the class of persons with respect to which an issuance of common stock would require a listed company to seek shareholder approval. Specifically, Section 312.03(b) as amended would require prior shareholder approval for issuances of common stock to directors, officers, and substantial securityholders (''Related Party'') and would no longer require such approval for issuances to such Related Parties' subsidiaries, affiliates or other closely related persons or to entities in which a Related Party has a substantial interest (except where a Related Party has a 5% or greater interest in the counterparty, as described below). In making this change, the Exchange is harmonizing its approach to the regulation of issuances to related parties with that of Nasdaq and NYSE American, as both of those markets focus their shareholder approval requirements solely on the regulation of the Related Parties themselves and not on closely related persons of Related Parties.

• As proposed to be amended, Section 312.03(b) would require shareholder approval of cash sales to Related Parties (as such term is defined in Section 312.03(b)) only if the price is less than the Minimum Price. Accordingly, Section 312.03(b) would no longer require shareholder approval of issuances in a cash sale that meet the Minimum Price requirement to a Related Party where the number of shares of common stock to be issued, or the number of shares of common stock into which the securities may be convertible or exercisable, exceeds either 5% of the number of shares of common stock or 5% of the voting power outstanding before the issuance. However, cash sales to Related Parties that meet the Minimum Price requirement would be subject to the same limitations as cash sales to all other investors under the proposed amended Section 312.03(c), as described below. In addition, cash sales relating to more than 1% of the issuer's common stock or voting power prior to the issuance to a Related Party for prices below the Minimum Price will continue to be subject to shareholder approval under Section 312.03(b) (this requirement is not included in the Nasdaq or NYSE American rules).

• The Exchange proposes to require shareholder approval of any transaction or series of related transactions in which any Related Party has a 5% or greater interest (or such persons collectively have a 10% or greater interest), directly or indirectly, in the company or assets to be acquired or in the consideration to be paid in the transaction and the present or potential issuance of common stock, or securities convertible into common stock, could result in an increase in outstanding common shares of 5% or more. This proposed provision is substantively identical to the only limitation placed specifically on issuances to related parties in the Nasdaq and NYSE American rules. The Exchange would also continue to require shareholder approval of any sale of securities by a listed company to a Related Party in a transaction, or series of transactions, whose proceeds will be used to fund an acquisition of stock or assets of another company where such Related Party has a direct or indirect interest in the company or assets to be acquired or in the consideration to be paid for such acquisition.

• The Exchange proposes to delete from Section 312.03(b) two provisions that will no longer be relevant as they relate to transactions that benefit from exemptions from shareholder approval under current Section 312.03(b), but would be exempt from shareholder approval under the general application of Section 312.03(b) as proposed to be amended. These provisions relate to: (i) Cash sales meeting the Minimum Price test and relating to no more than 5% of the number of shares of common stock or 5% of the voting power outstanding before the issuance to a Related Party where the Related Party involved in the transaction is classified as such solely because such person is a substantial security holder; and (ii) the Early Stage Company exemption, to which the Exchange proposes to remove the reference from Section 312.04 as it will no longer be needed. For the same reason, the Exchange proposes to delete from Section 312.03(b) a sentence that provides that the Early Stage Company exemption is not applicable to a sale of securities by the listed company to any person subject to the provisions of Section 312.03(b) in a transaction, or series of transactions, whose proceeds will be used to fund an acquisition of stock or assets of another company where such person has a direct or indirect interest in the company or assets to be acquired or in the consideration to be paid for such acquisition.

The Exchange notes that Section 312.03(b) would continue to include text stating that any sale of stock to an employee, director or service provider is also subject to the equity compensation rules in Section 303A.08 of the Manual and stating that shareholder approval is required if any of the subparagraphs of Section 312.03 require such approval, notwithstanding that the transaction does not require approval under Section 312.03(b) or one or more of the other subparagraphs.

There would continue to be other significant protections for shareholders with respect to a company's sales of securities. Firstly, Section 314.00 of the Manual in its proposed amended form will provide that transactions with related parties, such as those in which a director, officer or substantial securityholder has an interest, must be reviewed and approved by the company's audit committee or another body of independent directors. Furthermore, there are other significant protections under other paragraphs of Section 312.03, including a requirement of shareholder approval for any sale for less than the Minimum Price relating to 20% or more of the issuer's outstanding

[7] Section 312.04(i) defines the ''Minimum Price'' as follows: ''Minimum Price'' means a price that is the lower of: (i) The Official Closing Price immediately preceding the signing of the binding agreement; or (ii) the average Official Closing Price for the five trading days immediately preceding the signing of the binding agreement.

Section 312.04(j) defines ''Official Closing Price'' as follows: ''Official Closing Price'' of the issuer's common stock means the official closing price on the Exchange as reported to the Consolidated Tape immediately preceding the signing of a binding agreement to issue the securities. For example, if the transaction is signed after the close of the regular session at 4:00 p.m. Eastern Standard Time on a Tuesday, then Tuesday's official closing price is used. If the transaction is signed at any time between the close of the regular session on Monday and the close of the regular session on Tuesday, then Monday's official closing price is used.

common stock or voting power prior to such issuance. This requirement means that any economically dilutive transaction would be subject to shareholder approval. In addition, any related party sale that gives rise to a change of control would be subject to shareholder approval under Section 312.03(d).

The Exchange believes that the continuation of the important limitations with respect to related party issuances as described above (including the review of such transactions under Section 314.00 and the continued application of the shareholder approval requirements with respect to equity compensation set forth in Section 303A.08) would continue to provide shareholders of NYSE listed companies with protections in relation to issuances to related parties (including Related Parties as such term is defined in Section 312.03(b) In particular, the Exchange notes that the continued shareholder approval requirement for cash sales to Related Parties relating to more than 1% of the company's outstanding common stock that do not meet the Minimum Price requirement is an important protection not provided by the Nasdaq or NYSE American rules. The proposed amendments would make the Exchange's rules for cash sales to related parties substantively identical to those of Nasdaq and NYSE American for issuances that meet the Minimum Price test and the Exchange believes that the long experience of those other markets in applying those substantially identical rules provides evidence that they provide an appropriate level of investor protection.

Proposed Amendments to Section 312.03(c)

Section 312.03(c) of the Manual requires shareholder approval of any transaction relating to 20% or more of the company's outstanding common stock or 20% of the voting power outstanding before such issuance, but provides the following exceptions: (1) Any public offering for cash; (2) any bona fide private financing involving a cash sale of the company's securities that comply with the Minimum Price requirement. As set forth in Section 312.04(g), a ''bona fide private financing'' (''Bona Fide Private Financing'') refers to a sale in which either:

- A registered broker-dealer purchases the securities from the issuer with a view to the private sale of such securities to one or more purchasers; or
- the issuer sells the securities to multiple purchasers, and no one such purchaser, or group of related purchasers, acquires, or has the right to acquire upon exercise or conversion of the securities, more than 5% of the shares of the issuer's common stock or more than five percent of the issuer's voting power before the sale.

The Exchange proposes to replace the reference to ''bona fide private financing'' in Section 312.03(c) with ''other financing (that is not a public offering for cash) in which the company is selling securities for cash.'' This change would eliminate the 5% limit for any single purchaser participating in a transaction relying on the exemption.[8] In addition, as any sale to a broker-dealer under the current Bona Fide Private Financing exception would also qualify for an exception to shareholder approval under the proposed amended exemption, there is no need to retain a separate provision for sales made to broker-dealers. The Exchange also proposes to amend Section 312.03(c) to provide that, if any of the proceeds of such a financing will be paid in an acquisition and the securities generating such proceeds when combined with any securities issued in connection with such acquisition exceed either 20% of the number of shares of common stock or 20% of the voting power outstanding before the issuance, then shareholder approval is required. Finally, as the Bona Fide Private Financing term will no longer be used in Section 312.03(c), the Exchange proposes to delete the definition of that term in Section 312.04(g).

The Exchange notes that the proposed amendments to Section 312.03(c) do not change the rule as it relates to issuances in non-cash transactions or in cash transactions for a price below the Minimum Price. Instead, in replacing the Bona Fide Private Financing exception with the revised exemption described in the immediately preceding paragraph, the proposed amendment would only remove a limitation in the Bona Fide Private Financing exception that limits the participation of any single investor in a Minimum Price cash sale of more than 5% of the shares or voting power. The Exchange believes that this change is consistent with the protection of investors because the Minimum Price requirement protects against a sale using the exception resulting in economic dilution. Further, the separately applicable requirements of Section 312.03(d) require that the shareholders approve any transaction that would result in a change of control.

[8] While the proposed amended exemption would not limit the size of any transaction that meets the Minimum Price test, any such transaction giving rise to a change of control will be subject to shareholder approval under Section 312.03(d).

The proposed amendments would make the Exchange's rules for cash sales of securities that meet the Minimum Price test substantively identical to those of Nasdaq and NYSE American and the Exchange believes that the long experience of those other markets in applying those substantially identical rules provides evidence that they provide an appropriate level of investor protection.

Deletion of Section 312.03T

Section 312.03T was adopted to provide temporary relief from certain of the requirements of Section 312.03 during the COVID–19 pandemic. Section 312.03T was applicable by its terms through June 30, 2020. As that date has passed, the Exchange now proposes to delete Section 312.03T in its entirety, as it is no longer applicable.

Amendment to Section 314.00

In its current form, Section 314.00 provides that related party transactions normally include transactions between officers, directors, and principal shareholders and the company and that each related party transaction is to be reviewed and evaluated by an appropriate group within the listed company involved. The current rule further states that, while the Exchange does not specify who should review related party transactions, the Exchange believes that the Audit Committee or another comparable body might be considered as an appropriate forum for this task.

The Exchange proposes to amend the first paragraph of Section 314.00.[9] The proposed new rule text strengthens the rule in two important respects:

- For purposes of Section 314.00, the term ''related party transaction'' refers to transactions required to be disclosed pursuant to Item 404 of Regulation S–K under the Securities Exchange Act. In the case of foreign private issuers, the term ''related party transactions'' refers to transactions required to be disclosed pursuant to Form 20–F, Item 7.B.
- Related party transactions under the rule as amended must be reviewed by either the company's audit committee or another independent body of the board of directors and the audit committee or such other body may prohibit such a transaction if it determines it to be

[9] The Second paragraph of Section 314.00 will be retained in its entirety. It reads as follows:

The Exchange will continue to review proxy statements and other SEC filings disclosing related party transactions and where such situations continue year after year, the Exchange will remind the listed company of its obligation, on a continuing basis, to evaluate each related party transaction and determine whether or not it should be permitted to continue.

inconsistent with the interests of the company.[10]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect the public interest and the interests of investors, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed amendments to Section 312.03(b) are designed to protect the public interest and the interests of investors because there would continue to be other significant protections for shareholders with respect to sales of securities to related parties. Firstly, Section 314.00 of the Manual, as proposed to be amended, will provide that related party transactions, such as those in which a director, officer or substantial securityholder has an interest, are required to be reviewed and approved by the issuer's audit committee or another group of independent directors. Furthermore, there are other significant protections under other paragraphs of Section 312.03, including any sale relating to 20% or more of the issuer's common stock or voting power immediately preceding this issuance for less than the Minimum Price. This requirement means that any economically dilutive transaction would be subject to shareholder approval. The Exchange notes that Section 312.03(c) applies to any transaction or series of related transactions, which provides shareholders with further protection by ensuring that a company cannot avoid the shareholder approval requirement by separating an overall transaction into smaller separate transactions that would not individually require shareholder approval. In addition, any related party sale that gives rise to a change of control will be subject to shareholder approval under Section 312.03(d). The Exchange believes that the continuation of the important limitations with respect to related party issuances as described above (including the review of such transactions under Section 314.00 and the continued application of the shareholder approval requirements with respect to equity compensation set forth in Section 303A.08) would continue to provide shareholders of NYSE listed companies with protections in relation to issuances to related parties (including Related Parties as such term is defined in Section 312.03(b)). In particular, the Exchange notes that the continued shareholder approval requirement for cash sales to Related Parties that relate to more than 1% of the company's outstanding common stock or voting power and do not meet the Minimum Price requirement is an important protection not provided by the Nasdaq or NYSE American rules. The proposed amendments would make the Exchange's rules for cash sales to related parties substantively identical to those of Nasdaq and NYSE American for issuances that meet the Minimum Price test and the Exchange believes that the long experience of those other markets in applying those substantially identical rules provides evidence that they provide an appropriate level of investor protection.

The Exchange believes that the proposed amendments to Section 312.03(c) are also designed to protect the public interest and the interests of investors. The Exchange notes that the proposed amendments to Section 312.03(c) do not change the rule as it relates to issuances in non-cash transactions or to cash transactions for a price below the Minimum Price. The sole purpose of the amendment is to remove an arbitrary limitation in the Bona Fide Private Financing exception that limits the participation of any single investor in a Minimum Price cash sale to 5%. The Exchange believes that this change is consistent with the protection of investors because the Minimum Price requirement provides protection against economic dilution, while the separately applicable requirements of Section 312.03(d) provide that shareholders will have a vote on any transaction that would result in a change of control. The proposed amendments would also make the Exchange's rules for cash sales of securities that meet the Minimum Price test substantively identical to those of Nasdaq and NYSE American and the Exchange believes that the long experience of those other markets in applying those substantially identical rules provides evidence that they provide an appropriate level of investor protection.

The Exchange believes that the proposed amendments to Section 314.00 are also designed to protect the public interest and the interests of investors. By proposing to use the definition of a related party transaction in SEC disclosure rules, the Exchange is providing greater clarity to both issuers and investors as to when the rule must be applied. By proposing to require that transactions subject to the rule must be reviewed and approved by either the audit committee or another body of independent directors, the Exchange is making the requirement more explicit and preventing any listed issuer from giving that role to any group that is not entirely made up of independent directors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes will conform the shareholder approval requirements of the NYSE to those of Nasdaq and NYSE American in certain respects and therefore enhances competition among listing exchanges. As all listed companies will be subject to the same shareholder approval and related party transaction approval requirements, the proposal does not impose any burden on competition among listed issuers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or *up to 90 days* (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

[10] The Exchange proposes to delete from Section 314.00 a sentence that reads as follows: ''Following the review, the company should determine whether or not a particular relationship serves the best interests of the company and its shareholders and whether the relationship should be continued or eliminated.'' This sentence is no longer necessary, as the proposed amended rule gives the audit committee or other independent body of the board the authority to prohibit any related party transaction it reviews.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

(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–NYSE–2020–85 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–NYSE–2020–85. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2020–85 and should be submitted on or before January 25, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–29020 Filed 12–31–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90808; File No. SR–MEMX–2020–16]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rules 4.5 and 4.7 Regarding the National Market System Plan Governing the Consolidated Audit Trail

December 28, 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 December 18, 2020, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend Exchange Rules 4.5 and 4.7, each a part of the Exchange's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''),[3] to be consistent with a conditional exemption granted by the Commission from certain allocation reporting requirements set forth in Sections 6.4(d)(ii)(A)(1) and (2) of the CAT NMS Plan (''Allocation Exemption'').[4] The text of the proposed rule change is provided in Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend Exchange Rules 4.5 and 4.7, each a part of the Exchange's Compliance Rule, to be consistent with the Allocation Exemption. The Commission granted the relief conditioned upon the Participants' adoption of Compliance Rules that implement the alternative approach to reporting allocations to the Central Repository described in the Allocation Exemption (referred to as the ''Allocation Alternative'').

(1) Request for Exemptive Relief

Pursuant to Section 6.4(d)(ii)(A) of the CAT NMS Plan, each Participant must, through its Compliance Rule, require its Industry Members to record and report to the Central Repository, if the order is executed, in whole or in part: (1) An Allocation Report;[5] (2) the SRO-Assigned Market Participant Identifier of the clearing broker or prime broker, if applicable; and the (3) CAT-Order-ID of any contra-side order(s). Accordingly, the Exchange and the other Participants implemented Compliance Rules that require their Industry Members that are executing brokers to submit to the Central Repository, among other things, Allocation Reports and the SRO-Assigned Market Participant Identifier

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

[4] *See* Securities Exchange Act Release No. 90223 (October 19, 2020), 85 FR 67576 (October 23, 2020) (''Allocation Exemptive Order'').

[5] Section 1.1 of the CAT NMS Plan defines an ''Allocation Report'' as ''a report made to the Central Repository by an Industry Member that identifies the Firm Designated ID for any account(s), including subaccount(s), to which executed shares are allocated and provides the security that has been allocated, the identifier of the firm reporting the allocation, the price per share of shares allocated, the side of shares allocated, the number of shares allocated to each account, and the time of the allocation; provided for the avoidance of doubt, any such Allocation Report shall not be required to be linked to particular orders or executions.''

of the clearing broker or prime broker, if applicable.

On August 27, 2020, the Participants submitted to the Commission a request for an exemption from certain allocation reporting requirements set forth in Sections 6.4(d)(ii)(A)(1) and (2) of the CAT NMS Plan (''Exemption Request'').[6] In the Exemption Request, the Participants requested that they be permitted to implement the Allocation Alternative, which, as noted above, is an alternative approach to reporting allocations to the Central Repository. Under the Allocation Alternative, any Industry Member that performs an allocation to a client account would be required under the Compliance Rule to submit an Allocation Report to the Central Repository when shares/contracts are allocated to a client account regardless of whether the Industry Member was involved in executing the underlying order(s). Under the Allocation Alternative, a ''client account'' would be any account that is not owned or controlled by the Industry Member.

In addition, under the Allocation Alternative, an ''Allocation'' would be defined as: (1) The placement of shares/contracts into the same account for which an order was originally placed; or (2) the placement of shares/contracts into an account based on allocation instructions (*e.g.,* subaccount allocations, delivery versus payment (''DVP'') allocations). Pursuant to this definition and the proposed Allocation Alternative, an Industry Member that performs an Allocation to an account that is not a client account, such as proprietary accounts and events including step outs,[7] or correspondent flips,[8] would not be required to submit an Allocation Report to the Central Repository for that allocation, but could do so on a voluntary basis. Industry Members would be allowed to report Allocations to accounts other than client accounts; in that instance, such Allocations must be marked as Allocations to accounts other than client accounts.

(A) Executing Brokers and Allocation Reports

To implement the Allocation Alternative, the Participants requested exemptive relief from Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan, to the extent that the provision requires each Participant to, through its Compliance Rule, require its Industry Members that are executing brokers, who do not perform Allocations, to record and report to the Central Repository, if the order is executed, in whole or in part, an Allocation Report. Under the Allocation Alternative, when an Industry Member other than an executing broker (*e.g.,* a prime broker or clearing broker) performs an Allocation, that Industry Member would be required to submit the Allocation Report to the Central Repository. When an executing broker performs an Allocation for an order that is executed, in whole or in part, the burden of submitting an Allocation Report to the Central Repository would remain with the executing broker under the Allocation Alternative. In certain circumstances this would result in multiple Allocation Reports—the executing broker (if self-clearing) or its clearing firm would report individual Allocation Reports identifying the specific prime broker to which shares/contracts were allocated and then each prime broker would itself report an Allocation Report identifying the specific customer accounts to which the shares/contracts were finally allocated.

The Participants stated that granting exemptive relief from submitting Allocation Reports for executing brokers who do not perform an Allocation, and requiring the Industry Member other than the executing broker that is performing the Allocation to submit such Allocation Reports, is consistent with the basic approach taken by the Commission in adopting Rule 613 under the Exchange Act. Specifically, the Participants stated that they believe that the Commission sought to require each broker-dealer and exchange that touches an order to record the required data with respect to actions it takes on the order.[9] Without the requested exemptive relief, executing brokers that do not perform Allocations would be required to submit Allocation Reports. In addition, the Participants stated that, because shares/contracts for every execution must be allocated to an account by the clearing broker in such circumstances, there would be no loss of information by shifting the reporting obligation from the executing broker to the clearing broker.

(B) Identity of Prime Broker

To implement the Allocation Alternative, the Participants also requested exemptive relief from Section 6.4(d)(ii)(A)(2) of the CAT NMS Plan, to the extent that the provision requires each Participant to, through its Compliance Rule, require its Industry Members to record and report to the Central Repository, if an order is executed, in whole or in part, the SRO-Assigned Market Participant Identifier of the prime broker, if applicable. Currently, under the CAT NMS Plan, an Industry Member is required to report the SRO-Assigned Market Participant Identifier of the clearing broker or prime broker in connection with the execution of an order, and such information would be part of the order's lifecycle, rather than in an Allocation Report that is not linked to the order's lifecycle.[10] Under the Allocation Alternative, the identity of the prime broker would be required to be reported by the clearing broker on the Allocation Report, and, in addition, the prime broker itself would be required to report the ultimate allocation, which the Participants believe would provide more complete information.

The Participants stated that associating a prime broker with a specific execution, as is currently required by the CAT NMS Plan, does not reflect how the allocation process works in practice as allocations to a prime broker are done post-trade and are performed by the clearing broker of the executing broker. The Participants also stated that with the implementation of the Allocation Alternative, it would be duplicative for the executing broker to separately identify the prime broker for allocation purposes.

The Participants stated that if a particular customer only has one prime broker, the identity of the prime broker can be obtained from the customer and account information through the DVP accounts for that customer that contain the identity of the prime broker. The Participants further stated that Allocation Reports related to those executions would reflect that shares/contracts were allocated to the single

[6] *See* letter from the Participants to Vanessa Countryman, Secretary, Commission, dated August 27, 2020 (the ''Exemption Request'').

[7] ''A step-out allows a broker-dealer to allocate all or part of a client's position from a previously executed trade to the client's account at another broker-dealer. In other words, a step-out functions as a client's position transfer, rather than a trade; there is no exchange of shares and funds and no change in beneficial ownership.'' See FINRA, Trade Reporting Frequently Asked Questions, at Section 301, available at: *https://www.finra.org/filing-reporting/market-transparency-reporting/trade-reporting-faq.*

[8] Correspondent clearing flips are the movement of a position from an executing broker's account to a different account for clearance and settlement, allowing a broker-dealer to execute a trade through another broker-dealer and settle the trade in its own account. *See, e.g.,* The Depository Trust & Clearing Corporation, Correspondent Clearing, available at: *https://www.dtcc.com/clearing-services/equities-tradecapture/correspondent-clearing.*

[9] *See* Securities Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722, 45748 (August 1, 2012).

[10] The Participants did not request exemptive relief relating to the reporting of the SRO-Assigned Market Participant Identifier of clearing brokers.

prime broker. The Participants believe that there is no loss of information through the implementation of the Allocation Alternative compared to what is required in the CAT NMS Plan and that this approach does not decrease the regulatory utility of the CAT for single prime broker circumstances.

In cases where a customer maintains relationships with multiple prime brokers, the Participants asserted that the executing broker will not have information at the time of the trade as to which particular prime broker may be allocated all or part of the execution. Under the Allocation Alternative, the executing broker (if self-clearing) or its clearing firm would report individual Allocation Reports identifying the specific prime broker to which shares/contracts were allocated and then each prime broker would itself report an Allocation Report identifying the specific customer accounts where the shares/contracts were ultimately allocated. To determine the prime broker for a customer, a regulatory user would query the customer and account database using the customer's CCID to obtain all DVP accounts for the CCID at broker-dealers. The Participants state that when a customer maintains relationships with multiple prime brokers, the customer typically has a separate DVP account with each prime broker, and the identities of those prime brokers can be obtained from the customer and account information.

(C) Additional Conditions to Exemptive Relief

In the Exemption Request, the Participants included certain additional conditions for the requested relief. Currently, the definition of Allocation Report in the CAT NMS Plan only refers to shares. To implement the Allocation Alternative, the Participants proposed to require that all required elements of Allocation Reports apply to both shares and contracts, as applicable, for all Eligible Securities. Specifically, Participants would require the reporting of the following in each Allocation Report: (1) The FDID for the account receiving the allocation, including subaccounts; (2) the security that has been allocated; (3) the identifier of the firm reporting the allocation; (3) the price per share/contracts of shares/contracts allocated; (4) the side of shares/contracts allocated; (4) the number of shares/contracts allocated; and (5) the time of the allocation.

Furthermore, to implement the Allocation Alternative, the Participants proposed to require the following information on all Allocation Reports: (1) Allocation ID, which is the internal allocation identifier assigned to the allocation event by the Industry Member; (2) trade date; (3) settlement date; (4) IB/correspondent CRD Number (if applicable); (5) FDID of new order(s) (if available in the booking system); [11] (6) allocation instruction time (optional); (7) if the account meets the definition of institution under FINRA Rule 4512(c); [12] (8) type of allocation (allocation to a custody account, allocation to a DVP account, step out, correspondent flip, allocation to a firm owned or controlled account, or other non-reportable transactions (*e.g.,* option exercises, conversions); (9) for DVP allocations, custody broker-dealer clearing number (prime broker) if the custodian is a U.S. broker-dealer, DTCC number if the custodian is a U.S. bank, or a foreign indicator, if the custodian is a foreign entity; and (10) if an allocation was cancelled, a cancel flag, which indicates that the allocation was cancelled, and a cancel timestamp, which represents the time at which the allocation was cancelled.

(2) Proposed Rule Changes To Implement Exemptive Relief

On October 29, 2020, the Commission granted the exemptive relief requested in the Exemption Request. The Commission granted the relief conditioned upon the adoption of Compliance Rules that implement the reporting requirements of the Allocation Alternative. Accordingly, the Exchange proposes the following changes to its Compliance Rule to implement the reporting requirements of the Allocation Alternative.

(A) Definition of Allocation

The Exchange proposes to add a definition of ''Allocation'' as new paragraph (c) to Rule 4.5.[13] Proposed paragraph (c) of Rule 4.5 would define an ''Allocation'' to mean ''(1) the placement of shares/contracts into the same account for which an order was originally placed; or (2) the placement of shares/contracts into an account based on allocation instructions (*e.g.,* subaccount allocations, delivery versus payment (''DVP'') allocations).'' The SEC stated in the Allocation Exemption that this definition of ''Allocation'' is reasonable.

(B) Definition of Allocation Report

The Exchange proposes to amend the definition of ''Allocation Report'' set forth in Exchange Rule 4.5(c) to reflect the requirements of the Allocation Exemption. Exchange Rule 4.5(c) defines the term ''Allocation Report'' to mean:

> a report made to the Central Repository by an Industry Member that identifies the Firm Designated ID for any account(s), including subaccount(s), to which executed shares are allocated and provides the security that has been allocated, the identifier of the firm reporting the allocation, the price per share of shares allocated, the side of shares allocated, the number of shares allocated to each account, and the time of the allocation; provided, for the avoidance of doubt, any such Allocation Report shall not be required to be linked to particular orders or executions.

The Exchange proposes to amend this definition in two ways: (1) Applying the requirements for Allocation Reports to contracts in addition to shares; and (2) requiring the reporting of additional elements for the Allocation Report.

(i) Shares and Contracts

The requirements for Allocation Reports apply only to shares, as the definition of ''Allocation Report'' in Rule 4.5(c) refers to shares, not contracts. In the Allocation Exemption, the Commission stated that applying the requirements for Allocation Reports to contracts in addition to shares is appropriate because CAT reporting requirements apply to both options and equities. Accordingly, the SEC stated that the Participants would be required to modify their Compliance Rules such that all required elements of Allocation Reports apply to both shares and contracts, as applicable, for all Eligible Securities. Therefore, the Exchange proposes to amend Rule 4.5(c) (to be renumbered as Rule 4.5(d)) to apply to contracts, as well as shares. Specifically, the Exchange proposes to add references to contracts to the definition of ''Allocation Report'' to the following phrases: ''the Firm Designated ID for

[11] The Participants propose that for scenarios where the Industry Member responsible for reporting the Allocation has the FDID of the related new order(s) available, such FDID must be reported. This would include scenarios in which: (1) The FDID structure of the top account and subaccounts is known to the Industry Member responsible for reporting the Allocation(s); and (2) the FDID structure used by the IB/Correspondent when reporting new orders is known to the clearing firm reporting the related Allocations.

[12] FINRA Rule 4512(c) states the for purposes of the rule, the term ''institutional account'' means the account of: (1) A bank, savings and loan association, insurance company or registered investment company; (2) an investment adviser registered either with the SEC under Section 203 of the Investment Advisers Act or with a state securities commission (or any agency or office performing like functions); or (3) any other person (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least $50 million.

[13] The Exchange proposes to renumber the definitions in Rule 4.5 to accommodate the addition of this new definition of ''Allocation'' and the new definition of ''Client Account'' discussed below.

any account(s), including subaccount(s), to which executed shares/contracts are allocated,'' ''the price per share/contract of shares/contracts allocated,'' ''the side of shares/contracts allocated,'' and ''the number of shares/contracts allocated to each account.''

(ii) Additional Elements

The Commission also conditioned the Allocation Exemption on the Participants amending their Compliance Rules to require the ten additional elements in Allocation Reports described above. Accordingly, the Exchange proposes to require these additional elements in Allocation Reports. Specifically, the Exchange proposes to amend the definition of ''Allocation Report'' in Rule 4.5(c) (to be renumbered as Rule 4.5(d)) to include the following elements, in addition to those elements currently required under the CAT NMS Plan:

(6) the time of the allocation; (7) Allocation ID, which is the internal allocation identifier assigned to the allocation event by the Industry Member; (8) trade date; (9) settlement date; (10) IB/correspondent CRD Number (if applicable); (11) FDID of new order(s) (if available in the booking system); (12) allocation instruction time (optional); (12) if account meets the definition of institution under FINRA Rule 4512(c); (13) type of allocation (allocation to a custody account, allocation to a DVP account, step out, correspondent flip, allocation to a firm owned or controlled account, or other non-reportable transactions (*e.g.,* option exercises, conversions); (14) for DVP allocations, custody broker-dealer clearing number (prime broker) if the custodian is a U.S. broker-dealer, DTCC number if the custodian is a U.S. bank, or a foreign indicator, if the custodian is a foreign entity; and (15) if an allocation was cancelled, a cancel flag indicating that the allocation was cancelled, and a cancel timestamp, which represents the time at which the allocation was cancelled.

(C) Allocation Reports

(i) Executing Brokers That Do Not Perform Allocations

The Commission granted the Participants an exemption from the requirement that the Participants, through their Compliance Rule, require executing brokers that do not perform Allocations to submit Allocation Reports. The Commission stated that it understands that executing brokers that are not self-clearing do not perform allocations themselves, and such allocations are handled by prime and/or clearing brokers, and these executing brokers therefore do not possess the requisite information to provide Allocation Reports. Accordingly, the Exchange proposes to eliminate Rule 4.7(a)(2)(A)(i),[14] which requires an Industry Member to record and report to the Central Repository an Allocation Report if the order is executed, in whole or in part, and to replace this provision with proposed Rule 4.7(a)(2)(F) as discussed below.

(ii) Industry Members That Perform Allocations

The Allocation Exemption requires the Participants to amend their Compliance Rules to require Industry Members to provide Allocation Reports to the Central Repository any time they perform Allocations to a client account, whether or not the Industry Member was the executing broker for the trades. Accordingly, the Commission conditioned the Allocation Exemption on the Participants adopting Compliance Rules that require prime and/or clearing brokers to submit Allocation Reports when such brokers perform allocations, in addition to requiring executing brokers that perform allocations to submit Allocation Reports. The Commission determined that such exemptive relief would improve efficiency and reduce the costs and burdens of reporting allocations for Industry Members because the reporting obligation would belong to the Industry Member with the requisite information, and executing brokers that do not have the information required on an Allocation Report would not have to develop the infrastructure and processes required to obtain, store and report the information. The Commission stated that this exemptive relief should not reduce the regulatory utility of the CAT because an Allocation Report would still be submitted for each executed trade allocated to a client account, which in certain circumstances could still result in multiple Allocation Reports,[15] just not necessarily by the executing broker.

In accordance with the Allocation Exemption, the Exchange proposes to add proposed Rule 4.7(a)(2)(F) to the Compliance Rule. Proposed Rule 4.7(a)(2)(F) would require Industry Members to record and report to the Central Repository ''an Allocation Report any time the Industry Member performs an Allocation to a Client Account, whether or not the Industry Member was the executing broker for the trade.''

(iii) Client Accounts

In the Allocation Exemption, the Commission also exempted the Participants from the requirement that they amend their Compliance Rules to require Industry Members to report Allocations for accounts other than client accounts. The Commission believes that allocations to client accounts, and not allocations to proprietary accounts or events such as step-outs and correspondent flips, provide regulators the necessary information to detect abuses in the allocation process because it would provide regulators with detailed information regarding the fulfillment of orders submitted by clients, while reducing reporting burdens on broker-dealers. For example, Allocation Reports would be required for allocations to registered investment advisor and money manager accounts. The Commission further believes that the proposed approach should facilitate regulators' ability to distinguish Allocation Reports relating to allocations to client accounts from other Allocation Reports because Allocations to accounts other than client accounts would have to be identified as such. This approach could reduce the time CAT Reporters expend to comply with CAT reporting requirements and lower costs by allowing broker dealers to use existing business practices.

To clarify that an Industry Member must report an Allocation Report solely for Allocations to a client account, proposed Rule 4.7(a)(2)(F) specifically references ''Client Accounts,'' as discussed above. In addition, the Exchange proposes to add a definition of ''Client Account'' as proposed Rule 4.5(l). Proposed Rule 4.5(l) would define a ''Client Account'' to mean ''for the purposes of an Allocation and Allocation Report, any account or subaccount that is not owned or controlled by the Industry Member.''

(D) Identity of Prime Broker

The Exchange also proposes to amend Rule 4.7(a)(2)(A)(ii) to eliminate the requirement for executing brokers to record and report the SRO-Assigned Market Participant Identifier of the prime broker. Rule 4.7(a)(2)(A)(ii) states that each Industry Member is required to record and report to the Central Repository, if the order is executed, in whole or in part, the ''SRO-Assigned Market Participant Identifier of the clearing broker or prime broker, if

[14] The Exchange proposes to renumber Rule 4.7(a)(2)(A)(ii) and (iii) as Rule 4.7(a)(2)(A)(i) and (ii) in light of the proposed deletion of Rule 4.7(a)(2)(A)(i).

[15] As noted above, under the Allocation Alternative, for certain executions, the executing broker (if self-clearing) or its clearing firm would report individual Allocation Reports identifying the specific prime broker to which shares/contracts were allocated and then each prime broker would itself report an Allocation Report identifying the specific customer accounts to which the shares/contracts were finally allocated.

applicable.'' The Exchange proposes to delete the phrase ''or prime broker'' from this provision. Accordingly, each Industry Member that is an executing broker would no longer be required to report the SRO-Assigned Market Participant Identifier of the prime broker.

As the Commission noted in the Allocation Exemption, exempting the Participants from the requirement that they, through their Compliance Rules, require executing brokers to provide the SRO-Assigned Market Participant Identifier of the prime broker is appropriate because, as stated by the Participants, allocations are done on a post-trade basis and the executing broker will not have the requisite information at the time of the trade. Because an executing broker, in certain circumstances, does not have this information at the time of the trade, this relief relieves executing brokers of the burdens and costs of developing infrastructure and processes to obtain this information in order to meet the contemporaneous reporting requirements of the CAT NMS Plan.

As the Commission noted in the Allocation Exemption, although executing brokers would no longer be required to provide the prime broker information, regulators will still be able to determine the prime broker(s) associated with orders through querying the customer and account information database. If an executing broker has only one prime broker, the identity of the prime broker can be obtained from the customer and account information associated with the executing broker. For customers with multiple prime brokers, the identity of the prime brokers can be obtained from the customer and account information which will list the prime broker, if there is one, that is associated with each account.

b. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[16] which require, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 6(b)(8) of the Act,[17] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

The Exchange believes that this proposal is consistent with the Act because it is consistent with, and implements, the Allocation Exemption, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [18] To the extent that this proposal implements the Plan, and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule changes are consistent with the Allocation Exemption, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the proposed rule changes will apply equally to all Industry Members. In addition, all national securities exchanges and FINRA are proposing this amendment to their Compliance Rules. Therefore, this is not a competitive rule filing, and, does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [19] and Rule 19b–4(f)(6) thereunder.[20] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MEMX–2020–16 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–MEMX–2020–16. 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

[16] 15 U.S.C. 78f(b)(6).

[17] 15 U.S.C. 78f(b)(8).

[18] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

[19] 15 U.S.C. 78s(b)(3)(A)(iii).

[20] 17 CFR 240.19b–4(f)(6).

[21] 15 U.S.C. 78s(b)(2)(B).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MEMX–2020–16, and should be submitted on or before January 25, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–29026 Filed 12–31–20; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34159]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

December 28, 2020.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of December 2020. A copy of each application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the relevant applicant with a copy of the request by email, if an email address is listed for the relevant applicant below, or personally or by mail, if a physical address is listed for the relevant applicant below. Hearing requests should be received by the SEC by 5:30 p.m. on January 26, 2021, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*.

FOR FURTHER INFORMATION CONTACT: Shawn Davis, Assistant Director, at (202) 551–6413 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE, Washington, DC 20549–8010.

Premier Multi-Series VIT [File No. 811–22712]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 22, 2020, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of approximately $97,923 incurred in connection with the reorganization were paid by the applicant and the applicant's investment adviser.

Filing Dates: The application was filed on July 29, 2020, and amended on December 3, 2020.

Applicant's Address: Craig.Ruckman@allianzgi.com.

SEI Insurance Products Trust [File No. 811–22862]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 28, 2020, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of approximately $21,512 incurred in connection with the liquidation were paid by the applicant.

Filing Date: The application was filed on October 1, 2020.

Applicant's Address: john.obrien@morganlewis.com.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–29013 Filed 12–31–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Wednesday, January 6, 2021.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: December 30, 2020.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2020–29201 Filed 12–30–20; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90804; File Nos. SR–CboeBYX–2020–032, SR–CboeBZX–2020–083, SRCboeEDGA–2020–029, SR–CboeEDGX–2020–055]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Cboe BZX Exchange, Inc.; Cboe EDGA Exchange, Inc.; Cboe EDGX Exchange, Inc.; Order Granting Approval of Proposed Rule Changes To Revise Each Exchange's Process for Re-Opening Trading of NYSE-Listed Securities Outside of Regular Trading Hours

December 28, 2020.

I. Introduction

On November 5, 2020, Cboe BYX Exchange, Inc. (''CboeBYX''), Cboe BZX Exchange, Inc. (''CboeBZX''), Cboe EDGA Exchange, Inc. (''CboeEDGA'') and Cboe EDGX Exchange, Inc. (''CboeEDGX,'' and collectively, the ''Exchanges'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] proposed rule changes to revise each Exchange's process for re-opening trading of a security listed on the New York Stock Exchange LLC (''NYSE'') outside of regular trading hours. The proposed rule changes were published for comment in the **Federal Register** on November 19, 2020.[3] The Commission received no comments on the proposed rule changes. This order approves the proposed rule changes.

II. Description of the Proposed Rule Changes

Outside of regular trading hours, the Exchanges' operate extra-hours sessions from 7:00 a.m. to 8:00 a.m. Eastern Time (''ET''),[4] 8:00 a.m. to 9:30 a.m. ET,[5] and from 4:00 p.m. to 8:00 p.m. ET.[6] The Exchanges have proposed to change the manner by which they re-open trading of an NYSE-listed security on their respective markets if NYSE lifts the halt, suspension, or pause in that security during an extra-hours session.[7] Under the Exchanges' current rules and procedures, the only way to re-open trading in an extra-hours session of an NYSE-listed security that has been halted, suspended, or paused by NYSE is for Exchange staff to manually re-open the market for that security.[8] The Exchanges have represented that, under their current procedures, Exchange staff would have the authority to re-open their markets for trading an NYSE-listed security during an extra-hours session if two conditions are met: (1) NYSE lifts the halt, suspension, or pause in that security; and (2) one or more other exchanges resumes quoting the security.[9] Furthermore, under current procedures, Exchange staff would ascertain whether these two conditions had been met and, if so, re-open the market manually. The Exchanges believe that this manual process is inefficient, and state that members have requested that the Exchanges replace this process with a more efficient automated process.

The Exchanges have proposed to reconfigure their systems such that, when NYSE has halted, suspended, or paused trading in one of its listed securities and subsequently lifts the halt, suspension, or pause during an extra-hours session, the Exchanges would re-open their respective markets in that security automatically when those two conditions are present, thereby eliminating the need for manual intervention. The Exchanges are not proposing any changes to the conditions for re-opening their markets, only the mechanism for doing so. The new automated procedures would automatically resume trading after one second has passed following the Exchanges' receipt of the first NBBO following the resumption of trading after the halt, suspension, or pause. This change would allow each Exchange to avoid the need for its staff to monitor for resumption messages, and would allow members' orders to be automatically reflected in the market, while continuing to ensure that the Exchanges' re-opening is tied to the existence of a market in the security on one or more national securities exchanges.

If there is no available NBBO in the security, the proposed automated procedures would not resume trading on the Exchanges. However, each Exchange would retain the ability to manually resume trading at its discretion pursuant to an existing rule.[10] Each Exchange also has proposed to amend the existing rule to specifically provide that that discretion exists only when a security has not otherwise been re-opened for trading on the Exchange pursuant to the new automated procedures. The Exchanges believe that modifying the rules in this manner would increase transparency by specifically identifying the times when this discretion is not relevant due to the fact that the Exchange has successfully re-opened the security using its automated procedures. The Exchanges have represented that these additional changes would not substantively modify the scope of the discretion provided under the existing rules.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[11] In particular, the Commission finds that the proposed rule changes are consistent with Section 6(b)(5) of the Act,[12] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

As noted above, the Exchanges have proposed to reconfigure their systems such that, when NYSE has halted, suspended, or paused trading in one of its listed securities and subsequently

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 90421 (Nov. 13, 2020), 85 FR 73826 (Nov. 19, 2020) (SR–CboeBYX–2020–032); 90420 (Nov. 13, 2020), 85 FR 73832 (Nov. 19, 2020) (SR–CboeBZX–2020–083); 90419 (Nov. 13, 2020), 85 FR 73829 (Nov. 19, 2020) (SR–CboeEDGA–2020–029); 90422 (Nov. 13, 2020), 85 FR 73816 (Nov. 19, 2020) (SR–CboeEDGX–2020–055). The proposed rule changes are nearly identical.

[4] *See* CboeBYX Rule 1.5(ee); CboeBZX Rule 1.5(ee); CboeEDGA Rule 1.5(ii); CboeEDGX Rule 1.5(ii).

[5] *See* CboeBYX Rule 1.5(r); CboeBZX Rule 1.5(r); CboeEDGA Rule 1.5(s); CboeEDGX Rule 1.5(s).

[6] *See* CboeBYX Rule 1.5(c); CboeBZX Rule 1.5(c); CboeEDGA Rule 1.5(r); CboeEDGX Rule 1.5(r).

[7] If NYSE lifts the halt, suspension, or pause in one of its listed securities during regular trading hours, existing rules of the Exchanges—which the Exchanges are not proposing to change—would apply. *See* CboeBYX Rule 11.23(e)(1); CboeBZX Rule 11.24(e)(1); CboeEDGA Rule 11.7(e)(1); CboeEDGX Rule 11.7(e)(1).

[8] *See* CboeBYX Rule 11.23(e)(2); CboeBZX Rule 11.24(e)(2); CboeEDGA Rule 11.7(e)(2); CboeEDGX Rule 11.7(e)(2).

[9] *See* Email from Adrian Griffiths, Assistant General Counsel, Cboe Global Markets, to Michael Gaw, Kathleen Gross, and Marlene Olsen, Division of Trading and Markets, Commission (Dec. 14, 2020).

[10] *See* CboeBYX Rule 11.23(e)(2); CboeBZX Rule 11.24(e)(2); CboeEDGA Rule 11.7(e)(2); CboeEDGX Rule 11.7(e)(2) (providing that, where neither of the conditions required for re-opening has occurred, the security may be opened for trading at the discretion of the Exchange).

[11] In approving these proposed rule changes, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

lifts the halt, suspension, or pause during an extra-hours session, the Exchanges would re-open their markets in that security automatically when the two aforementioned conditions are met, thereby eliminating the need for manual intervention. The Exchanges have narrowly tailored this new automated process to be invoked only when both conditions are met. The Exchanges have stated that, currently, Exchange personnel would confirm that the security is no longer halted and identify that there are quotes in the security available on other exchanges, and that the Exchanges believe that an automated process would be more consistent and reliable. By setting forth a clear, rules-based approach to re-opening trading in a narrow set of circumstances, the proposals are reasonably designed to increase the consistency and efficiency of the re-opening process in these circumstances. Therefore, the Commission finds that the proposals are consistent with the Act. As noted above, the Commission received no comments opposing the proposed rule changes.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule changes (SR–CboeBYX–2020–032, SR–CboeBZX–2020–083, SR–CboeEDGA–2020–029, and SR–CboeEDGX–2020–055) be, and hereby are, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–29021 Filed 12–31–20; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90807; File No. SR–NYSEArca–2020–114]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reflect a Change in the Time of Calculation and Publication of the Wilshire Gold Index Applicable to Shares of the Wilshire wShares Enhanced Gold Trust

December 28, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 21, 2020, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reflect a change in the time of calculation and publication of the Wilshire Gold Index applicable to shares of the Wilshire wShares Enhanced Gold Trust (''Trust''). Shares of the Trust have been approved by the Commission for listing and trading on the Exchange under NYSE Arca Rule 8.201–E.[4] The Trust's shares have not commenced trading on the Exchange. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved a proposed rule change relating to listing and trading on the Exchange of shares (''Shares'') of the Wilshire wShares Enhanced Gold Trust (''Trust'') for listing and trading on the Exchange under NYSE Arca Rule 8.201–E (''Commodity-Based Trust Shares'').[5] The Exchange proposes to reflect a change in the time of calculation and publication of the Wilshire Gold Index (''Index'') applicable to Shares of the Trust. The Trust's Shares have not commenced trading on the Exchange.[6]

According to the Registration Statement and the Prior Order, the investment objective of the Trust is for the Shares to closely reflect the Index, which will be published by Solactive AG (the Index Calculation Agent), less the Trust's liabilities and expenses. The Trust will have no assets other than (a) physical gold bullion (''Physical Gold'') in proportions that seek to closely replicate the Index and (b) cash.

The Prior Order stated that the Index value using the London Bullion Market Association (''LBMA'') Gold Price PM[7] will be calculated and published daily each business day at approximately 5:00 p.m. (Eastern time (''E.T.'')) on the Trust's website. The Exchange proposes to change this representation to state that the Index value using the LBMA Gold Price PM will be calculated and published daily each business day by approximately 7:00 p.m. E.T. on the Trust's website. The revised time is being proposed as a result of certain contractual licensing restrictions which prevents the publication of the Index value prior to 7:00 p.m. E.T.

The Exchange believes that modifying the representation regarding when the Index value using the LBMA Gold Price PM is published to reflect that such Index value would be published each business day by approximately 7:00 p.m. E.T. would have no impact on the Trust's shareholders. During the proposed two hour extension from approximately 5:00 p.m. E.T. to approximately 7:00 p.m. E.T., the value of the Trust's holdings and net asset value (''NAV'') will be available, which will provide investors and authorized participants (''APs'') with a basis to determine whether Shares during the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* note 5, *infra.*

[5] *See* Securities Exchange Act Release No. 90216 (October 16, 2020), 85 FR 67401 (October 22, 2020) (SR–NYSEArca–2020–59) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, To Amend NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares) and To Permit the Listing and Trading of Shares of the Wilshire wShares Enhanced Gold Trust Under Amended NYSE Arca Rule 8.201–E) (''Prior Order'').

[6] On November 18, 2020 the Trust filed with the Commission an amended registration statement on Form S–1 under the Securities Act of 1933 relating to the Trust (File No. 333–235913) (''Registration Statement''). The description of the operation of the Trust herein is based, in part, on the Prior Order. The procedures described in this proposed rule change will not be implemented until this proposed rule change is effective and operative.

[7] As stated in the Prior Order, the LBMA Gold Price PM is the price of Physical Gold obtained from auctions conducted in the afternoon (London time) by ICE Benchmark Administration (''IBA''), a benchmark administrator appointed by the LBMA.

Exchange's Late Trading Session (normally 4:00 p.m., E.T. to 8:00 p.m., E.T.) are trading at a premium or a discount to the Trust's NAV. Therefore, investors and APs will have sufficient information to be able to ascertain whether any premiums or discounts will have a material impact on their trading in Shares of the Trust.[8] The creation and redemption process used by the Trust will not be affected by the proposed change because the value used for purposes of effecting creations and redemptions of the Shares is based on NAV, not the Index value.

The proposed two-hour extension of the calculation and publication of the Index value will not impact investors trading Shares during the Exchange's Early Trading Session (normally 4:00 a.m. to 9:30 a.m. E.T.) or the Exchange's Core Trading Session (normally 9:30 a.m. to 4:00 p.m. E.T.) as such calculation and publication time will, consistent with the Prior Order, occur after such trading sessions. In addition, investors trading Shares during the Exchange's Late Trading Session (normally 4:00 p.m. to 8:00 p.m. E.T.) will not be impacted by such change, as the Trust's NAV will be determined as of 4:00 p.m., E.T. (or as soon thereafter as practicable) and then disseminated via market data feeds as well as posted on the Trust's website. Like the Index, the value of the Physical Gold held by the Trust for purposes of determining the Trust's NAV is determined by reference to the LBMA Gold Price PM for that day. Therefore, whether the Index value is calculated and published at 5:00 p.m. E.T. or 7:00 p.m. E.T., investors trading in the Exchange's Late Trading Session will trade based on the Trust's NAV determined as of 4:00 p.m. E.T. (or as soon thereafter as practicable).[9]

The Exchange notes that the Prior Order stated that the Index value is calculated and published each business day at approximately 5:00 p.m. E.T. on the Trust's website.[10] Such calculation and publication time occurs outside of the Exchange's Core Trading Session (normally 9:30 a.m. to 4:00 p.m. E.T.) for each business day but occurs during the Exchange's Late Trading Session. The proposed change to the calculation and publication time from approximately 5:00 p.m. E.T. to approximately 7:00 p.m. E.T. is consistent with the Prior Order in that calculation and publication of the Index value will continue to occur outside of the Exchange's Core Trading Session for each business day but during the Exchange's Late Trading Session. The Exchange notes that the Commission has previously approved listing and trading on the Exchange of shares of gold-related commodity trusts under NYSE Arca Rule 8.201–E where the specified time (*i.e.,* approximately 6:00 a.m. E.T.) for dissemination of the applicable index value occurs outside of the Core Trading Session for such business day but during the Exchange's Early Trading Session (normally 4:00 a.m., E.T. to 9:30 a.m., E.T.).[11]

The proposed change would not affect the Trust's requirement to provide investors with an updated Index value each day and would not alter any information that is provided to investors during the trading day.[12] Rather, the proposed publication of the Index value at approximately 7:00 p.m., E.T. would, like the approximately 5:00 p.m., E.T. time frame approved in the Prior Order, provide for publication after the close of the Exchange's Core Trading Session.[13]

In addition, as stated in the Prior Order, the Exchange, the Index Calculation Agent or a third party financial data provider will calculate an intraday indicative value (''IIV'') for the Shares every fifteen seconds during the Exchange's Core Trading Session, which will be available from one or more major market data vendors.[14]

The Sponsor represents that the proposed change described above will not impact investors. Except for the change noted above, all other representations made in the Prior Order remain unchanged.[15]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[16] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The Exchange believes that the proposed change to the time of Index value calculation and publication would have no impact on the Trust's shareholders. The Trust's ability to pursue its investment objective will not be impacted by the proposed change to provide for a later calculation and publication of an updated Index value for a particular business day.

The proposed change would provide investors with an updated Index value each day and would not alter any information that is provided to investors during the trading day. Like the approximately 5:00 p.m., E.T. time frame approved in the Prior Order, the Index would be calculated and published after the close of the Exchange's Core Trading Session and during the Exchange's Late Trading

[8] The Commission has previously approved proposed rule changes permitting listing and trading of shares of gold-related commodity trusts where such proposed rule changes did not specify when NAV or the value of the applicable trust's holdings would be posted to the trust's website. *See, e.g.,* Securities Exchange Act Release Nos. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (SR–NYSE–2004–22) Order Granting Approval of Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendments No. 1 and No. 2 Thereto to the Proposed Rule Change by the New York Stock Exchange, Inc. Regarding Listing and Trading of streetTRACKS® Gold Shares); 71378 (January 13, 2014), 79 FR 4786 (January 29, 2014) (SR–NYSEArca–2013–137) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to List and Trade Shares of the Merk Gold Trust Pursuant to NYSE Arca Equities Rule 8.201).

[9] The LBMA Gold Price PM for such day does not change between the hours of 4:00 p.m. E.T. and 7:00 p.m. E.T. and the investment objective of the Trust is for the Shares to closely reflect the Index.

[10] The Index currently is published daily through various market data vendors, including Bloomberg LP, under the ticker symbol ''WGIX'', and Refinitiv, under the Reuters instrument code (''RIC'') ''WGIX''. Wilshire Phoenix Funds LLC, the Trust's ''Sponsor,'' represents that both the cash and Physical Gold weights for the Index are posted on the Trust's website on the first Business Day after the rebalance date, which is the last Business Day of each month.

[11] *See* Securities Exchange Act Release Nos. 79518 (December 9, 2016), 81 FR 90876 (December 15, 2016) (SR–NYSEArca–2016–84) (order approving listing and trading of shares of the Long Dollar Gold Trust); 80840 (June 1, 2017), 82 FR 26534 (June 7, 2017) (SR–NYSEArca–2017–33) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 2 Thereto, To List and Trade Shares of the Euro Gold Trust, Pound Gold Trust, and the Yen Gold Trust Under NYSE Arca Equities Rule 8.201).

[12] As stated in the Prior Order, the current Index value will be disseminated by one or more major market vendors at least every 15 seconds during the Exchange's Core Trading Session.

[13] The proposed approximately 7:00 p.m. E.T. time for Index publication, like the approximately 5:00 p.m., E.T. Index calculation and publication time, would overlap with part of the Exchange's Late Trading Session (normally 4:00 p.m., E.T. to 8:00 p.m., E.T.). The Exchange notes, that NYSE Arca Rule 7.34–E (Trading Sessions) includes certain requirements for orders entered in the Late Trading Session. Among these is the requirement that no Equity Trading Permit (''ETP'') Holder may accept an order from a non-ETP Holder for execution in the Exchange's Late Trading Session without disclosing to such non-ETP Holder certain risks, including the risk that an updated underlying index value or IIV may not be calculated or publicly disseminated in extended trading hours.

[14] For purposes of the Prior Order and this filing, the IIV is the value referenced in NYSE Arca Rule 8.201–E(e)(2)(v).

[15] *See* note 5, *supra.* All terms referenced but not defined herein are defined in the Prior Order.

[16] 15 U.S.C. 78f(b)(5).

Session. In addition, as stated in the Prior Order, the Exchange, the Index Calculation Agent or a third party financial data provider will calculate an IIV for the Shares every fifteen seconds during the Exchange's Core Trading Session, which will be available from one or more major market data vendors. The Sponsor represents that both the cash and Physical Gold weights for the Index are posted on the Trust's website on the first Business Day after the rebalance date, which is the last Business Day of each month.

The Sponsor represents that the proposed change described above will not impact investors. Except for the change noted above, all other representations made in the Prior Order remain unchanged.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act and will enhance competition among issues of gold-based Commodity-Based Trust Shares.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the proposed change would not alter any information that is provided to investors during the Exchange's Core Trading Session and that investors and APs will have sufficient information to determine whether Shares are trading at a premium or discount to the Trust's NAV during the Exchange's Late Trading Session. In addition, the Exchange represents that other than the change discussed herein, all other representations made in the Prior Order remain unchanged. Finally, the change would not affect the Trust's requirement to provide investors with an updated Index value each day. For these reasons, the proposed rule change does not raise any novel regulatory issues, and the Commission believes waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission therefore waives the 30-day operative delay and designates the proposed rule change to be operative upon filing.[21]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2020–114 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2020–114. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2020–114 and should be submitted on or before January 25, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–29025 Filed 12–31–20; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6).

[19] *Id.*

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90805; File No. SR–DTC–2020–020]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Add a Fee for the New ClaimConnect™ Service

December 28, 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 December 18, 2020, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change[5] consists of amendments to the Guide to the DTC Fee Schedule (''Fee Guide'')[6] to add a fee for the new ClaimConnect service at DTC,[7] as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Fee Guide to add a fee for the new ClaimConnect service at DTC.

ClaimConnect, an optional DTC service, enables Participants to bilaterally match and settle cash claim transactions at DTC.[8] More specifically, ClaimConnect is a validation and matching engine that continually monitors claims throughout their lifecycle in order to settle and close claims through DTC's settlement process. Claims can be matched manually (*i.e.,* Affirmed) by ClaimConnect users or automatically (*i.e.,* Auto-matched) by the ClaimConnect service when it matches two like claims based on the alignment of certain data elements. Once matched, claims are settled through systematic Securities Payment Orders (''SPOs'') generated and submitted by ClaimConnect at set times intraday on a settlement date.[9]

With this proposed rule change, DTC is establishing a ClaimConnect matching fee of a $1.75 per side, per-matched claim, whether or not the claim is Affirmed or Auto-matched. In other words, both parties to a matched claim will be charged $1.75, such that DTC would collect $3.50 for each matched claim.[10] No charge will be assessed for claims that do not match (*e.g.,* Uncompared, DK-uncompared, or Canceled claims).[11]

This per-side matching fee for claims processing will be new for Participants that use Asset Services products. In choosing this fee and fee structure, DTC considered various factors. First, DTC followed its pricing policy of setting fees at cost plus a low-margin markup. The ''low-margin markup'' is applied to recover development costs and operating expenses, and to accumulate capital sufficient to meet regulatory and economic requirements. In consideration of that policy, the aggregate amount of $3.50 per-matched claim will help facilitate a four-year return on investment for DTC's creation of ClaimConnect and help cover continued operating expenses for the service. Second, the per-side structure was chosen to allocate the cost evenly between a claim's two counterparties. Third, in order to align charges for the ClaimConnect service with Participants' actual usage of the service, the fee was structured as a per-usage fee (*i.e.,* per-matched claim) instead of a flat monthly or annual fixed-rate fee. Fourth, in setting the fee, DTC was mindful that, although there are no competing services, Participants could choose not to use ClaimConnect and continue to settle claims as they did prior to ClaimConnect (*e.g.,* using internal/proprietary systems, third-party software, or some combination thereof). Fifth, DTC evaluated its existing Stock, Loan, Repo & Fail Adjustments fee that DTC charges Participants for such entitlement/allocation adjustment activity (''Adjustment Service Fee''), similar to a cash claim.[12] There, DTC charges a $1.50 per adjustment, not per side. In other words, whichever party submits an adjustment is charged $1.50. However, because there is no validation and matching process for adjustments, unlike with ClaimConnect claims, counterparties often need to submit multiple adjustments between each other before reaching final agreement; thus, the total adjustment cost routinely exceeds $3.50.

Changes to the Fee Guide

To effectuate the ClaimConnect fee, the Corporate Action subsection of the Custody and Securities Processing section of the Fee Guide will be updated to include a ClaimConnect Matching Fee of $1.75, per each claim side after matching.

Implementation Timeframe

The ClaimConnect fee will be added to the 2021 Fee Guide and charged beginning January 1, 2021.

2. Statutory Basis

Section 17A(b)(3)(D) of the Act requires that DTC's Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Participants.[13] DTC believes that the ClaimConnect fee is consistent with this provision of the Act.

As described above, the ClaimConnect service is an optional service that was

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] Capitalized terms not defined herein are defined in the Rules, By-Laws and Organization Certificate of DTC (''Rules'') *available at http://www.dtcc.com/~/media/Files/Downloads/legal/rules/dtc_rules.pdf,* or in the ClaimConnect™ Service Guide *available at https://www.dtcc.com/-/media/Files/Downloads/legal/service-guides/ClaimConnect.pdf.*

[6] *Available at http://www.dtcc.com/-/media/Files/Downloads/legal/fee-guides/dtcfeeguide.pdf.*

[7] *See* Securities Exchange Act Release No. 90481 (November 23, 2020), 85 FR 76640 (November 30, 2020) (SR–DTC–2020–012) (''Approval Order'').

[8] With respect to ClaimConnect, a cash claim or cash claim transaction is a cash entitlement (*i.e.,* a request for cash) from one Participant to another Participant. Typically, cash claims arise as a result of trading exceptions from a Corporate Action event, where a cash entitlement needs to be delivered from one holder to another. Trading exceptions include, but are not limited to, trades outside of the market's agreed upon settlement cycle, lack of due bill fail tracking, stock loan or repo transaction discrepancy, or tax treaty differences.

[9] *See* ClaimConnect Service Guide, *supra* note 5.

[10] Separate from ClaimConnect, an existing SPO fee of $.10 per side, per SPO will continue to be charged. Fee ID 186, Fee Guide, *supra* note 6.

[11] *See* ClaimConnect Service Guide, *supra* note 5, regarding claim states.

[12] Fee ID 709, Fee Guide, *supra* note 6.

[13] 15 U.S.C. 78q–1(b)(3)(D).

developed based on discussions with Participants to enable them to bilaterally match and settle cash claim transactions at DTC.[14] Pursuant to this proposed rule change, DTC is establishing an aggregate fee of $3.50 per-matched claim. DTC believes the fee is equitably allocated because, as described above, the fee will be divided evenly between the two counterparties to a claim, such that each side of the claim will be charge $1.75 per-matched claim, which reflects the counterparties' shared usage of the service in settling a claim.

DTC believes the fee is reasonable because, as described above, (i) it is consistent with DTC's cost plus low-margin markup pricing policy; (ii) it is expected to produce a four-year return on DTC's investment in developing ClaimConnect, compared to a higher fee that would produce a quicker return, while helping cover continued operating expenses for the service; (iii) it is structured so that both parties to a claim pay the same amount; (iv) it is structured to align charges for the service with actual usage of the service; and (v) it was set in consideration of a similar, existing fee (*i.e.,* the Adjustment Service Fee) but knowing that parties to a claim will not need to submit additional claims and pay additional ClaimConnect fees to reach agreement on a claim, given the service's validation and matching process.

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the ClaimConnect fee will have any impact on competition.

As described above, DTC believes that the proposed fee is equitable, reasonable, and on par with fees for other DTC services (*e.g.,* the Adjustment Service Fee) already used by Participants. As such, there is no expectation that this particular fee would cause any competitive advantages or disadvantages among Participants. Moreover, although there is no service in direct competition with ClaimConnect, Participants are able to settle their cash claims without using ClaimConnect, as they did prior to DTC establishing the service. As such, it will be up to Participants to decide whether settling claims via the ClaimConnect service is worth the cost. If a Participant concludes that the manner in which it was settling claims prior to ClaimConnect (*e.g.,* using internal/proprietary systems, a third-party software, or some combination thereof) is preferable (whether due to cost, functionality, or some other factor), then the Participant can simply choose not to use ClaimConnect and continue to settle claims away from DTC. Given this optionality, DTC believes that the proposed fee should not place any Participants at a relative disadvantage compared to other Participants.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to this proposed rule change have not been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [15] of the Act and paragraph (f) [16] of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–DTC–2020–020 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2020–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–DTC–2020–020 and should be submitted on or before January 25, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–29022 Filed 12–31–20; 8:45 am]

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[14] *See* Approval Order, *supra* note 7.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90802; File No. SR–CboeBZX–2020–042]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change To Accommodate Exchange Listing and Trading of Options-Linked Securities

December 28, 2020.

On May 15, 2020, Cboe BZX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to permit Exchange listing and trading of Options-Linked Securities. The proposed rule change was

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

published for comment in the **Federal Register** on June 3, 2020.[3] On July 9, 2020, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On September 1, 2020, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.[7] On November 17, 2020, the Commission designated a longer period within which to issue an order approving or disapproving the proposed rule change.[8] The Commission received no comment letters on the proposed rule change. On December 23, 2020, the Exchange withdrew the proposed rule change (SR–CboeBZX–2020–042).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–29019 Filed 12–31–20; 8:45 am]

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[3] *See* Securities Exchange Act Release No. 88968 (May 28, 2020), 85 FR 34270.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 89267, 85 FR 42933 (July 15, 2020).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 89722, 85 FR 55337 (September 4, 2020).

[8] *See* Securities Exchange Act Release No. 90444, 85 FR 74777 (November 23, 2020). The Commission designated January 29, 2021, as the date by which the Commission shall either approve or disapprove the proposed rule change.

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90809; File No. SR–LTSE–2020–24]

Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Rule Series 11.600

December 28, 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 December 18, 2020, Long-Term Stock Exchange, Inc. (''LTSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

LTSE proposes a rule change to amend the Rule Series 11.600, the Exchange's compliance rule (''Compliance Rule'') regarding the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'')[3] to be consistent with a conditional exemption granted by the Commission from certain allocation reporting requirements set forth in Sections 6.4(d)(ii)(A)(1) and (2) of the CAT NMS Plan (''Allocation Exemption'').[4]

The text of the proposed rule change is available at the Exchange's website at *https://longtermstockexchange.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend the Rule Series 11.600 to be consistent with the Allocation Exemption. The Commission granted the relief conditioned upon the Participants' adoption of Compliance Rules that implement the alternative approach to reporting allocations to the Central Repository described in the Allocation Exemption (referred to as the ''Allocation Alternative'').

[3] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth in the Compliance Rule.

[4] *See* Securities Exchange Act Rel. No. 90223 (October 19, 2020), 85 FR 67576 (October 23, 2020) (''Allocation Exemptive Order'').

(1) Request for Exemptive Relief

Pursuant to Section 6.4(d)(ii)(A) of the CAT NMS Plan, each Participant must, through its Compliance Rule, require its Industry Members to record and report to the Central Repository, if the order is executed, in whole or in part: (1) An Allocation Report;[5] (2) the SRO-Assigned Market Participant Identifier of the clearing broker or prime broker, if applicable; and the (3) CAT-Order-ID of any contra-side order(s). Accordingly, the Exchange and the other Participants implemented Compliance Rules that require their Industry Members that are executing brokers to submit to the Central Repository, among other things, Allocation Reports and the SRO-Assigned Market Participant Identifier of the clearing broker or prime broker, if applicable.

On August 27, 2020, the Participants submitted to the Commission a request for an exemption from certain allocation reporting requirements set forth in Sections 6.4(d)(ii)(A)(1) and (2) of the CAT NMS Plan (''Exemption Request'').[6] In the Exemption Request, the Participants requested that they be permitted to implement the Allocation Alternative, which, as noted above, is an alternative approach to reporting allocations to the Central Repository. Under the Allocation Alternative, any Industry Member that performs an allocation to a client account would be required under the Compliance Rule to submit an Allocation Report to the Central Repository when shares/contracts are allocated to a client account regardless of whether the Industry Member was involved in executing the underlying order(s). Under the Allocation Alternative, a ''client account'' would be any account that is not owned or controlled by the Industry Member.

In addition, under the Allocation Alternative, an ''Allocation'' would be defined as: (1) The placement of shares/contracts into the same account for which an order was originally placed; or (2) the placement of shares/contracts into an account based on allocation

[5] Section 1.1 of the CAT NMS Plan defines an ''Allocation Report'' as ''a report made to the Central Repository by an Industry Member that identifies the Firm Designated ID for any account(s), including subaccount(s), to which executed shares are allocated and provides the security that has been allocated, the identifier of the firm reporting the allocation, the price per share of shares allocated, the side of shares allocated, the number of shares allocated to each account, and the time of the allocation; provided for the avoidance of doubt, any such Allocation Report shall not be required to be linked to particular orders or executions.''

[6] *See* Letter from the Participants to Vanessa Countryman, Secretary, Commission, dated August 27, 2020 (the ''Exemption Request'').

instructions (*e.g.,* subaccount allocations, delivery versus payment (''DVP'') allocations). Pursuant to this definition and the proposed Allocation Alternative, an Industry Member that performs an Allocation to an account that is not a client account, such as proprietary accounts and events including step outs,[7] or correspondent flips,[8] would not be required to submit an Allocation Report to the Central Repository for that allocation, but could do so on a voluntary basis. Industry Members would be allowed to report Allocations to accounts other than client accounts; in that instance, such Allocations must be marked as Allocations to accounts other than client accounts.

(A) Executing Brokers and Allocation Reports

To implement the Allocation Alternative, the Participants requested exemptive relief from Section 6.4(d)(ii)(A)(1) of the CAT NMS Plan, to the extent that the provision requires each Participant to, through its Compliance Rule, require its Industry Members that are executing brokers, who do not perform Allocations, to record and report to the Central Repository, if the order is executed, in whole or in part, an Allocation Report. Under the Allocation Alternative, when an Industry Member other than an executing broker (*e.g.,* a prime broker or clearing broker) performs an Allocation, that Industry Member would be required to submit the Allocation Report to the Central Repository. When an executing broker performs an Allocation for an order that is executed, in whole or in part, the burden of submitting an Allocation Report to the Central Repository would remain with the executing broker under the Allocation Alternative. In certain circumstances this would result in multiple Allocation Reports—the executing broker (if self-clearing) or its clearing firm would report individual Allocation Reports identifying the specific prime broker to which shares/contracts were allocated and then each prime broker would itself report an Allocation Report identifying the specific customer accounts to which the shares/contracts were finally allocated.

The Participants stated that granting exemptive relief from submitting Allocation Reports for executing brokers who do not perform an Allocation, and requiring the Industry Member other than the executing broker that is performing the Allocation to submit such Allocation Reports, is consistent with the basic approach taken by the Commission in adopting Rule 613 under the Act. Specifically, the Participants stated that they believe that the Commission sought to require each broker-dealer and exchange that touches an order to record the required data with respect to actions it takes on the order.[9] Without the requested exemptive relief, executing brokers that do not perform Allocations would be required to submit Allocation Reports. In addition, the Participants stated that, because shares/contracts for every execution must be allocated to an account by the clearing broker in such circumstances, there would be no loss of information by shifting the reporting obligation from the executing broker to the clearing broker.

(B) Identity of Prime Broker

To implement the Allocation Alternative, the Participants also requested exemptive relief from Section 6.4(d)(ii)(A)(2) of the CAT NMS Plan, to the extent that the provision requires each Participant to, through its Compliance Rule, require its Industry Members to record and report to the Central Repository, if an order is executed, in whole or in part, the SRO-Assigned Market Participant Identifier of the prime broker, if applicable. Currently, under the CAT NMS Plan, an Industry Member is required to report the SRO-Assigned Market Participant Identifier of the clearing broker or prime broker in connection with the execution of an order, and such information would be part of the order's lifecycle, rather than in an Allocation Report that is not linked to the order's lifecycle.[10] Under the Allocation Alternative, the identity of the prime broker would be required to be reported by the clearing broker on the Allocation Report, and, in addition, the prime broker itself would be required to report the ultimate allocation, which the Participants believe would provide more complete information.

The Participants stated that associating a prime broker with a specific execution, as is currently required by the CAT NMS Plan, does not reflect how the allocation process works in practice as allocations to a prime broker are done post-trade and are performed by the clearing broker of the executing broker. The Participants also stated that with the implementation of the Allocation Alternative, it would be duplicative for the executing broker to separately identify the prime broker for allocation purposes.

The Participants stated that if a particular customer only has one prime broker, the identity of the prime broker can be obtained from the customer and account information through the DVP accounts for that customer that contain the identity of the prime broker. The Participants further stated that Allocation Reports related to those executions would reflect that shares/contracts were allocated to the single prime broker. The Participants believe that there is no loss of information through the implementation of the Allocation Alternative compared to what is required in the CAT NMS Plan and that this approach does not decrease the regulatory utility of the CAT for single prime broker circumstances.

In cases where a customer maintains relationships with multiple prime brokers, the Participants asserted that the executing broker will not have information at the time of the trade as to which particular prime broker may be allocated all or part of the execution. Under the Allocation Alternative, the executing broker (if self-clearing) or its clearing firm would report individual Allocation Reports identifying the specific prime broker to which shares/contracts were allocated and then each prime broker would itself report an Allocation Report identifying the specific customer accounts where the shares/contracts were ultimately allocated. To determine the prime broker for a customer, a regulatory user would query the customer and account database using the customer's CCID to obtain all DVP accounts for the CCID at broker-dealers. The Participants state that when a customer maintains relationships with multiple prime brokers, the customer typically has a separate DVP account with each prime broker, and the identities of those prime brokers can be obtained from the customer and account information.

[7] ''A step-out allows a broker-dealer to allocate all or part of a client's position from a previously executed trade to the client's account at another broker-dealer. In other words, a step-out functions as a client's position transfer, rather than a trade; there is no exchange of shares and funds and no change in beneficial ownership.'' *See* FINRA, Trade Reporting Frequently Asked Questions, at Section 301, *available at: https://www.finra.org/filing-reporting/market-transparency-reporting/trade-reporting-faq.*

[8] Correspondent clearing flips are the movement of a position from an executing broker's account to a different account for clearance and settlement, allowing a broker-dealer to execute a trade through another broker-dealer and settle the trade in its own account. *See, e.g.,* The Depository Trust & Clearing Corporation, Correspondent Clearing, *available at: https://www.dtcc.com/clearing-services/equities-tradecapture/correspondent-clearing.*

[9] *See* Securities Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722, 45748 (August 1, 2012).

[10] The Participants did not request exemptive relief relating to the reporting of the SRO-Assigned Market Participant Identifier of clearing brokers.

(C) Additional Conditions to Exemptive Relief

In the Exemption Request, the Participants included certain additional conditions for the requested relief. Currently, the definition of Allocation Report in the CAT NMS Plan only refers to shares. To implement the Allocation Alternative, the Participants proposed to require that all required elements of Allocation Reports apply to both shares and contracts, as applicable, for all Eligible Securities. Specifically, Participants would require the reporting of the following in each Allocation Report: (1) The FDID for the account receiving the allocation, including subaccounts; (2) the security that has been allocated; (3) the identifier of the firm reporting the allocation; (3) the price per share/contracts of shares/contracts allocated; (4) the side of shares/contracts allocated; (4) the number of shares/contracts allocated; and (5) the time of the allocation.

Furthermore, to implement the Allocation Alternative, the Participants proposed to require the following information on all Allocation Reports: (1) Allocation ID, which is the internal allocation identifier assigned to the allocation event by the Industry Member; (2) trade date; (3) settlement date; (4) IB/correspondent CRD Number (if applicable); (5) FDID of new order(s) (if available in the booking system); [11] (6) allocation instruction time (optional); (7) if the account meets the definition of institution under FINRA Rule 4512(c); [12] (8) type of allocation (allocation to a custody account, allocation to a DVP account, step out, correspondent flip, allocation to a firm owned or controlled account, or other non-reportable transactions (*e.g.,* option exercises, conversions); (9) for DVP allocations, custody broker-dealer clearing number (prime broker) if the custodian is a U.S. broker-dealer, DTCC number if the custodian is a U.S. bank, or a foreign indicator, if the custodian is a foreign entity; and (10) if an allocation was cancelled, a cancel flag, which indicates that the allocation was cancelled, and a cancel timestamp, which represents the time at which the allocation was cancelled.

(2) Proposed Rule Changes To Implement Exemptive Relief

On October 29, 2020, the Commission granted the exemptive relief requested in the Exemption Request. The Commission granted the relief conditioned upon the adoption of Compliance Rules that implement the reporting requirements of the Allocation Alternative. Accordingly, the Exchange proposes the following changes to its Compliance Rule to implement the reporting requirements of the Allocation Alternative.

(A) Definition of Allocation

The Exchange proposes to add a definition of ''Allocation'' as new paragraph (c) to Rule 11.610.[13] Proposed paragraph (c) of Rule 11.610 would define an ''Allocation'' to mean ''(1) the placement of shares/contracts into the same account for which an order was originally placed; or (2) the placement of shares/contracts into an account based on allocation instructions (*e.g.,* subaccount allocations, delivery versus payment (''DVP'') allocations).'' The SEC stated in the Allocation Exemption that this definition of ''Allocation'' is reasonable.

(B) Definition of Allocation Report

The Exchange proposes to amend the definition of ''Allocation Report'' set forth in Exchange Rule 11.610(c) to reflect the requirements of the Allocation Exemption. Exchange Rule 11.610(c) defines the term ''Allocation Report'' to mean:

> a report made to the Central Repository by an Industry Member that identifies the Firm Designated ID for any account(s), including subaccount(s), to which executed shares are allocated and provides the security that has been allocated, the identifier of the firm reporting the allocation, the price per share of shares allocated, the side of shares allocated, the number of shares allocated to each account, and the time of the allocation; provided, for the avoidance of doubt, any such Allocation Report shall not be required to be linked to particular orders or executions.

The Exchange proposes to amend this definition in two ways: (1) Applying the requirements for Allocation Reports to contracts in addition to shares; and (2) requiring the reporting of additional elements for the Allocation Report.

(i) Shares and Contracts

The requirements for Allocation Reports apply only to shares, as the definition of ''Allocation Report'' in Rule 11.610(c) refers to shares, not contracts. In the Allocation Exemption, the Commission stated that applying the requirements for Allocation Reports to contracts in addition to shares is appropriate because CAT reporting requirements apply to both options and equities. Accordingly, the SEC stated that the Participants would be required to modify their Compliance Rules such that all required elements of Allocation Reports apply to both shares and contracts, as applicable, for all Eligible Securities. Therefore, the Exchange proposes to amend Rule 11.610(c) (to be renumbered as Rule 11.610(d)) to apply to contracts, as well as shares. Specifically, the Exchange proposes to add references to contracts to the definition of ''Allocation Report'' to the following phrases: ''the Firm Designated ID for any account(s), including subaccount(s), to which executed shares/contracts are allocated,'' ''the price per share/contract of shares/contracts allocated,'' ''the side of shares/contracts allocated,'' and ''the number of shares/contracts allocated to each account.''

(ii) Additional Elements

The Commission also conditioned the Allocation Exemption on the Participants amending their Compliance Rules to require the ten additional elements in Allocation Reports described above. Accordingly, the Exchange proposes to require these additional elements in Allocation Reports. Specifically, the Exchange proposes to amend the definition of ''Allocation Report'' in Rule 11.610(c) (to be renumbered as Rule 11.610(d)) to include the following elements, in addition to those elements currently required under the CAT NMS Plan:

> (6) the time of the allocation; (7) Allocation ID, which is the internal allocation identifier assigned to the allocation event by the Industry Member; (8) trade date; (9) settlement date; (10) IB/correspondent CRD Number (if applicable); (11) FDID of new order(s) (if available in the booking system); (12) allocation instruction time (optional); (12) if account meets the definition of institution under FINRA Rule 4512(c); (13) type of allocation (allocation to a custody account, allocation to a DVP account, step-out, correspondent flip, allocation to a firm owned or controlled account, or other non-reportable transactions (*e.g.,* option exercises,

[11] The Participants propose that for scenarios where the Industry Member responsible for reporting the Allocation has the FDID of the related new order(s) available, such FDID must be reported. This would include scenarios in which: (1) The FDID structure of the top account and subaccounts is known to the Industry Member responsible for reporting the Allocation(s); and (2) the FDID structure used by the IB/Correspondent when reporting new orders is known to the clearing firm reporting the related Allocations.

[12] FINRA Rule 4512(c) states the for purposes of the rule, the term ''institutional account'' means the account of: (1) A bank, savings and loan association, insurance company or registered investment company; (2) an investment adviser registered either with the SEC under Section 203 of the Investment Advisers Act or with a state securities commission (or any agency or office performing like functions); or (3) any other person (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least $50 million.

[13] The Exchange proposes to renumber the definitions in Rule 11.610 to accommodate the addition of this new definition of ''Allocation'' and the new definition of ''Client Account'' discussed below.

conversions); (14) for DVP allocations, custody broker-dealer clearing number (prime broker) if the custodian is a U.S. broker-dealer, DTCC number if the custodian is a U.S. bank, or a foreign indicator, if the custodian is a foreign entity; and (15) if an allocation was cancelled, a cancel flag indicating that the allocation was cancelled, and a cancel timestamp, which represents the time at which the allocation was cancelled.

(C) Allocation Reports

(i) Executing Brokers That Do Not Perform Allocations

The Commission granted the Participants an exemption from the requirement that the Participants, through their Compliance Rule, require executing brokers that do not perform Allocations to submit Allocation Reports. The Commission stated that it understands that executing brokers that are not self-clearing do not perform allocations themselves, and such allocations are handled by prime and/or clearing brokers, and these executing brokers therefore do not possess the requisite information to provide Allocation Reports. Accordingly, the Exchange proposes to eliminate Rule 11.630(a)(2)(A)(i),[14] which requires an Industry Member to record and report to the Central Repository an Allocation Report if the order is executed, in whole or in part, and to replace this provision with proposed Rule 11.630(a)(2)(F) as discussed below.

(ii) Industry Members That Perform Allocations

The Allocation Exemption requires the Participants to amend their Compliance Rules to require Industry Members to provide Allocation Reports to the Central Repository any time they perform Allocations to a client account, whether or not the Industry Member was the executing broker for the trades. Accordingly, the Commission conditioned the Allocation Exemption on the Participants adopting Compliance Rules that require prime and/or clearing brokers to submit Allocation Reports when such brokers perform allocations, in addition to requiring executing brokers that perform allocations to submit Allocation Reports. The Commission determined that such exemptive relief would improve efficiency and reduce the costs and burdens of reporting allocations for Industry Members because the reporting obligation would belong to the Industry Member with the requisite information, and executing brokers that do not have the information required on an Allocation Report would not have to develop the infrastructure and processes required to obtain, store and report the information. The Commission stated that this exemptive relief should not reduce the regulatory utility of the CAT because an Allocation Report would still be submitted for each executed trade allocated to a client account, which in certain circumstances could still result in multiple Allocation Reports,[15] just not necessarily by the executing broker.

In accordance with the Allocation Exemption, the Exchange proposes to add proposed Rule 11.630(a)(2)(F) to the Compliance Rule. Proposed Rule 11.630(a)(2)(F) would require Industry Members to record and report to the Central Repository ''an Allocation Report any time the Industry Member performs an Allocation to a Client Account, whether or not the Industry Member was the executing broker for the trade.''

(iii) Client Accounts

In the Allocation Exemption, the Commission also exempted the Participants from the requirement that they amend their Compliance Rules to require Industry Members to report Allocations for accounts other than client accounts. The Commission believes that allocations to client accounts, and not allocations to proprietary accounts or events such as step-outs and correspondent flips, provide regulators the necessary information to detect abuses in the allocation process because it would provide regulators with detailed information regarding the fulfillment of orders submitted by clients, while reducing reporting burdens on broker-dealers. For example, Allocation Reports would be required for allocations to registered investment advisor and money manager accounts. The Commission further believes that the proposed approach should facilitate regulators' ability to distinguish Allocation Reports relating to allocations to client accounts from other Allocation Reports because Allocations to accounts other than client accounts would have to be identified as such. This approach could reduce the time CAT Reporters expend to comply with CAT reporting requirements and lower costs by allowing broker-dealers to use existing business practices.

To clarify that an Industry Member must report an Allocation Report solely for Allocations to a client account, proposed Rule 11.630(a)(2)(F) specifically references ''Client Accounts,'' as discussed above. In addition, the Exchange proposes to add a definition of ''Client Account'' as proposed Rule 11.610(l). Proposed Rule 11.610(l) would define a ''Client Account'' to mean ''for the purposes of an Allocation and Allocation Report, any account or subaccount that is not owned or controlled by the Industry Member.''

(D) Identity of Prime Broker

The Exchange also proposes to amend Rule 11.630(a)(2)(A)(ii) to eliminate the requirement for executing brokers to record and report the SRO-Assigned Market Participant Identifier of the prime broker. Rule 11.630(a)(2)(A)(ii) states that each Industry Member is required to record and report to the Central Repository, if the order is executed, in whole or in part, the ''SRO-Assigned Market Participant Identifier of the clearing broker or prime broker, if applicable.'' The Exchange proposes to delete the phrase ''or prime broker'' from this provision. Accordingly, each Industry Member that is an executing broker would no longer be required to report the SRO-Assigned Market Participant Identifier of the prime broker.

As the Commission noted in the Allocation Exemption, exempting the Participants from the requirement that they, through their Compliance Rules, require executing brokers to provide the SRO-Assigned Market Participant Identifier of the prime broker is appropriate because, as stated by the Participants, allocations are done on a post-trade basis and the executing broker will not have the requisite information at the time of the trade. Because an executing broker, in certain circumstances, does not have this information at the time of the trade, this relief relieves executing brokers of the burdens and costs of developing infrastructure and processes to obtain this information in order to meet the contemporaneous reporting requirements of the CAT NMS Plan.

As the Commission noted in the Allocation Exemption, although executing brokers would no longer be required to provide the prime broker information, regulators will still be able to determine the prime broker(s) associated with orders through querying the customer and account information

[14] The Exchange proposes to renumber Rule 11.630(a)(2)(A)(ii) and (iii) as Rule 11.630(a)(2)(A)(i) and (ii) in light of the proposed deletion of Rule 11.630(a)(2)(A)(i).

[15] As noted above, under the Allocation Alternative, for certain executions, the executing broker (if self-clearing) or its clearing firm would report individual Allocation Reports identifying the specific prime broker to which shares/contracts were allocated and then each prime broker would itself report an Allocation Report identifying the specific customer accounts to which the shares/contracts were finally allocated.

database. If an executing broker has only one prime broker, the identity of the prime broker can be obtained from the customer and account information associated with the executing broker. For customers with multiple prime brokers, the identity of the prime brokers can be obtained from the customer and account information which will list the prime broker, if there is one, that is associated with each account.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[16] which require, among other things, that the Exchange's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 6(b)(8) of the Act,[17] which requires that the Exchange's rules not impose any burden on competition that is not necessary or appropriate.

The Exchange believes that this proposal is consistent with the Act because it is consistent with, and implements, the Allocation Exemption, and is designed to assist the Exchange and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [18] To the extent that this proposal implements the Plan, and applies specific requirements to Industry Members, the Exchange believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule changes are consistent with the Allocation Exemption, and are designed to assist the Exchange in meeting its regulatory obligations pursuant to the Plan. The Exchange also notes that the proposed rule changes will apply equally to all Industry Members. In addition, all national securities exchanges and FINRA are proposing this amendment to their Compliance Rules. Therefore, this is not a competitive rule filing and does not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [19] and Rule 19b–4(f)(6) thereunder.[20] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–LTSE–2020–24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–LTSE–2020–24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–LTSE–2020–24, and should be submitted on or before January 25, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

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[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78f(b)(8).

[18] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696, 84697 (November 23, 2016).

[19] 15 U.S.C. 78s(b)(3)(A)(iii).

[20] 17 CFR 240.19b–4(f)(6).

[21] 15 U.S.C. 78s(b)(2)(B).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–90806; File No. SR–ICEEU–2020–018)]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to Amendments to the ICE Clear Europe CDS Procedures and CDS Default Management Policy

December 28, 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 December 14, 2020, ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II, and III below, which Items have been prepared primarily by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed amendments is for ICE Clear Europe to modify its CDS Procedures (the ''CDS Procedures'' or the ''Procedures'') to update the requirements for a Clearing Member to be approved to be a CDS Committee-Eligible Clearing Member for purposes of the CDS Default Committee, as well as certain other updates and clarifications, and to modify its CDS Default Management Policy (the ''CDS Default Management Policy'' or ''Policy'') to make corresponding updates to the requirements for a Clearing Member to be eligible to serve on the CDS Default Committee, as well as to provide more detail with respect to review and testing of its default procedures, remove appendices and make certain other updates and clarifications to be consistent with other ICE Clear Europe policies.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

(a) Purpose

ICE Clear Europe is proposing to amend its CDS Procedures as to the following: (i) The requirements for a Clearing Member to be approved to be a CDS Committee-Eligible Clearing Member, (ii) the courses of action for the Clearing House if a CDS Committee-Eligible Clearing Member is unable to take part in the CDS Default Committee for the Relevant CDS Default Committee Period for which it is due to take part, (iii) the confidentiality obligations of CDS Default Committee Members and CDS Default Committee Participants and the limitations on liability applicable to such persons, (iv) timing requirements with respect to the submission of CDS Trade Particulars and (v) various drafting clarifications and improvements. ICE Clear Europe is also proposing to update the CDS Default Management Policy which would provide further detail with respect to the requirements for a Clearing Member to be Committee-Eligible for purposes of serving on the CDS Default Committee, and to make various drafting clarifications and improvements, as consistent with the proposed updates to the Procedures.

I. CDS Procedures

General Drafting Clarifications and Improvements

The amendments to the Procedures would clarify that the term ''CDS Committee-Eligible Clearing Members'' must be approved in accordance with paragraph 5.2 of the Procedures and continue to meet the criteria of such Paragraph. As described below, paragraph 5.2, as proposed to be amended, would specify in detail the requirements for a Clearing Member to be approved to be a CDS Committee-Eligible Clearing Member.

Submission and Acceptance of CDS Contracts

The amendments would revise paragraph 4.4 of the Procedures, which describes the timing requirements for submitting CDS Trade Particulars, to clarify that with respect to CDS Trade Particulars submitted after 6:00 p.m. on a Business Day or on a day that is not a Business Day, unless a revocation right exists and is exercised or unless otherwise stated in circular, among other existing exceptions, such CDS Trade Particulars would be deemed to have been submitted at 8:00 a.m. on the following Business Day. Furthermore, the Procedures would provide that if the Trade Date specified in the CDS Trade Particulars is not a Business Day, then the relevant CDS Trade Particulars would be rejected. This reflects current Clearing House practice.

CDS Default Committee

The amendments to the Procedures in paragraph 5 would update the requirements for a Clearing Member to be approved to be a CDS Committee-Eligible Clearing Member. Pursuant to paragraph 5.2, as proposed to be amended, the Clearing Member would need to meet the following conditions in order to be eligible: (a) In the event that it has one or more Affiliates that are CDS Clearing Members, it has the longest period of membership of the Clearing House among such Affiliates; (b) it has a London-based CDS trading desk; and (c) it is deemed appropriate to be a CDS Default Committee Member by the Clearing House at its discretion. The Clearing House would maintain a list of all CDS Committee-Eligible Clearing Members. The procedure for maintaining the CDS Default Committee Participant List (including adding CDS Clearing Members to, removing CDS Clearing Members from or changing the order of Clearing Members on the CDS Default Committee Participant List) would be determined from time to time by the Clearing House at its discretion. (Certain such matters would be addressed in further detail in the Policy, as discussed below.) CDS Clearing Members would be able to provide information of relevance to the Clearing House with respect to their own inclusion or omission or order on the list, but such information would not be binding on the Clearing House. Additionally, the Procedures would state that ICE Clear Europe may also share the CDS Default Committee Participant List with any other clearing organization.

Amendments to paragraph 5.3 would add that if a CDS Committee-Eligible Clearing Member considers that it is unable to take part in the CDS Default Committee for the Relevant CDS Default Committee Period for which it is due to take part, it may request to postpone its participation for that period. ICE Clear Europe could, at its discretion, approve such request and, if so, the following events would take place: (a) That CDS Committee-Eligible Clearing Member would be listed so as to take part in the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

CDS Default Committee for the next Relevant CDS Default Committee Period as one of the three CDS Default Committee Participants; and (b) one of the next three CDS Committee-Eligible Clearing Members on the CDS Default Committee Participant List would be selected by the Clearing House at its discretion to take part in the CDS Default Committee during that Relevant CDS Default Committee Period. The CDS Default Committee Participant List would be amended accordingly. Certain other drafting clarifications are made to paragraph 5.3.

Paragraph 5.4 would be amended to add that if a CDS Clearing Member becomes a defaulter or is suspended or receives a termination notice with respect to its Clearing Membership, it would be removed from the CDS Default Committee Participant List. Paragraphs 5.4 and 5.5 would be amended to clarify that the CDS Default Committee Participant List would be amended to take into account any Clearing Member that becomes (or resumes being) a CDS Committee-Eligible Clearing Member or is removed from being a CDS Default Committee Participant because the Clearing House determines that such Clearing Member has a conflict or lacks impartiality.

The amendments in paragraph 5.6 would also provide that the Clearing House would give notice that, since CDS Default Committee Members and CDS Default Committee Participants act as part of the governance of ICE Clear Europe, such CDS Default Committee Members and CDS Default Committee Participants would take the benefit of all exclusions and limitations of liability available to the Clearing House under the Rules or Applicable Laws. The change is intended to make the exclusions and limitations on liability for such persons consistent with those generally applicable to Clearing House governance process.

The amendments in paragraph 5.8 would provide that CDS Clearing Members agree and acknowledge that each CDS Default Committee Members and CDS Default Committee Participant (each a ''Covered Party'') would be subject to the provisions of Rule 106 (regarding confidentiality of information received and permitted disclosures) as if it were the Clearing House. Furthermore, each CDS Clearing Member would be required to ensure that each such Covered Party nominated by it would not use any Confidential Material for its own benefit or the benefit of any of its Affiliates and, if so requested by the Clearing House, would execute any documentation specified by the Clearing House acknowledging the same. The procedures that would apply in the event a Covered Party is served with or otherwise subject to legal process have been removed as unnecessary in light of the referenced provisions of Rule 106. Paragraph 5.9 would be amended to clarify that each CDS Clearing Member agrees that each Covered Party would be responsible for its own costs associated with its service in such position.

II. CDS Default Management Policy

General Drafting Clarifications and Improvements

By way of general drafting clarifications and improvements, the amendments to the Policy would remove Appendices A and B, which contain various forms of notice and examples, as well as references thereto. In ICE Clear Europe's view, these appendices do not need to be included in the Policy and, to the extent they remain relevant, forms of notice can be maintained by the Clearing House separately. Certain terminology would be updated throughout the Policy as follows: (i) The term, Employee, would be updated to Eligible Employee; and (ii) the terms, Defaulting Clearing Member or Defaulting Member, would be updated to defaulter in certain instances in order to avoid repetition and aid with readability. Certain provisions relating to the Clearing House ceasing to clear new trades for a Defaulting Clearing Member would be moved and reorganized.

CDS Default Committee Activation

Consistent with the changes described above to the CDS Procedures, the Policy would be amended to provide that a Clearing Member would only be defined as Committee-Eligible, hereby permitting such Clearing Member to be a CDS Default Committee Participant, if such Clearing Member (i) is deemed appropriate by the Clearing House, (ii) is the primary clearing entity of an affiliate group, and (iii) has a London based trading desk. The Policy would also clarify that the Clearing House maintains a list of all CDS Committee-Eligible Clearing Members and that the relevant term for the committee (''Relevant CDS Default Committee Period'') is six calendar months or until the end of any active Default event.

In addition, the Policy would provide that in the event that a CDS Default Committee Participant is unable to fulfill its upcoming rotation obligation for any reason including serving in the CDS Default Committee of another clearing house, such CDS Default Committee Participant would have the option to request to postpone their Relevant CDS Default Committee for a Relevant CDS Default Committee Period. If the Clearing House finds the reason for postponement satisfactory, the CDS Default Committee Participant would be substituted for a CDS Committee-Eligible Clearing Member from the next three members on the CDS Default Committee Participant List. Prior to commencement of a rotation, CDS Default Committee Members would be required to have signed all documentation required by the Clearing House (including but not limited to a Seconded Trader Agreement), and the Clearing House would use reasonable efforts to ensure that such requirement is enforced.

The amendments would also clarify that CDS Default Committee Members would be responsible for assisting in executing any CDS transactions (with respect to Rules 902 or 903 in CDS only) on behalf of the Clearing House only if needed. Under the Committee Activation Procedures section, the procedure for use of an alternate CDS Default Committee Member contact would be revised to refer generally to a situation where the designated primary representative cannot be reached in a reasonable amount of time, and remove specific examples of reasons a member could not be reached.

Secondment Facilities

The amendments would clarify that upon arrival at the ICE Clear Europe offices, each CDS Default Committee Member would be assigned a PC with the ICE Clear Europe risk reports concerning the defaulter's portfolio and a third-party data provider application. References to how the CDS Default Committee Member would be able to login to the PC and view certain information sent to ICE Clear Europe by the non-defaulting Clearing Members would be removed as unnecessary. The amendments would also clarify that CDS Default Committee Members would only execute the hedging and liquidating transactions that the Head of Clearing Risk and the team deem necessary.

Confidentiality

The amendments would remove the requirement that seconded traders sign an additional confidentiality agreement pertaining to their role within a given member default (as ICE Clear Europe believes the existing single secondment agreement is sufficient). Instead, the Policy would provide that CDS Default Committee Members would be reminded of ongoing confidentiality

obligations by the ICE Clear Europe Compliance department.

Auction Process and Results

The amendments would provide that details of the auction and relevant position data will be made available through the ICE Default Management System, consistent with the ICE Clear Europe auction procedures. The amendments would also clarify that following the close of an auction for sub-portfolio, the Clearing House would publish the new trades to be booked to the winning bidders through the ICE Default Management System. The Clearing House would no longer notify the point of contact for the winning bidders verbally. The change is intended to conform to the ICE Clear Europe auction procedures.

Default Management Testing

The amendments would provide additional detail with respect to default management testing. Specifically, pursuant to the amendments, the Policy would state that the Clearing House would test and review its default procedures at least quarterly and perform simulation exercises at least annually. The default test would be conducted in coordination with Clearing Members by engaging all the internal and external stakeholders that would be involved in the default management process (for example, the Clearing Risk Department, ICE Clear Europe Senior Management Team, CDS Default Committee Members, regulators, etc.). Each default test would be planned in accordance with the ICE Clear Europe Multi-Years Default Plan, which would list several different default scenarios that would need to be tested by the Clearing House on a regular basis. The ICE Clear Europe Senior Management Team would be responsible for approving the scope of the annual default test by choosing different scenarios outlined in the Plan. The Plan and changes to it would need to be approved by the Executive Risk Committee.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments to the CDS Default Management Policy and the CDS Procedures are consistent with the requirements of Section 17A of the Act [3] and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act [4] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest.

The proposed changes to the CDS Procedures and CDS Default Management Policy are designed to strengthen ICE Clear Europe's tools to manage Clearing Member defaults with respect to CDS contracts. The CDS Default Committee, which relies on seconded representatives of Clearing Members, is a key aspect of the Clearing House's procedures for addressing Clearing Member defaults, including by facilitating the ability of the Clearing House to hedge or liquidate positions of the defaulter. The amendments would update and clarify the requirements for a Clearing Member to be eligible to serve on the CDS Default Committee as well as clarify the procedures to be used by the CDS Default Committee if such Clearing Member is unable to fulfill its upcoming rotation obligation. The clarifications and other changes to the Policy and Procedures enhance readability and ensure that the Policy and Procedures remain clear and up-to-date. Through better managing risks in default scenarios and promoting market stability, the proposed amendments promote the stability of the clearing house and the prompt and accurate clearance and settlement of cleared contracts. The enhanced risk management is therefore also generally consistent with the protection of investors and the public interest in the safe operation of the Clearing House. (ICE Clear Europe would not expect the amendments to affect the safeguarding of securities and funds in ICE Clear Europe's custody or control or for which it is responsible.) Accordingly, the amendments satisfy the requirements of Section 17A(b)(3)(F).[5]

In addition, ICE Clear Europe believes the amendments satisfy Rule 17Ad–22(e)(13),[6] which requires the covered clearing agency to ensure that it ''has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations by, at a minimum, requiring the covered clearing agency's participants and, when practicable, other stakeholders to participate in the testing and review of its default procedures, including any close-out procedures, at least annually.'' As discussed above, the proposed amendments would enhance ICE Clear Europe's default management capabilities. Specifically, ICE Clear Europe believes that the updated, and more clearly defined requirements for Clearing Members to become eligible to participate in the CDS Default Committee will better ensure that the committee is staffed with appropriate representatives. The other amendments better ensure that such members have appropriate resources for their role on the committee working and that there is a process in place should a member need to delay the start of its tenure on the committee for permissible reasons. Amendments to the Policy would also ensure that the Clearing House review its default procedures at least quarterly and perform simulation exercises at least annually and that such tests would be conducted in coordination with Clearing Members as well as the internal and external stakeholders involved in the default management process. The amendments overall strengthen ICE Clear Europe's ability to contain losses in a manner consistent with the requirements of Rule 17Ad–22(e)(13).[7]

Rule 17Ad–22(e)(3)(i) [8] requires clearing agencies to maintain a sound risk management framework that identifies, measures, monitors and manages the range of risks that it faces. The amendments to the CDS Default Management Policy and the CDS Procedures are intended to update and state more clearly the criteria for representation on the CDS Default Committee and provide for enhanced review and testing of the default management processes. The amendments will thus strengthen the management of default risks, and risk management more generally. In ICE Clear Europe's view, the amendments are therefore consistent with the requirements of Rule 17Ad–22(e)(3)(i).[9]

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The amendments are being adopted to update and clarify the ICE Clear Europe CDS Default Management Policy and ICE Clear Europe CDS Procedures and will apply to all CDS Clearing Members. ICE Clear Europe does not expect that the proposed changes will adversely affect

[3] 15 U.S.C. 78q–1.

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 17 CFR 240.17Ad–22(e)(13).

[7] 17 CFR 240.17Ad–22(e)(13).

[8] 17 CFR 240.17 Ad–22(e)(3)(i).

[9] 17 CFR 240.17 Ad–22(e)(3)(i).

access to clearing or the ability of Clearing Members, their customers or other market participants to continue to clear contracts. ICE Clear Europe also does not believe the amendments would materially affect the cost of clearing or otherwise impact competition among CDS Clearing Members or other market participants or limit market participants' choices for selecting clearing services. Accordingly, ICE Clear Europe does not believe the amendments would impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any written comments received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

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–ICEEU–2020–018 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–ICEEU–2020–018. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/notices/Notices.shtml?regulatoryFilings.*

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–ICEEU–2020–018 and should be submitted on or before January 25, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–29023 Filed 12–31–20; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Information Collection Available for Public Comment; Paycheck Protection Program

AGENCY: U.S. Small Business Administration.

ACTION: 60-Day notice; request for comments

SUMMARY: The Small Business Administration (SBA) is publishing this notice to solicit additional public comments on the information collection described below, particularly SBA Form 3509 ''Loan Necessity Questionnaire (For-Profit Borrowers)'' and SBA Form 3510, ''Loan Necessity Questionnaire (Non-Profit Borrowers).'' Comments in response to this second public comment notice will be evaluated in conjunction with comments received in response to previous notices published on July 14, 2020, and October 26, 2020. After such evaluation, SBA will submit any resulting amendments to the information collection to the Office of Management and Budget (OMB) for approval.

DATES: Submit comments on or before March 5, 2021.

ADDRESSES: Comments should refer to the information collection by title or OMB Control Number (3245–0407) and must be submitted by the deadline above to: *PPP_Info_Collections@sba.gov.*

FOR FURTHER INFORMATION CONTACT: Adrienne Grierson, Program Manager, Office of Financial Program Operations, 202–205–6573 *adrienne.grierson@sba.gov.*

Copies: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Officer, Curtis Rich, at (202) 205–7030, or *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 1102 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116–136, authorized SBA to guarantee loans made by banks or other financial institutions under a temporary program titled the ''Paycheck Protection Program'' (PPP). These loans are available to eligible small businesses, certain non-profit organizations, veterans' organizations, Tribal business concerns, independent contractors, and self-employed individuals adversely impacted by the COVID–19 Emergency. Subject to certain limitations, proceeds of a PPP loan may be used for payroll costs, costs related to the continuation of group health care benefits during periods of paid sick, medical or family leave, and insurance premiums, mortgage interest payments, rent payments, utility payments, interest payments on other debt incurred prior to February 15, 2020, and to refinance an eligible SBA Economic Injury Disaster Loan. Under section 1106(b) of the CARES Act, a PPP

loan may be forgiven in full or in part if the PPP borrower uses the proceeds for payroll costs, payment of interest on a covered mortgage, payment on any covered rent obligation, and any covered utility payment.

In order to make the financial assistance available as expeditiously as possible after the PPP was authorized, on April 6, 2020, SBA obtained emergency approval, including waiver of the 60-day and 30-day public comment notices, to collect the information necessary to process applications for the program. SBA amended the emergency approved information collection on several occasions as the need to quickly implement other aspects of the PPP (*e.g.,* loan reviews, loan forgiveness or expansion of eligibility requirements) arose. SBA subsequently published the 60-day notice on July 14, 2020,[1] and the 30-day notice on October 26, 2020[2] to solicit comments on the information collection.

At the time SBA published the 60-day notice, the Agency had not yet developed Form 3508S, a ''PPP Loan Forgiveness Application''; Form 3509, ''Loan Necessity Questionnaire (For-Profit Borrowers)''; and SBA Form 3510, ''Loan Necessity Questionnaire (Non-Profit Borrowers)''; therefore, they were not referenced in a public comment notice until the 30-day notice.

Borrowers that received a PPP loan of $50,000 or less may use Form 3508S to apply for forgiveness of the loan (unless the borrower, together with its affiliates, received PPP loans totaling $2 million or greater). This form was developed to streamline the process for borrowers with very small loans. Forms 3509 and 3510 are designed to collect additional information from non-profit or for-profit borrowers that together with their affiliates received PPP loans of $2 million or more. The information will be collected during SBA's review of these loans, which includes an assessment of the borrowers' good-faith certifications that due to the economic uncertainty their PPP loan requests were necessary to support ongoing operations. As part of their response to the questionnaire, borrowers may include a statement regarding the circumstances that provided the basis for their good-faith loan necessity certification.

SBA received multiple comments in response to the notices, particularly the 30-day notice. Generally, commenters focused almost exclusively on SBA Form 3509 and SBA Form 3510. Commenters expressed concern that the affected public had not been given adequate notice to review or comment on these two forms. Accordingly, SBA is publishing this notice to provide 60 days for the public to review the PPP information collection, particularly these two forms.

Solicitation of Public Comments

SBA invites the public to submit comments, including specific and detailed suggestions on ways to improve the collection and reduce the burden on respondents. Commenters should also address (i) whether the information collection is necessary for the proper performance of SBA's functions, including whether it has any practical utility; (ii) the accuracy of the estimated burdens; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; and (iv) the use of automated collection techniques or other forms of information technology to minimize the information collection burden on those who are required to respond.

Summary of Information Collection

Title: Paycheck Protection Loan Program Borrower Information Form and Lender's Application for Loan Guaranty.

OMB Control Number: 3245–0407.

(i) SBA Form 2483—Paycheck Protection Program Borrower Application

Estimated Number of Respondents: 5,500,000.
Estimated Annual Responses: 5,500,000.
Estimated Annual Hour Burden: 733,333.

(ii) SBA Form 2484—Paycheck Protection Program Lender's Application for 7(a) Guaranty

Estimated Number of Respondents: 5,460
Estimated Annual Responses: 5,212,128.
Estimated Annual Hour Burden: 2,171,720.

(iii) SBA Form 3506—CARES Act Section 1102 Lender Agreement

Number of Respondents: 751.
Total Annual Responses: 751.
Estimated Annual Hour Burden: 125.

(iv) SBA Form 3507—CARES Act Section 1102 Lender Agreement—Non-Bank and Non-Insured Depository Institution Lender

Number of Respondents: 147.
Number of Responses: 147.
Total Estimated Annual Hour Burden: 61.

(v) SBA Form 3508—Paycheck Protection Program—Loan Forgiveness Application

Estimated Number of Respondents: 260,606.
Estimated Annual Responses: 260,606.
Estimated Annual Hour Burden: 781,819.

(vi) SBA Form 3508S, Paycheck Protection Program—PPP Loan Forgiveness Application Form 3508S

Estimated Number of Respondents: 3,574,000.
Estimated Annual Responses: 3,574,000.
Estimated Annual Hour Burden: 893,500.

(vii) SBA Form 3508EZ—Paycheck Protection Program—PPP Loan Forgiveness Application

Estimated Number of Respondents: 1,377,522.
Estimated Annual Responses: 1,377,522.
Estimated Annual Hour Burden: 459,174.

(viii) [Form Number N/A] Lender Reporting Requirements Concerning Requests for Loan Forgiveness

Estimated Number of Respondents: 5,460.
Estimated Annual Responses: 5,212,128.
Estimated Annual Hour Burden: 1,070,350.

(ix) [Form Number N/A] Lender Reporting Requirements for SBA Loan Reviews

Estimated Number of Respondents: 5,460.
Estimated Annual Responses: 1,950,000.
Estimated Annual Hour Burden: 975,000.

(x) SBA Form 3509—Loan Necessity Questionnaire (For-Profit Borrowers)

Estimated Number of Respondents: 42,000.
Estimated Annual Responses: 37,000.
Estimated Annual Hour Burden: 67,333.

(xi) SBA Form 3510—Loan Necessity Questionnaire (Non-Profit Borrowers)

Estimated Number of Respondents: 10,000.
Estimated Annual Responses: 5,000.
Estimated Annual Hour Burden: 9,167.

Curtis Rich,

Management Analyst.

[FR Doc. 2020–29012 Filed 12–31–20; 8:45 am]

BILLING CODE 8026–03–P

[1] 85 FR 42479.

[2] 85 FR 67809.

DEPARTMENT OF STATE

[Public Notice: 11288]

60-Day Notice of Proposed Information Collection: Career Connections Evaluation

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to March 5, 2021.

ADDRESSES: You may submit comments by the following method:

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2020–0055'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, may be sent to Natalie Donahue, Chief of Evaluation, Bureau of Educational and Cultural Affairs, who may be reached at (202) 632–6193 or *ecaevaluation@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Career Connections Evaluation.
- *OMB Control Number:* None.
- *Type of Request:* New collection.
- *Originating Office:* Educational and Cultural Affairs (ECA/P/V).
- *Form Number:* No form.
- *Respondents:* Career Connections program alumni, small sample of American alumni, and seminar presenters.
- *Estimated Number of Alumni Survey Respondents:* 3,125.
- *Estimated Number of Alumni Survey Responses:* 313.
- *Average Time per Alumni Survey:* 20 minutes.
- *Total Estimated Alumni Survey Burden Time:* 104.33 hours.
- *Estimated Number of Alumni Key Informants:* 45.
- *Average Time per Alumni Interview:* 1 hour.
- *Total Estimated Alumni Interview Burden Time:* 45 hours.
- *Estimated Number of Seminar Presenter Key Informants:* 15.
- *Average Time per Seminar Presenter Interview:* 0.75 hour.
- *Total Estimated Seminar Presenter Interview Burden Time:* 11.25 hours.
- *Total Estimated Burden Time:* 160.58 annual hours.
- *Frequency:* Once.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Career Connections program is managed by the Bureau of Educational and Cultural Affairs (ECA) Office of Alumni Affairs OAA. Started in 2019, the Career Connections program brings together American alumni (18–35 years old) of U.S. Government-sponsored exchange programs with expert career coaches, professionals from diverse fields, and international leaders to help alumni market their international exchange experiences. Delivered as two-day seminars across the country, the Career Connections program provides invaluable networking opportunities for U.S. alumni with leaders in their communities with activities including: Resume-building, developing a personal brand, translating skills gained through the exchange experience, developing an online presence, and networking to develop connections with fellow alumni and expert speakers alike.

ECA's Evaluation Division will undertake an internal evaluation of the Career Connections program. The purpose of this evaluation is to inform the next iteration of the award with participant-driven recommendations on how to strengthen the Career Connections program. The Evaluation Division will survey participants of Career Connections participants along with a small sample of alumni that have not participated in seminars, as well as conduct key-informant interviews with alumni and seminar presenters.

Methodology

As existing project monitoring data does not cover the topics being investigated sufficiently, it is necessary to collect information directly from program alumni to fully understand how the Career Connections program can be strengthened and what the immediate outcomes for participants are. While alumni who have participated in the Career Connections program will receive an online survey, a small number will also be invited to participate in individual interviews to explore key issues in greater depth. The survey will also be sent to a small sample of alumni that have not participated in Career Connections seminars to understand why they haven't participated and how they could be enticed to in the future. Finally, as ECA wishes to understand best practices in professional development training, a small group of seminar presenters will be invited to participate in individual interviews to discuss what they feel could be strengthened.

Aleisha Woodward,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2020–29050 Filed 12–31–20; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 11279]

Global Magnitsky Human Rights Accountability Act Annual Report

ACTION: Notice.

SUMMARY: This notice contains the text of the report required by the Global Magnitsky Human Rights Accountability Act, as submitted by the Secretary of State.

FOR FURTHER INFORMATION CONTACT: Bob Viglietta, Email: *ViglettaR@state.gov,* Phone: (202) 647–8836.

SUPPLEMENTARY INFORMATION: On December 10, 2020, the Secretary of State approved the following report pursuant to the Global Magnitsky

Human Rights Accountability Act (Pub. L. 114–328, Title XII, Subtitle F) (''the Act''), which is implemented and built upon by Executive Order 13818 of December 20, 2017, ''Executive Order Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption'' (E.O. 13818). The text of the report follows:

Pursuant to Section 1264 of the Act, and in accordance with E.O. 13818, the Secretary of State, in consultation with the Secretary of the Treasury, submits this report to detail the Administration's implementation of the Act in 2020.

In 2020, the United States took significant action under the Global Magnitsky sanctions program (''Global Magnitsky''). As of December 10, 2020, the United States has designated 243 foreign persons (individuals and entities) pursuant to E.O. 13818. This sanctions program, which targets serious human rights abusers, corrupt actors, and their enablers, represents the best of the United States' values by taking impactful steps to protect and promote human rights and combat corruption around the world. Through the Act and E.O. 13818, the United States has sought to disrupt and deter serious human rights abuse and corruption abroad; promote accountability for those who act with impunity; and protect, promote, and enforce longstanding international norms alongside our partners and allies.

As the President outlined in his National Security Strategy (NSS), liberty, free enterprise, equal justice under the law, and the dignity of every human life are values that represent who we are as a people. Further, the NSS states we support with our words and actions those who live under oppressive regimes and seek freedom, individual dignity, and the rule of law. The NSS outlines a commitment to combat global corruption that facilitates transnational crime and terrorism and undermines economic growth. Through Global Magnitsky, the Administration is taking action to execute the President's vision as described in the NSS.

Actions taken in 2020 continue to demonstrate the reach, flexibility, and broad scope of the Global Magnitsky authorities. The United States responded to serious human rights abuses and corruption globally, addressing some of the most egregious behavior this tool can attempt to disrupt and deter. These actions targeted, among other things, serious human rights abusers affecting millions of members of Muslim minority groups in northwest China's Xinjiang province; corrupt actors in South Sudan involved in draining the country of critical resources; and Ugandan officials engaged in an adoption scam that victimized Ugandan-born children. These designations clearly demonstrate the resolve of the Administration to leverage this important tool, when appropriate, to target individuals and entities engaging in specified conduct.

When considering economic sanctions under Global Magnitsky, the United States prioritizes actions that are expected to produce a tangible and significant impact on the sanctioned persons and their affiliates and prompt changes in behavior or disrupt the activities of malign actors. Persons sanctioned pursuant to this authority appear on the Office of Foreign Assets Control's (OFAC) List of Specially Designated Nationals and Blocked Persons (SDN List). As a result of these actions, all property and interests in property of the sanctioned persons that are in the United States or in the possession or control of U.S. persons, are blocked and must be reported to OFAC. Unless authorized by a general or specific license issued by OFAC or otherwise exempt, OFAC's regulations generally prohibit all transactions by U.S. persons or within (or transiting) the United States that involve any property or interests in property of designated or otherwise blocked persons. The prohibitions include the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any blocked person or the receipt of any contribution or provision of funds, goods or services from any such person.

The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, imposed financial sanctions on the following persons pursuant to E.O. 13818:

1. Taban Deng Gai: Deng Gai was designated on January 8, 2020, for his link to serious human rights abuse, including disappearances and killings. As First Vice President of South Sudan, Deng reportedly arranged and directed the disappearance and deaths of human rights lawyer Samuel Dong Luak and Sudan People's Liberation Movement—In Opposition (SPLM–IO) member Aggrey Idry. Deng directed these actions in order to solidify his position within President Kiir's government and to intimidate members of the SPLM–IO.

2. Xinjiang Public Security Bureau (XPSB): The XPSB was designated on July 9, 2020 for its involvement in serious human rights abuse, which reportedly includes mass arbitrary detention and severe physical abuse, among other serious abuses targeting Uyghurs, a Turkic Muslim population indigenous to Xinjiang, and members of other religious and ethnic minority groups in the region. The XPSB, through the Integrated Joint Operations Platform (IJOP), uses digital surveillance systems to track Uyghurs' movements and activities, to include surveilling who they interact with and what they read. In turn, IJOP uses this data to determine which persons could be potential threats; according to reports, some of these individuals are subsequently detained and sent to detention camps, being held indefinitely without charges or trial.

3. Chen Quanguo: Chen was designated on July 9, 2020 for his connection to serious human rights abuse against members of religious and ethnic minority groups in Xinjiang. Chen is the Party Secretary of the Xinjiang Uyghur Autonomous Region, a position he was appointed to in 2016, following Chen's notorious history of intensifying security operations in the Tibetan Autonomous Region to tighten control over the Tibetan ethnic minorities.

4. Huo Liujun: Huo was designated on July 9, 2020 for his connection to serious human rights abuse against members of religious and ethnic minority groups in Xinjiang. Huo was the former Party Secretary of the XPSB from at least March 2017 to 2018.

5. Wang Mingshan: Wang was designated on July 9, 2020 for his connection to serious human rights abuse against members of religious and ethnic minority groups in Xinjiang. Wang has been the leader of the XPSB since at least May 2018.

6. Zhu Hailun: Zhu was designated on July 9, 2020 for his connection to serious human rights abuse against members of religious and ethnic minority groups in Xinjiang. Zhu, former Deputy Party Secretary of the Xinjiang Uyghur Autonomous Region (XUAR), held several positions in the Chinese Communist Party, prior to holding the position of Party Secretary of the Xinjiang Political and Legal Committee (XPLC) from 2016 to 2019. In this role, Zhu was responsible for maintaining internal security and law enforcement in the XUAR; while Zhu left this role in 2019, he still currently serves as the Deputy Secretary of Xinjiang's People's Congress, a regional legislative body.

7. Xinjiang Production and Construction Corps (XPCC): The XPCC was designated on July 31, 2020 for its connection to serious human rights abuse against members of religious and ethnic minority groups in Xinjiang. The XPCC is a paramilitary organization in the XUAR that is subordinate to the Chinese Communist Party. The XPCC enhances internal control over the

region by advancing China's vision of economic development in the XUAR that emphasizes subordination to central planning and resource extraction. Chen Quanguo is the First Political Commissar of the XPCC, a role in which he has exercised control over the entity.

8. Sun Jinlong: Sun was designated on July 31, 2020 in connection with serious human rights abuse against members of religious and ethnic minority groups in Xinjiang. Sun is the former Party Secretary of the XPCC.

9. Peng Jiarui: Peng was designated on July 31, 2020 in connection with serious human rights abuse against members of religious and ethnic minority groups in Xinjiang. Peng is the Deputy Party Secretary and Commander of the XPCC.

10. Moses Mukiibi: Mukiibi was designated on August 17, 2020 for his involvement in corruption in Uganda. Mukiibi, a Ugandan judge, participated in a scheme whereby, in certain instances, young children were removed from Ugandan families under promises for ''special education'' programs and study in the United States, and were subsequently offered to U.S. families for adoption. Members of this scheme facilitated multiple bribes to Ugandan judge Mukiibi, and other Ugandan government officials, either directly or through an interlocutor.

11. Wilson Musalu Musene: Musene was designated on August 17, 2020 for his involvement in corruption in Uganda. Musene, a Ugandan judge, participated in a scheme whereby, in certain instances, young children were removed from Ugandan families under promises for ''special education'' programs and study in the United States, and were subsequently offered to U.S. families for adoption. Members of this scheme negotiated with Musene a flat fee for processing adoption cases. In at least one case, a member of the scheme met directly with Musene to arrange an additional amount of money required for Musene to expedite the date of a pending adoption case on Musene's court calendar.

12. Dorah Mirembe: Mirembe was designated on August 17, 2020 for her role in providing support to corruption. Mirembe, a Ugandan lawyer, participated in a scheme whereby, in certain instances, young children were removed from Ugandan families under promises for ''special education'' programs and study in the United States, and were subsequently offered to U.S. families for adoption. The adoption agency organizing the scheme used Mirembe's law firm to handle the legal aspects of the adoptions, in some cases through the manipulation or falsification of court documents.

13. Patrick Ecobu: Ecobu was designated on August 17, 2020 for his role in providing support to corruption. Ecobu, the husband of Mirembe, participated in a scheme whereby, in certain instances, young children were removed from Ugandan families under promises for ''special education'' programs and study in the United States, and were subsequently offered to U.S. families for adoption. In order to arrange the adoption of the children, Ecobu assisted Mirembe in facilitating multiple bribes to Ugandan judges Mukiibi, Musene, and other Ugandan government officials, either directly or through an interlocutor.

14. Union Development Group (UDG): UDG was designated on September 15, 2020 for its involvement in corruption in Cambodia. UDG is a PRC state-owned entity acting for or on behalf of a PRC official that, on May 9, 2008, was granted a 99-year lease with the Cambodian government for 36,000 hectares (approximately 90,000 acres) of land in the Koh Kong province of Cambodia. Following the approved lease, UDG began to develop the $3.8 billion Dara Sakor project, ostensibly to be used as a tourism development. UDG, through Kun Kim, a senior Cambodian general previously designated under E.O. 13818, used Cambodian military forces to intimidate local villagers and to clear out land necessary for UDG to build the Dara Sakor project. Kim was instrumental in the UDG development and reaped significant financial benefit from his relationships with UDG.

15. Nabah Ltd: Nabah was designated on September 15, 2020 for its role in providing support to Ashraf Seed Ahmed Al-Cardinal, who was previously designated on October 11, 2019, for his involvement in bribery, kickbacks and procurement fraud with senior government officials. Nabah is owned or controlled by Al-Cardinal. Al-Cardinal himself was part of a sanctions evasion scheme in which a senior South Sudanese official used a bank account in the name of one of Al-Cardinal's companies to store his personal funds in an attempt to avoid the effects of U.S. sanctions.

16. Zineb Souma Yahya Jammeh: Zineb was designated on September 15, 2020 for her role in providing support to Yahya Jammeh, the former President of The Gambia who was sanctioned on December 21, 2017 for his long history of engaging in human rights abuses and corruption. Zineb is the former First Lady of The Gambia and the current wife of Jammeh. Zineb has reportedly been instrumental in aiding and abetting Jammeh's economic crimes against The Gambia. She is also believed to be in charge of most of Jammeh's assets around the world, and utilized a charitable foundation as cover to facilitate the illicit transfer of funds to her husband.

17. Gibran Bassil: Bassil was designated on November 6, 2020 for his involvement in corruption in Lebanon. Bassil has held several high-level posts in the Lebanese government, including serving as the Minister of Telecommunications, the Minister of Energy and Water, and the Minister of Foreign Affairs and Emigrants, and Bassil has been marked by significant allegations of corruption. In 2017, Bassil strengthened his political base by appointing friends to positions and purchasing other forms of influence within Lebanese political circles. In 2014, while Minister of Energy, Bassil was involved in approving several projects that would have steered Lebanese government funds to individuals close to him through a group of front companies.

18. Mohamed al-Kani: Al-Kani was designated on November 25, 2020 for being the leader of the Kaniyat Militia in Libya, which over several years gained control over the city of Tarhouna, Libya, while detaining, torturing, and murdering civilians. In April 2019, the Kaniyat militia changed allegiances from Libya's recognized Government of National Accord (GNA), to the self-styled Libyan National Army (LNA), providing the LNA a foothold near Tripoli during its offensive against the Libyan capital. In June 2020, following a de facto truce, GNA-aligned forces re-entered Tarhouna and discovered at least 11 mass graves containing the bodies of civilians previously detained by the Kaniyat militia, including women, children, and elderly. Some of the deceased appeared to have been tortured, burned, or buried alive. The Kaniyat militia is also responsible for hundreds of summary executions at Tarhouna prison, numerous forced disappearances, and the displacement of entire families from Tarhouna. OFAC also designated the Kaniyat Militia for being responsible for or complicit in, or for having directly or indirectly engaged in, serious human rights abuse.

19. Harry Varney Gboto-Nambi Sherman: Sherman was designated on December 9, 2020 for his involvement in corruption in Liberia. A prominent lawyer, Liberian senator, and Chair of the Liberian Senate Judiciary Committee, Sherman was indicted in 2016 by the Liberian government, along

with several other government officials, for his involvement in a bribery scheme. Sherman offered bribes to multiple judges associated with his trial, has routinely paid judges to decide cases in his favor, and has allegedly facilitated payments to Liberian politicians to support impeachment of a judge who has ruled against him. Sherman's acts of bribery demonstrate a larger pattern of behavior to exercise influence over the Liberian judiciary and the Ministry of Justice.

20. Raimbek Matraimov: Matraimov was designated on December 9, 2020 for his involvement in corruption in the Kyrgyz Republic. A former deputy of the Kyrgyz Customs Service, Matraimov was involved in a customs scheme in which at least USD 700 million was laundered from the Kyrgyz Republic. The scheme involved a company and their evasion of customs fees. Matraimov used his position to ensure that the company's goods would be able to seamlessly pass through the borders of the Kyrgyz Republic and was in charge of collecting and distributing bribes that came from this company, among other things. Matraimov, utilizing his former position as deputy of the Kyrgyz Customs Service, made hundreds of millions of dollars as a result of his involvement in the customs scheme.

21. Wan Kuok Koi: Koi was designated on December 9, 2020 for his involvement in corruption in Southeast Asia. Koi is a member of the Communist Party of China's (CCP) Chinese People's Political Consultative Conference, and is a leader of the 14K Triad, one of the largest Chinese organized criminal organizations in the world that engages in drug trafficking, illegal gambling, racketeering, human trafficking, and a range of other criminal activities. In addition to bribery, corruption and graft, the 14K Triad has engaged in similar illicit activities in Palau. OFAC also designated three entities that are owned or controlled by Koi.

22. Jimmy Cherizier: Cherizier was designated on December 10, 2020 for his involvement in serious human rights abuse in Haiti. While serving as an officer in the Haitian National Police (HNP), Cherizier planned and participated in the November 2018 deadly attack against civilians in a Port-au-Prince neighborhood known as La Saline. During this attack, at least 71 people were killed, over 400 houses were destroyed, and at least seven women were raped by armed gangs. Throughout 2018 and 2019, Cherizier led armed groups in coordinated, brutal attacks in Port-au-Prince neighborhoods. Most recently, in May 2020, Cherizier led armed gangs in a five-day attack in multiple Port-au-Prince neighborhoods in which civilians were killed and houses were set on fire. Cherizier is now one of Haiti's most influential gang leaders and leads an alliance of nine Haitian gangs known as the ''G9 alliance.''

23. Fednel Monchery: Monchery was designated on December 10, 2020 for his involvement in serious human rights abuse in Haiti. Monchery was the Director General of the Ministry of the Interior and Local Authorities and, while serving in this role, participated in the planning of La Saline. Monchery supplied weapons and state vehicles to members of armed gangs who perpetrated the attack. Monchery also attended a meeting during which La Saline was planned and where weapons were distributed to the perpetrators of the attack.

24. Joseph Pierre Richard Duplan: Duplan was designated on December 10, 2020 for his involvement in serious human rights abuse in Haiti. Duplan, who was Haitian President Jovenal Moïse's Departmental Delegate at the time of La Saline, is accused of being the ''intellectual architect'' and was seen discussing the attack with armed gang members in the La Saline neighborhood during the violence. Duplan provided firearms and HNP uniforms to armed gang members who participated in the killings.

25. *Sultan Zabin: Zabin was designated on December 10, 2020 for his involvement in serious human rights abuse in Yemen. As the current Director of the Sana'a-based Criminal Investigation Department (CID), Zabin and his CID officers have arrested, detained, and tortured women under the pretense of a policy designed to curb prostitution and organized crime. In reality, this policy was used to target politically active women who opposed the Houthis, and resulted in numerous reported cases of illegal arrest, arbitrary detention, enforced disappearance, sexual violence, rape, torture, and other cruel treatment utilized by the Sana'a CID against these women.*

26. Abdul-Hakim Al-Khaiwani: Khaiwani was designated on December 10, 2020 for his involvement in serious human rights abuse in Yemen. As a Houthi member and Deputy Minister of the Interior, Khaiwani was responsible for many detention facilities and security forces, including the Sana'a CID. The illegal arrest, detention, and torture of women conducted by the CID was done so under the ultimate authority of the Ministry of Interior. Khaiwani currently serves as the Director of the Security and Intelligence Service, Yemen's new security and intelligence agency.

27. Abdul Rahab Jarfan: Jarfan was designated on December 10, 2020 for his involvement in serious human rights abuse in Yemen. Jarfan is a Houthi member and the former Head of Yemen's National Security Bureau (NSB). Under Jarfan, the NSB systematically engaged in torture and abusive detention of Yemeni citizens.

28. Motlaq Amer al-Marrani: Al-Marrani was designated on December 10, 2020 for his involvement in serious human rights abuse in Yemen. During his tenure as a leader or official of the NSB, Marrani oversaw detainees of the NSB, who were reportedly subjected to torture and other mistreatment by members of the NSB while detained. In addition, Marrani played a significant role in the arrest, detention, and ill treatment of humanitarian workers and other authorities working on humanitarian assistance and was also found to have abused his authority and influence over humanitarian access as leverage to generate personal profit.

29. Qader al-Shami: Shami was designated on December 10, 2020 for his involvement in serious human rights abuse in Yemen. Shami is the former director of Yemen's Political Security Organization (PSO). Since late 2014, the PSO has been responsible for the regular practice of illegal detention and torture of prisoners, including children. PSO officials were found to have been keeping detainees in undisclosed locations, subjecting them to torture, and not allowing them to communicate with their families, depriving them of their fundamental liberties. Al-Shami currently serves as the Deputy Director of the Security and Intelligence Bureau, a role he has occupied since the organization's inception in September 2019.

30. Ramzan Kadyrov: Kadyrov was designated on December 10, 2020 for his involvement in serious human rights abuse in Russia. Kadyrov is the Head of the Chechen Republic and the leader of an organization, the Kadyrovtsy, that has engaged in, or whose members have engaged in, serious human rights abuses. Kadyrov and the forces he commands, commonly known as the Kadyrovtsy, are implicated in the murder of Boris Nemtsov, an opposition politician to Russian President Vladimir Putin, and other serious violations of human rights. In addition to Kadyrov, OFAC is designating six companies registered in Russia that continue to provide Kadyrov pride and significant profit.

31. Vakhit Usmayev: Usmayev was designated on December 10, 2020 for his

involvement in serious human rights abuse in Russia. Usmayev, the Deputy Prime Minister of Chechnya, has acted or purported to act for or on behalf of, directly or indirectly, Kadyrov.

32. Timur Dugazaev: Dugazaev was designated on December 10, 2020 for his involvement in serious human rights abuse in Russia. A representative of Kadyrov in Europe, Dugazaev has acted or purported to act for or on behalf of, directly or indirectly, Kadyrov.

33. Ziyad Sabsabi: Sabsabi was designated on December 10, 2020 for his involvement in serious human rights abuse in Russia. A representative of Kadyrov, Sabsabi has acted or purported to act for or on behalf of, directly or indirectly, Kadyrov.

34. Daniil Vasilievich Martynov: Martynov was designated on December 10, 2020 for his involvement in serious human rights abuse in Russia. A personal security advisor for Kadyrov, Martynov has acted or purported to act for or on behalf of, directly or indirectly, Kadyrov.

35. Satish Seemar: Seemar was designated on December 10, 2020 for his involvement in serious human rights abuse in Russia. A horse trainer for Kadyrov, Seemar has materially assisted, sponsored, or provided financial, material, or technological support for, or goods and services to or in support of, Kadyrov.

Visa Restrictions Imposed

Although no visa restrictions were imposed under the Act during 2020, persons designated pursuant to E.O. 13818 shall be subject to the visa restrictions articulated in section 2, unless an exception applies. Section 2 provides that the entry of persons designated under section 1 of the order is suspended pursuant to Presidential Proclamation 8693. In 2020, the State Department also applied, when appropriate, visa restrictions on foreign persons involved in significant corruption or gross violation of human rights under other authorities, reported to Congress through other means. As appropriate, the Department of State will take additional action to impose visa restrictions on those responsible for certain human rights violations and significant corruption pursuant to other authorities, including Presidential Proclamations 7750 and 8697, and Section 7031(c) of the FY2020 Department of State, Foreign Operations, and Related Programs, as carried forward by the FY2021 Continuing Appropriations Act, 2021. In addition, section 212(a)(3)(E) of the Immigration and Nationality Act renders aliens ineligible for visas if a consular officer has reason to believe that they participated in acts of genocide, torture or extrajudicial killings.

Efforts To Encourage Governments of Other Countries To Impose Sanctions Similar to Those Authorized by the Act

In 2020, the Administration continued its successful outreach campaign to international partners regarding the expansion of domestic and multilateral anticorruption and human rights sanctions regimes. Following support by the Departments of State and the Treasury over the course of 2018–2019 to deliver expertise on the underpinnings of the Global Magnitsky sanctions program, the United Kingdom established a Global Human Rights (GHR) sanctions regime pursuant to its Sanctions and Anti-Money Laundering Act 2018 on July 6, 2020. In February 2020, the Departments of State and the Treasury formed a technical delegation to brief Australian partners at the invitation of Parliament, which initiated an inquiry into whether Australia should adopt a human rights-based sanctions regime. The Administration also welcomed the European Union's adoption of its global human rights sanctions framework on December 7, 2020. Over the last year, the Administration has worked closely with the Canadian and British governments in pursuing coordinated actions against human rights abusers and corrupt actors. Throughout this and future outreach, the Administration has identified champions, partners, and potential spoilers of the objectives established by Congress within the Act. The Departments of State and the Treasury have, over the last year, shared information, coordinated messaging, and provided technical assistance to this end. The Administration will continue to seek out additional allies and partners to jointly leverage all tools at our disposal to deny access to the U.S. and international financial systems to all those who engage in serious human rights abuses and corruption.

Dated: December 23, 2020.

David Hale,

Under Secretary for Political Affairs, Department of State.

[FR Doc. 2020–29015 Filed 12–31–20; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF STATE

[Public Notice 11238]

60-Day Notice of Proposed Information Collection: TechGirls Evaluation

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to March 5, 2021.

ADDRESSES: You may submit comments by the following method:

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2020–0046'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, may be sent to Natalie Donahue, Chief of Evaluation, Bureau of Educational and Cultural Affairs, 2200 C Street NW, Washington, DC 20037 who may be reached at (202) 632–6193 or *ecaevaluation@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* TechGirls Evaluation.
- *OMB Control Number:* None.
- *Type of Request:* New collection.
- *Originating Office:* Bureau of Educational and Cultural Affairs (ECA).
- *Form Number:* No form.
- *Respondents:* TechGirls program alumnae, their host families, their job shadow hosts, and ECA implementing partner program staff.
- *Estimated Number of Alumnae Survey Respondents:* 214.
- *Estimated Number of Alumnae Survey Responses:* 160.
- *Average Time per Alumnae Survey:* 46 minutes.

- *Total Estimated Alumnae Survey Burden Time:* 122.6 hours.
- *Estimated Number of Host Family Survey Respondents:* 60.
- *Estimated Number of Host Family Survey Responses:* 30.
- *Average Time per Host Family Survey:* 29 minutes.
- *Total Estimated Host Family Survey Burden Time:* 14.5 hours.
- *Estimated Number of Job Shadow Host Survey Respondents:* 41.
- *Estimated Number of Job Shadow Host Survey Responses:* 21.
- *Average Time per Job Shadow Host Survey:* 16 minutes.
- *Total Estimated Job Shadow Host Survey Burden Time:* 5.6 hours.
- *Estimated Number of Implementing Partner Staff Respondents:* 39.
- *Estimated Number of Implementing Partner Staff Responses:* 20.
- *Average Time per Implementing Partner Staff Survey:* 16 minutes.
- *Total Estimated Implementing Partner Staff Survey Burden Time:* 5.3 hours.
- *Total Estimated Burden Time:* 148 annual hours.
- *Frequency:* Once.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

TechGirls enables students aged 15–17 to gain exposure to a range of careers in science, technology, engineering, and mathematics (STEM) through a month-long summer scholarship program in the United States. The program includes programming bootcamp, leadership skills development, job shadow with women in STEM fields, and a home stay with U.S. families. In addition to exposure to career and educational pathways, participants gain understanding of the United States and its culture and create a network of STEM-focused alumnae upon their return home. The authority for the program is the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 *et seq.*).

In order to assess the efficacy and impact of TechGirls, the U.S. Department of State's Bureau of Educational and Cultural Affairs (ECA) intends to conduct an evaluation of the program, which will include collection of data from program alumnae between 2012 and 2019, program staff, host families in the United States, and job shadow hosts. As the TechGirls program has been running for almost 10 years, ECA is conducting this evaluation to determine the extent to which the program is achieving its long-term goals. In order to do so, ECA has contracted Dexis Consulting Group to conduct surveys with alumnae and surveys with their host families, program staff, and job shadow hosts.

Methodology

As baseline information is limited to initial profiles, it is necessary to collect information directly from program alumnae to assess the outcomes of the TechGirls experience, particularly in the areas of educational and career trajectories and networking with others. Additional perspectives will be sought from the participants' host families and job shadow hosts. All of these groups will receive online surveys.

Aleisha Woodward,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2020–29049 Filed 12–31–20; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2020–0118]

Hours of Service of Drivers: Proposed Regulatory Guidance Concerning the Use of a Commercial Motor Vehicle for Yard Moves

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

ACTION: Notice of proposed regulatory guidance; request for comments.

SUMMARY: FMCSA is proposing to revise the regulatory guidance concerning recording time operating a commercial motor vehicle as a ''yard move.'' This guidance applies to all commercial motor vehicle (CMV) drivers required to record their hours of service. The Agency requests public comments on the proposed guidance, which includes examples of properties that are and are not ''yards.'' Movements of CMVs in ''yards'' would be considered ''yard moves'' and could be recorded as on-duty not driving time rather than driving time.

DATES: Comments are due by February 3, 2021.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2020–0118 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Deliver comments to Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the *Privacy Act* heading below.

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 9:00 a.m. and 5:00 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations. *Regulations.gov* is available 24 hours each day, 365 days each year. If you would like acknowledgement that we received your comments, please include a self-addressed stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: DOT solicits comments from the public to better inform its guidance 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: Mr. Bill Mahorney, Chief, Enforcement Division, FMCSA, 202–493–0001, *bill.mahorney@dot.gov*. If you have questions about viewing or submitting material to the docket, contact Docket Operations at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2020–0118), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number, ''FMCSA–2020–0118'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket for this guidance publication. Please mark each page of your submission that constitutes CBI as ''PROPIN'' to indicate it contains proprietary information. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Analysis Division, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590. Any comments FMCSA receives that are not specifically designated as CBI will be placed in the public docket for this guidance publication.

FMCSA will consider all comments and material received during the comment period and may make changes based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number, ''FMCSA–2020–0118'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the internet, you may view the docket online by visiting Docket Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

II. Background

The Federal Motor Carrier Safety Regulations require most drivers of commercial motor vehicles (CMVs) to document their hours of service (HOS) on records of duty status (RODS), identifying one of four duty status options: (1) On-duty not driving, (2) driving, (3) sleeper berth, and (4) off-duty (49 CFR 395.8). Drivers are required to document their duty status on their RODS irrespective of the method used to record the driver's HOS (*i.e.,* whether paper logs or electronic logging devices (ELDs)).

The minimum performance and design standards for ELDs in the Agency's December 16, 2015, final rule, ''Electronic Logging Devices and Hours of Service Supporting Documents'' (80 FR 78292), require manufacturers to include two special driving categories: Authorized personal use (''personal conveyance'') and ''yard moves.'' These categories may be used by drivers at the motor carrier's discretion (49 CFR 395.28). FMCSA stated in its Supplemental Notice of Proposed Rulemaking that the intent of the ''yard move'' category was to capture time ''where the CMV may be in motion but a driver is not necessarily in a 'driving' duty status'' (79 FR 17656, 17668, March 28, 2014). Some commenters asked that the term ''yard move'' be defined. Commenters generally viewed ''yard moves'' as an on-duty not driving activity occurring on private property.

The Agency declined to define the term ''yard move'' in its final rule, noting that ''yard moves'' relate broadly to the HOS rules, not just to CMV operations using ELDs. The final rule, however, provides that ELDs will record ''yard moves'' as on-duty not driving time (49 CFR part 395, subpart B, appendix A, section 4.4.1.1(b)).

FMCSA published revised regulatory guidance concerning operating a CMV as a ''personal conveyance'' on June 7, 2018 (83 FR 26377). On February 28, 2020, FMCSA updated its guidance on ''yard moves'' in the U.S. Department of Transportation's guidance portal (85 FR 12663, March 3, 2020).

The Federal Highway Administration, FMCSA's predecessor agency, issued guidance on ''yard moves'' in a compilation of regulatory guidance published on April 4, 1997 (49 CFR 395.2, Question 9, 62 FR 16370, 16422). The 1997 guidance stated that a driver who jockeys CMVs in the yard (private property) on weekends should record that time as on-duty (driving) time. The 1997 guidance is no longer in effect. FMCSA's revised 2020 guidance provides that the time jockeying CMVs in the yard is not driving time. The driver should record that time as on-duty (not driving) time.

The 2020 updated guidance is consistent with the principle in the ELD rule that time spent performing ''yard moves'' should be recorded as on-duty not driving time. Because ''yard moves'' occur on private property within the confines of a yard and not on a public road, this time does not constitute ''driving time'' within the meaning of 49 CFR 395.2. The updated guidance is available on the Agency's website in the guidance portal at *https://www.fmcsa.dot.gov/guidance* as FMCSA–HOS–395.2–Q09 and reads as follows:

Question 9: A driver drives on streets and highways during the week and jockeys commercial motor vehicles in

the yard (private property) on weekends. How is the yard time to be recorded?

Guidance: On-duty (not driving).

FMCSA also published guidance in the guidance portal on February 28, 2020, that distinguishes between movements of the CMV that may be considered as off-duty ''personal conveyance'' and movements that are on-duty ''yard moves.'' This guidance is available on the Agency's website in the guidance portal at *https://www.fmcsa.dot.gov/hours-service/elds/when-can-movement-cmv-during-duty-period-be-considered-personal-conveyance* and reads as follows:

FAQ 12: When can a movement of a CMV during an off-duty period be considered personal conveyance?

Answer: A move may be considered as personal conveyance if the driver is off-duty and the movement is not for the motor carrier, shipper or receiver's commercial benefit. Examples include moving a CMV from one parking space to another at a shipper or port, or driving to a truck stop, rest area or any other location. In these situations, the CMV movement is made in the off-duty period. However, the CMV should be moved no farther than the nearest reasonable and safe location to complete the rest period.

An on-duty yard move, such as moving the vehicle a short distance while waiting to load, would not qualify as personal conveyance.

III. Proposed Guidance Language

FMCSA proposes to clarify when a driver may record time performing ''yard moves'' as on-duty not driving time by providing examples of properties that qualify as yards. Therefore, the movement of a CMV on these properties would qualify as a ''yard move'' and be recorded as on-duty not driving time.

FMCSA proposes to replace Question 9 to 49 CFR 395.2 at *https://www.fmcsa.dot.gov/regulations/hours-service/ss3952-definitions* with the following revised Question 9 and seeks comments on this proposed guidance.

This guidance, if finalized, lacks the force and effect of law and is not meant to bind the public in any way. This guidance document is intended only to provide clarity to the public regarding the Agency's interpretation of its existing regulations.

Question 9: Under what circumstances may a driver classify the operation of a commercial motor vehicle (CMV) as a yard move and record it as on-duty not driving time?

(a) *Guidance:* A driver may record time operating a CMV for yard moves as on-duty not driving under 49 CFR 395.8(b) only if the movement of the CMV occurs in a confined area on private property (or intermodal facility or briefly on public roads, as described below). Examples of properties that may qualify as yards include, but are not limited to:

1. An intermodal yard or port facility.
2. A motor carrier's place of business.
3. A shipper's privately-owned parking lot.
4. A public road, but only if and while public access to the road is restricted through traffic control measures such as lights, gates, flaggers or other means. For example, if a driver must operate on a public road briefly to reach different parts of a private property, the movement may be considered a yard move if public access is restricted during the move.

(b) Examples of properties that do not qualify as yards, include, but are not limited to:

1. A public road without the traffic control measures in paragraph (a)(4) above.
2. Public rest areas.

IV. Expiration Date of the Proposed Regulatory Guidance

In accordance with section 5203(a)(2)(A) and (a)(3) of the Fixing America's Surface Transportation (FAST) Act, Public Law 114–94, 129 Stat. 1312, 1535 (Dec. 4, 2015), 49 CFR part 5, subpart C, and Executive Order 13891, the proposed regulatory guidance will be posted on FMCSA's website in the guidance portal, *https://www.fmcsa.dot.gov/guidance,* if finalized. It would be reviewed by the Agency no later than 5 years after it is finalized. The Agency would consider at that time whether the guidance should be withdrawn, reissued for another period up to 5 years, or incorporated into the safety regulations.

V. Request for Comments

Refer to the **ADDRESSES** section above for instructions on submitting comments to the public docket concerning this regulatory guidance. FMCSA will consider comments received by the closing date of the comment period to determine whether any further clarification of these regulatory provisions is necessary. In addition to general comments concerning the guidance, the Agency requests responses to the following questions:

1. Would defining ''yard moves'' in the Agency's regulations provide necessary clarification and therefore benefit carriers and drivers?
2. Are there other properties or situations where drivers may be in a ''yard move'' status that should be included as examples in this guidance?
3. Would adding examples of ''yard moves'' be beneficial for this guidance (*e.g.,* moving a CMV for maintenance)? If so, please provide examples for consideration.
4. How should ''yard'' be defined for the purposes of this guidance?

James W. Deck,

Deputy Administrator.

[FR Doc. 2020–29062 Filed 12–31–20; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0011; Notice 1]

Goodyear Tire & Rubber Company, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Goodyear Tire & Rubber Company (Goodyear) has determined that certain Eagle F1 Asymmetric 5 tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles.* Goodyear filed a noncompliance report dated December 10, 2019, and petitioned NHTSA on December 10, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Goodyear's petition.

DATES: Send comments on or before February 3, 2021.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10

a.m. to 5 p.m. except for Federal Holidays.

• *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.

• Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petitions are granted or denied, notice of the decisions will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. Overview: Goodyear has determined that certain Eagle F1 Asymmetric 5 tires do not fully comply with paragraph S5.5(f) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139).

Goodyear filed a noncompliance report dated December 10, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports,* and subsequently petitioned NHTSA on December 10, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Goodyear's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Tires Involved: Approximately 550 Goodyear Eagle F1 Asymmetric 5 tires, size 255/40R20 (the subject tires), manufactured between November 17, 2019, and November 30, 2019, are potentially involved.

III. Noncompliance: Goodyear explains that the noncompliance is due to a mold labeling error in that the number of plies indicated on the sidewall of the subject tires do not match the actual number of plies in the tire construction, and therefore, do not meet the requirements of paragraph S5.5(f) of FMVSS No. 139. Specifically, the sidewall of the subject tires was marked with the number of plies as ''1'' when it should have been marked with the number of plies as ''2.''

IV. Rule Requirements: Paragraph S5.5(f) of FMVSS No. 139, includes the requirements relevant to this petition. Each tire must be marked on one sidewall with the actual number of plies in the sidewall, and the actual number of plies in the tread area, if different.

V. Summary of Goodyear's Petition: The following views and arguments presented in this section are the views and arguments provided by Goodyear. They have not been evaluated by the Agency and do not reflect the views of the Agency. The petitioner described the subject noncompliance and stated the belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of the petition, Goodyear submitted the following reasoning:

1. Goodyear believes this noncompliance is inconsequential to motor vehicle safety because these tires were manufactured as designed and meet or exceed all applicable FMVSS. All of the sidewall markings related to tire service (load capacity, corresponding inflation pressure, etc.) are correct. Goodyear believes the mislabeling of these tires is not a safety concern and has no impact on the use of the tires or on the repair and recycling industries. Goodyear states that the affected tire mold has already been corrected and all future production will have the correct number of plies shown on the tire sidewalls.

2. Goodyear states that NHTSA has previously granted petitions for the same noncompliance related to tire construction information on tires because of surveys that show most consumers do not base tire purchases on tire construction information found on the tire related to the number of plies in the sidewall.

Goodyear concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that Goodyear no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Goodyear notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2020–29094 Filed 12–31–20; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0037; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming Model Year 1997 Jeep Wrangler Multi-Purpose Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: This document announces the National Highway Traffic Safety Administration (NHTSA) receipt of a petition for a decision that model year (MY) 1997 Jeep Wrangler multi-purpose vehicles (MPVs) that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 1997 Jeep Wrangler MPVs) and are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is February 3, 2021.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/*. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard along with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Robert Mazurowski, Office of Vehicle Safety Compliance, NHTSA (202–366–1012).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same MY as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice of each petition that it receives in the **Federal Register**, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. (WETL), (Registered Importer R–90–005), of Houston, Texas has petitioned NHTSA to decide whether nonconforming 1997 Jeep Wrangler MPVs are eligible for importation into the United States. The vehicles which Wallace Environmental Testing Laboratories, Inc. believes are substantially similar are MY 1997 Jeep Wrangler MPVs sold in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified MY 1997 Jeep Wrangler MPVs to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

Wallace Environmental Testing Laboratories, Inc. submitted information with its petition intended to demonstrate that non-U.S. certified MY 1997 Jeep Wrangler MPVs, as originally manufactured, conform to many applicable FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards. Specifically, the petitioner claims that the non-U.S. certified MY 1997 Jeep Wrangler MPVs, as originally manufactured, conform to: FMVSS Nos. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect,* 103, *Windshield Defrosting and Defogging Systems,* 104, *Windshield Wiping and Washing Systems,* 106, *Brake Hoses,* 108, *Lamps, Reflective Devices, and Associated Equipment,* 109, *New Pneumatic and Certain Specialty Tires,* 113, *Hood Latch System,* 116, *Motor Vehicle Brake Fluids,* 118, *Power-Operated Window, Partition, and Roof Panel System,* 124, *Accelerator Control Systems,* 135, *Light Vehicle Brake Systems,* 201, *Occupant Protection in Interior Impact,* 202, *Head Restraints; Applicable at the Manufacturers Option until September 1, 2009,* 203, *Impact Protection for the Driver from the Steering Control System,* 204, *Steering Control Rearward Displacement,* 205, *Glazing Materials,* 206, *Door Locks and Door Retention Components,* 207, *Seating Systems,* 210, *Seat Belt Assembly Anchorages,* 212, *Windshield Mounting,* 213, *Child Restraint Systems,*

219, *Windshield Zone Intrusion,* 225, *Child Restraint Anchorage Systems,* 301, *Fuel System Integrity,* and 302, *Flammability of Interior Materials.*

The petitioner also contends that the subject non-U.S. certified vehicles are capable of being readily altered to meet the following FMVSS, in the manner indicated:

FMVSS No. 101, *Controls and Displays:* The instrument cluster will require replacement with a part meeting the requirements of this standard. FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less:* The addition of a tire label is required. FMVSS No. 111, *Rear Visibility:* Inscription of the required warning statement on the face of the passenger mirror. FMVSS No. 114, *Theft Protection:* The addition of an audible anti-theft system is required, which gongs when the key is left in the ignition module and the driver's door is opened. FMVSS No. 208, *Occupant Crash Protection:* Both front and rear outboard designated seating positions will require replacement with Type 2 seat belts. However, the petitioner notes ''driver and passenger front outboard seating positions are equipped with US version air bag systems and knee bolsters''. FMVSS No. 209, *Seat Belt Assemblies:* Both front and rear outboard designated seating positions will require replacement with Type 2 seat belts.

The petitioner additionally states that all vehicles will be inspected prior to importation for compliance with the Theft Prevention Standard per 49 CFR part 541. The petitioner further states a vehicle identification plate must be affixed to the vehicle, near the left windshield pillar, to meet the requirements of 49 CFR part 565, as well as, a reference and certification label added to the left front door post area to meet the requirements of 49 CFR part 567.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2020–29041 Filed 12–31–20; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0048; Notice 2]

Porsche Cars North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: Porsche Cars North America, Inc. (Porsche), has determined that certain model year (MY) 2008–2019 Porsche Cayenne and Macan motor vehicles do not comply with Federal motor vehicle safety standard (FMVSS) 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less.* Porsche filed a noncompliance report dated March 28, 2019, and subsequently petitioned NHTSA on April 20, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the grant of Porsche's petition.

FOR FURTHER INFORMATION CONTACT: Kerrin Bressant, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–1110, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. Overview

Porsche has determined that certain MY 2008–2019 Porsche Cayenne and Macan motor vehicles do not fully comply with paragraphs S4.4.2(a) and S4.4.2(c) of FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less* (49 CFR 571.110). Porsche filed a noncompliance report dated March 28, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports,* and subsequently petitioned NHTSA on April 20, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of Porsche's petition was published with a 30-day public comment period, on October 15, 2019, in the **Federal Register** (84 FR 55219). One comment was received but lacked relevance to the subject petition. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2019–0048.''

II. Vehicles Involved

Approximately 230,212 of the following MY 2008–2019 Porsche Cayenne and Macan motor vehicles, manufactured between June 1, 2007, and September 21, 2018, are potentially involved:

- MY 2008–2014 Porsche Cayenne;
- MY 2016–2019 Porsche Cayenne;
- MY 2017–2018 Porsche Cayenne ''Platinum Edition;''
- MY 2014 Porsche Cayenne Diesel ''Platinum Edition;''
- MY 2014 Porsche Cayenne ''Platinum Edition;''
- MY 2013–2016 Porsche Cayenne Diesel;
- MY 2019 Porsche Cayenne E-Hybrid;
- MY 2008–2010 Porsche Cayenne GTS;
- MY 2013–2014 Porsche Cayenne GTS;
- MY 2010 Porsche Cayenne GTS ''Porsche Design Edition 3;''
- MY 2008–2010 Porsche Cayenne GTS;
- MY 2016–2018 Porsche Cayenne GTS
- MY 2015–2018 Porsche Cayenne S E-Hybrid;
- MY 2011–2014 Porsche Cayenne S Hybrid;
- MY 2010 Porsche Cayenne S Transsyberia;
- MY 2008–2018 Porsche Cayenne S;
- MY 2017–2018 Porsche Cayenne S E-Hybrid ''Platinum Edition;''
- MY 2008–2019 Porsche Cayenne Turbo;
- MY 2009–2010 Porsche Cayenne Turbo S;
- MY 2016–2018 Porsche Cayenne Turbo S;
- MY 2014 Porsche Cayenne Turbo S;
- MY 2015–2018 Porsche Macan Turbo;
- MY 2017–2018 Porsche Macan;
- MY 2018 Porsche Macan ''Sport Edition;''
- MY 2017–2018 Porsche Macan GTS;
- MY 2015–2018 Porsche Macan S; and
- MY 2017–2018 Porsche Macan Turbo Plus Performance Package.

III. Noncompliance

Porsche explains that the noncompliance is that the subject vehicles are equipped with rims that do not contain the required rim markings as specified in paragraph S4.4.2 of

FMVSS No. 110. Specifically, the rims on the subject vehicles do not contain the designation symbol ''E'' as required by paragraph S4.4.2(a) of FMVSS No. 110 and the certification symbol ''DOT'' as required by paragraph S4.4.2(c) of FMVSS No. 110.

IV. Rule Requirements

Paragraphs S4.4.2(a) and S4.4.2(c) of FMVSS 110, include the requirements relevant to this petition. In section S4.4.2(a), each rim or, at the option of the manufacturer in the case of a single-piece wheel, each wheel disc shall be marked with the designation that indicates the source of the rim's published nominal dimensions. Specifically, the noncompliant rims should have been marked with the letter ''E'' indicating the European Tire and Rim Technical Organization as the source of nominal dimensions. Section S4.4.2(c) requires each wheel disk to be marked with the symbol ''DOT,'' constituting a certification of compliance with all applicable FMVSS.

V. Summary of Porsche's Petition

Porsche described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Porsche submitted the following reasoning:

1. With respect to FMVSS No. 110, paragraph S4.4.2(c), the DOT marking signifies that the manufacturer of the rim has certified that the rim complies with all applicable FMVSSs. Porsche asserts that because the DOT marking is a ''certification,'' it is a violation of 49 U.S.C. 30115 (''Certification''), which does not require notification or remedy. Porsche asserts that this is consistent with NHTSA's prior decision on petitions for the same issue. (*See* Volvo Cars of North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 74 FR 69376, December 31, 2009).

2. With respect to FMVSS No. 110, paragraph S4.4.2(a), Porsche believes that the omission of the designation symbol ''E'' will not prevent the proper matching of tires and rims because sufficient information about rim size is available from other markings on the rim and the corresponding owner's manual instructions. More specifically, Porsche states, the rims are marked correctly with the size designation; the correct tire size information is listed on the Tire and Loading Information placard, and the tire size is marked on the tire sidewall. The vehicles' Certification label also contains the correct tire and rim sizes. Porsche indicates that, importantly, the omitted marking does not affect the ability to identify the rims in the event of a recall and is not likely to have any effect on motor vehicle safety. Porsche asserts that this is again consistent with NHTSA's prior decision on petitions for the same. (*See* 74 FR 69376).

3. The tire and rim of the affected spare wheels are properly matched and are appropriate for the load-carrying characteristics of the subject vehicle. Porsche asserts that the incorrect association marking has no effect on the performance of the tire/rim combination.

4. The subject tire/rim assembly meets paragraph S4.4.1(b) rapid air loss requirement of FMVSS No. 110. All other applicable requirements of FMVSS Nos. 109 and 110 have been met.

5. Lastly, Porsche is unaware of any accidents, injuries, or customer complaints related to the omitted markings.

Porsche concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

Porsche's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov* and by following the online search instructions to locate the docket number as listed in the title of this notice.

VI. Comments

NHTSA received one comment from the general public. While the Agency takes great interest in the public's concerns and appreciates the commenter's feedback, the comment does not address the purpose of this particular petition.

VII. NHTSA's Analysis

The intent of the labeling requirements in paragraphs 4.4.2(a) and S4.4.2(c) of FMVSS No. 110 is to provide safe operation of vehicles by ensuring that vehicles are equipped with rims of appropriate size and type designation mounted with compatible tires of appropriate size and load rating. The purpose of the ''DOT'' marking is to certify compliance with all applicable standards. The ''DOT'' certification is also itself a requirement of the standard, 49 CFR 571.110, S.4.4.2(c). However, NHTSA finds that the noncompliance with the ''DOT'' marking requirement is inconsequential in this situation, given Porsche's representation that the vehicles comply with the standard, other than as discussed herein, and given that the vehicles have a vehicle-level certification of compliance. *See* 49 U.S.C. 30115; 49 CFR 567.4.

Furthermore, while manufacturers are required to include the designation symbol required by S4.4.2(a), its omission does not prevent the proper matching of tires and rims in this unique situation because sufficient information about rim size is available from other markings on the rims, as well as information available from the certification label required by 49 CFR part 567 and the vehicle placard (tire information label) required by FMVSS No. 110 that are present on the affected vehicles. In addition, the omitted marking does not affect the ability to identify the rims in the event of recall and is not likely to have a consequential effect on motor vehicle safety.

NHTSA's Decision

In consideration of the foregoing, NHTSA has decided that Porsche has met its burden of persuasion that the failure to mark the wheels with the letter ''E'' as the source of wheel nominal dimensions, as required by paragraph S4.4.2(a), and the symbol ''DOT'' for recognizing certification to all applicable FMVSSs, are inconsequential to motor vehicle safety. Accordingly, Porsche's petition is granted, and it is exempted from providing the notification of noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Porsche no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Porsche notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2020–29042 Filed 12–31–20; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2420; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or Assistant Director for Regulatory Affairs, tel.: 202–622–4855.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On October 2, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

BILLING CODE 4810–AL–P

Individuals:

1. ATABEKAU, Khazalbek Bakhtsibekavich (Cyrillic: АТАБЕКАЎ, Хазалбек Бахцібекавіч) (a.k.a. ATABEKOV, Khazalbek; a.k.a. ATABEKOV, Khazalbek Bakhtibekovich (Cyrillic: АТАБЕКОВ, Хазалбек Бахтибекович)), Belarus; DOB 18 Mar 1967; nationality Belarus; Gender Male (individual) [BELARUS].

Designated pursuant to section 1(a)(ii)(A) of Executive Order 13405 of June 16, 2006, "Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus," 71 FR 35485, 3 CFR 13405 (E.O. 13405) for being responsible for, or to have participated in, actions or policies that undermine democratic processes or institutions in Belarus.

2. NAZARANKA, Yuriy Henadzievich (Cyrillic: НАЗАРАНКА, Юрый Генадзьевіч) (a.k.a. NAZARENKO, Yuri; a.k.a. NAZARENKO, Yuriy Gennadievich (Cyrillic: НАЗАРЕНКО, Юрий Геннадьевич)), Minsk, Belarus; DOB 17 Apr 1976; POB Slonim, Belarus; nationality Belarus; Gender Male (individual) [BELARUS].

Designated pursuant to section 1(a)(ii)(A) of Executive Order 13405 of June 16, 2006, "Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus," 71 FR 35485, 3 CFR 13405 (E.O. 13405) for being responsible for, or to have participated in, actions or policies that undermine democratic processes or institutions in Belarus.

3. BARSUKOU, Alyaksandr Pyatrovich (Cyrillic: БАРСУКОЎ, Аляксандр Пятровіч) (a.k.a. BARSUKOU, Aliaksandr; a.k.a. BARSUKOU, Alyaksandr; a.k.a. BARSUKOV, Aleksandr; a.k.a. BARSUKOV, Aleksandr Petrovich (Cyrillic: БАРСУКОВ, Александр Петрович); a.k.a. BARSUKOV, Alexander), Minsk, Belarus; DOB 29 Apr 1965; POB Vetkovski District, Homyel Oblast, Belarus; nationality Belarus; Gender Male (individual) [BELARUS].

Designated pursuant to section 1(a)(ii)(A) of Executive Order 13405 of June 16, 2006, "Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus," 71 FR 35485, 3 CFR 13405 (E.O. 13405) for being

responsible for, or to have participated in, actions or policies that undermine democratic processes or institutions in Belarus.

4. KARAEU, Yuriy Khadzymuratavich (Cyrillic: КАРАЕЎ, Юрый Хаджымуратавіч) (a.k.a. KARAEV, Yuri; a.k.a. KARAEV, Yuriy (Cyrillic: КАРАЕВ, Юрий); a.k.a. KARAEV, Yuriy Khadzimuratovich (Cyrillic: КАРАЕВ, Юрий Хаджимуратович); a.k.a. KARAYEV, Yuri), Minsk, Belarus; DOB 21 Jun 1966; POB Vladikavkaz, Russian Federation; nationality Belarus; Gender Male (individual) [BELARUS].

Designated pursuant to section 1(a)(ii)(A) of Executive Order 13405 of June 16, 2006, "Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus," 71 FR 35485, 3 CFR 13405 (E.O. 13405) for being responsible for, or to have participated in, actions or policies that undermine democratic processes or institutions in Belarus.

5. DMUKHAYLA, Alena Mikalaeuna (Cyrillic: ДМУХАЙЛА, Алена Мікалаеўна) (a.k.a. DMUHAILO, Elena; a.k.a. DMUKHAILO, Elena; a.k.a. DMUKHAILO, Yelena Nikolaevna (Cyrillic: ДМУХАЙЛО, Елена Николаевна); a.k.a. DMUKHAYLA, Alena (Cyrillic: ДМУХАЙЛА, Алена)), Belarus; DOB 1971; nationality Belarus; Gender Female (individual) [BELARUS].

Designated pursuant to section 1(a)(ii)(A) of Executive Order 13405 of June 16, 2006, "Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus," 71 FR 35485, 3 CFR 13405 (E.O. 13405) for being responsible for, or to have participated in, actions or policies that undermine democratic processes or institutions in Belarus.

6. IPATAU, Vadzim Dzmitrievich (Cyrillic: ІПАТАЎ, Вадзім Дзмітрыевіч) (a.k.a. IPATAU, Vadzim (Cyrillic: ІПАТАЎ, Вадзім); a.k.a. IPATOV, Vadim; a.k.a. IPATOV, Vadim Dmitrievich (Cyrillic: ИПАТОВ, Вадим Дмитриевич)), Minsk, Belarus; DOB 30 Oct 1964; POB Kolomyya, Ukraine; nationality Belarus; Gender Male (individual) [BELARUS].

Designated pursuant to section 1(a)(ii)(A) of Executive Order 13405 of June 16, 2006, "Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus," 71 FR 35485, 3 CFR 13405 (E.O. 13405) for being responsible for, or to have participated in, actions or policies that undermine democratic processes or institutions in Belarus.

7. BALABA, Dzmitriy Uladzimiravich (Cyrillic: БАЛАБА, Дзмітрый Уладзіміравіч) (a.k.a. BALABA, Dmitriy Vladimirovich (Cyrillic: БАЛАБА, Дмитрий Владимирович); a.k.a. BALABA, Dmitry (Cyrillic: БАЛАБА, Дмитрий)), Minsk, Belarus; DOB 1972; POB Haradzilava, Minsk Oblast, Belarus; nationality Belarus; Gender Male (individual) [BELARUS].

Designated pursuant to section 1(a)(ii)(A) of Executive Order 13405 of June 16, 2006, "Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus," 71 FR 35485, 3 CFR 13405 (E.O. 13405) for being responsible for, or to have participated in, actions or policies that undermine democratic processes or institutions in Belarus.

8. KUBRAKOU, Ivan Uladzimiravich (Cyrillic: КУБРАКОЎ, Іван Уладзіміравіч) (a.k.a. KUBRAKOV, Ivan (Cyrillic: КУБРАКОВ, Иван); a.k.a. KUBRAKOV, Ivan Vladimirovich (Cyrillic: КУБРАКОВ, Иван Владимирович)), Minsk, Belarus; DOB 05 May 1975; POB Malinawka, Mahilyou Oblast, Belarus; nationality Belarus; Gender Male (individual) [BELARUS].

Designated pursuant to section 1(a)(ii)(A) of Executive Order 13405 of June 16, 2006, "Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus," 71 FR 35485, 3 CFR 13405 (E.O. 13405) for being responsible for, or to have participated in, actions or policies that undermine democratic processes or institutions in Belarus.

Dated: December 18, 2020.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2020–28363 Filed 12–31–20; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Internal Revenue Service Request for Section 754 Revocation

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before February 3, 2020 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Molly Stasko by emailing *PRA@treasury.gov,* calling (202) 622–8922, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: Request for Section 754 Revocation.

OMB Control Number: 1545–NEW.

Type of Review: New collection.

Description: Section 754 election revocation requests have increased since technical terminations were repealed under Tax Cuts and Jobs Act (TCJA) for tax years beginning after December 31, 2017. The IRS Large Business and International (LB&I) division, in collaboration with the IRS Small Business and Self-Employed (SBSE) division, developed a new form (Form 15254) with instructions for the partnership to use to submit the revocation request. Form 15254—Request for Section 754 Revocation, the data is the same collected on the Form 1065 U.S. Return of Partnership Income and will be used to contact the partnership and make a determination regarding whether the Section 754 revocation request will be approved or denied.

Form: IRS Form 15254.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 50.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 50.

Estimated Time per Response: 5 hours, 7 minutes.

Estimated Total Annual Burden Hours: 256 hours.

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

Dated: December 29, 2020.

Molly Stasko,

Treasury PRA Clearance Officer.

[FR Doc. 2020–29095 Filed 12–31–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans and Community Oversight and Engagement Board, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App 2., that the Veterans and Community Oversight and Engagement Board will meet virtually on January 28, 2021. The meeting session will begin and end as follows:

Date: January 28, 2021
Time: 3:00 p.m. to 6:00 p.m. EST

The meetings are open to the public. Members of the public can attend the meeting via teleconference (800) 767–1750 access code 94323#.

The Board was established by the West Los Angeles Leasing Act of 2016 on September 29, 2016. The purpose of the Board is to provide advice and make recommendations to the Secretary of Veterans Affairs (SECVA) on: Identifying the goals of the community and Veteran partnership; improving services and outcomes for Veterans, members of the Armed Forces, and the families of such Veterans and members; and on the implementation of the Draft Master Plan approved by the Secretary on January 28, 2016, and on the creation and implementation of any successor master plans.

On January 28, the agenda will include opening remarks from the Committee Chair and the Executive Sponsor. The Advisory Committee Management Office will present, Federal Advisory Committee Act 101 training. There will be a general update from Veterans Administration Greater Los Angeles Healthcare System (VAGLAHS) on COVID–19 response, Draft Master Plan Timeline Update, preliminary breakdown for the housing planned IAW the Master Plan, and Strategies to overcome CERs Staffing shortage. The West Los Angeles

Collective will provide a briefing on infrastructure commitment and financing for Bldg. 207, and finally a presentation from Brilliant Corners on Strategies to house homeless Veterans. The Board's subcommittees on Outreach and Community Engagement with Services and Outcomes, and Master Plan with Services and Outcomes will report on activities since the last meeting, followed by an out brief to the full Board on any draft recommendations considered for forwarding to the SECVA.

Individuals wishing to share information with the Committee should contact Mr. Chihung Szeto (Alternate Designated Federal Official) at *VEOFACA@va.gov* to submit a 1–2 page summary of their comments for inclusion in the official meeting record.

Any member of the public seeking additional information should contact Mr. Eugene W. Skinner Jr. at (202) 631–7645 or at *Eugene.Skinner@va.gov.*

Dated: December 29, 2020.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2020–29051 Filed 12–31–20; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 86 Monday,

No. 1 January 4, 2021

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reclassification of the Endangered June Sucker to Threatened With a Section 4(d) Rule; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R6–ES–2019–0026; FXES11130900000–201–FF09E22000]

RIN 1018–BD48

Endangered and Threatened Wildlife and Plants; Reclassification of the Endangered June Sucker to Threatened With a Section 4(d) Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are reclassifying the June sucker (*Chasmistes liorus*) from endangered to threatened under the Endangered Species Act of 1973, as amended (Act), due to substantial improvements in the species' overall status since its original listing as endangered in 1986. This action is based on a thorough review of the best scientific and commercial data available, which indicates that the June sucker no longer meets the definition of an endangered species under the Act. The June sucker will remain protected as a threatened species under the Act. We are also finalizing a rule under section 4(d) of the Act that provides for the conservation of the June sucker.

DATES: This rule is effective February 3, 2021.

ADDRESSES: This final rule, supporting documents we used in preparing this rule, and public comments we received are available on the internet at *http://www.regulations.gov* at Docket No. FWS–R6–ES–2019–0026. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

FOR FURTHER INFORMATION CONTACT: Yvette Converse, Field Supervisor, telephone: 801–975–3330. Direct all questions or requests for additional information to: JUNE SUCKER QUESTIONS, U.S. Fish and Wildlife Service, Utah Ecological Services Field Office, 2369 Orton Circle, Suite 50, West Valley City, UT 84119. Persons who use a TDD may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, if a species is determined to no longer be an endangered or threatened species, we may reclassify the species or remove it from the Federal Lists of Endangered and Threatened Wildlife and Plants due to recovery. A species is an ''endangered species'' for purposes of the Act if it is in danger of extinction throughout all or a significant portion of its range and is a ''threatened species'' if it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act does not define the term ''foreseeable future.'' However, we consider ''foreseeable future'' as that period of time within which a reasonable prediction can be relied upon in making a determination about the future conservation status of a species. We are reclassifying June sucker from endangered to threatened (*i.e.,* ''downlisting'') because we have determined that the species is no longer in danger of extinction throughout all or a significant portion of its range. Downlisting a species can only be completed by issuing a rule.

The basis for our action. Under the Act, we can determine that a species is an endangered or threatened species based on any one or more of the following five factors or the cumulative effects thereof: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. Based on an assessment of the best available information regarding the status of and threats to June sucker, we have determined that the species no longer meets the definition of endangered under the Act, but does meet the definition of threatened. The 4(d) rule provides exceptions to take prohibitions for activities that will further recovery of the species.

This final rule recognizes that based on the best available science, June sucker no longer meets the definition of an endangered species, but will remain protected as a threatened species under the Act. This progress towards recovery is a result of conservation efforts implemented by stakeholders. Collaborative conservation efforts have reduced the intensity of threats to the species and improved its population numbers. The 4(d) rule will accommodate recovery activities such as non-native control efforts, habitat restoration, monitoring, research, stocking, and refuge maintenance.

Previous Federal Actions

On March 31, 1986, we published in the **Federal Register** (51 FR 10851) the final rule listing June sucker as an endangered species and designating critical habitat comprising the lower 4.9 miles (mi) (7.8 kilometers (km)) of the Provo River in Utah County, Utah.

On November 13, 2001, we published in the **Federal Register** (66 FR 56840) a notice formally declaring our intention to participate in the multi-agency June Sucker Recovery Implementation Program (JSRIP) in partnership with the U.S. Bureau of Reclamation (USBR), Utah Reclamation Mitigation and Conservation Commission (URMCC), the Department of the Interior (DOI), State of Utah Department of Natural Resources (UDNR), the Central Utah Water Conservancy District (CUWCD), Provo River Water Users Association, Provo Reservoir Water Users Company, and outdoor interest groups. The JSRIP was designed to implement recovery actions for the June sucker and facilitate resolution of conflicts associated with June sucker recovery in the Utah Lake and Provo River basins in Utah. We have participated in the JSRIP since this time and remain an active program member.

On November 26, 2019, we published in the **Federal Register** (84 FR 65080) a proposed rule to reclassify June sucker from ''endangered'' to ''threatened'' (*i.e.,* to ''downlist'' the species) on the List of Endangered and Threatened Wildlife (List). Please refer to that proposed rule for a detailed description of the Federal actions concerning this species that occurred prior to November 26, 2019.

Species Information

It is our intent to discuss only those topics directly related to downlisting June sucker in this rule. The citations represent only the sources required to support this action or to provide context for it, and are not the sum total of all literature pertaining to the species. For more information on the description, biology, ecology, and habitat of the species, please refer to the final listing rule published in the **Federal Register** on March 31, 1986 (51 FR 10851), and the species' recovery plan (Service 1999), as well as the materials cited in this rule. These documents will be available as supporting materials on *http://www.regulations.gov* under Docket No. FWS–R6–ES–2019–0026.

In our analysis, we identify the species' ecological requirements for survival and reproduction using the concepts of resiliency, redundancy, and representation (the 3Rs). Resiliency is the ability of a species to withstand environmental and demographic stochastic events (the natural range of favorable and unfavorable conditions). It is associated with population size, growth rate, and habitat quality. Redundancy is the ability of a species to

withstand catastrophic events for which adaptation is unlikely. It is associated with the number, distribution, and resilience of individual populations throughout the current range of the species. Representation is the ability of a species to adapt to novel changes in its environment, as measured by its ecological and genetic diversity and its ability to disperse and colonize new areas.

Taxonomy and Description

The June sucker, a unique lake sucker named for the month in which it spawns, was first collected and described by David S. Jordan in 1878, in Utah Lake, Utah County, Utah (Jordan 1878, entire). However, taxonomic questions regarding hybridization of the June sucker and co-occurring Utah sucker (*Catostomus ardens*) ultimately resulted in reclassification of the species as described below.

The two species likely evolved together in Utah Lake. During the 1930s, a severe drought stressed the sucker populations in Utah Lake, increasing the incidence of June and Utah sucker hybridization (Miller and Smith 1981, p. 7). After this hybridization event, as sucker populations increased in abundance, the new genes that occurred in both the June sucker and Utah sucker populations resulted in hybrid characteristics within both populations (Evans 1997, p. 8). It is likely that the two species may have hybridized at multiple points in the past, in response to environmental bottlenecks (Evans 1997, pp. 9–12). As a result of the hybridization event in the 1930s, two subspecies of June sucker were originally identified—*Chasmistes liorus liorus* for sucker specimens collected in Utah Lake in the late 1800s, and *Chasmistes liorus mictus* for specimens collected after 1939, following the drought years (Miller and Smith 1981, p. 11). This classification was never corroborated, and because the June sucker maintained its distinctiveness from other lake suckers despite hybridization, we determined that it should be listed as a distinct species under the name *Chasmistes liorus* (51 FR 10851; March 31, 1986).

The June sucker has a large, robust body; a wide, rounded head; and a hump on the snout (Scoppettone and Vinyard 1991, p. 1). Adults are 17–24 inches (in) (43.2–61.0 centimeters (cm)) in length (Scoppettone and Vinyard 1991, p. 1; Belk 1998, p. 2). Lake suckers are mid-water planktivores (plankton feeders). The June sucker is a long-lived species, living to 40 years or more (Scoppettone and Vinyard 1991, p. 3; Belk 1998, p. 6). In the wild, June suckers reach reproductive maturity at 5–10 years of age. They exhibit rapid growth for the first 3–5 years, with intermediate growth rates between ages 8–10, and a further reduced growth rate after age 10. Growth between sexes does not differ within the first 10 years (Scoppettone and Vinyard 1991, p. 9).

Distribution and Habitat

The June sucker is native and endemic to Utah Lake and its tributaries, which are the primary spawning habitat for the species. The June sucker is not found outside of its native range except in two populations established for conservation purposes. A refuge population was created as part of the JSRIP stocking program to enhance and secure the species' population in Utah Lake at the Fisheries Experiment Station (FES) hatchery in Logan, Utah (Service 2015, entire). An additional population was established in Red Butte Reservoir, Salt Lake County, Utah, in 2004 and is now self-sustaining (Utah Division of Wildlife Resources (UDWR) 2010, pp. 4–5). These additional populations have aided in retaining ecologic and genetic diversity in June sucker, which in turn aids the species in adapting to changing environmental conditions (*i.e.,* increases representation) (JSRIP 2018, pp. 2–3).

Utah Lake is a remnant of ancient Lake Bonneville, and is one of the largest natural freshwater lakes in the western United States. It covers an area of approximately 150 square miles (mi^2) (400 square kilometers (km^2)) and is relatively shallow, averaging 9 feet (ft) (2.7 meters (m)) in depth (Brimhall and Merritt 1981, pp. 2–3). The lake lies west of Provo, Utah, and is the terminus for several rivers and creeks, including the Provo, Spanish Fork, and American Fork Rivers, and Hobble and Battle Creeks. The outflow of Utah Lake is the Jordan River, which flows north into the Great Salt Lake, a terminal basin.

Utah Lake is located in a sedimentary drainage basin dominated by erosive soils with high salt concentrations. Utah Lake had a sediment filling rate of about 0.03 in (1 millimeter (mm)) per year over the past 10,000 years; this rate more than doubled with the urbanization of Utah Valley (Brimhall and Merritt 1981, pp. 3–5). Faults under the lake appear to be lowering the lake bed at about the same rate as sediment is filling it (Brimhall and Merritt 1981, pp. 10–11). Inputs of nutrient-rich sediments combined with the lake's high evaporation rate cause high levels of sediment loading, high soluble salt concentrations, and high nutrient levels as a baseline condition (Brimhall and Merritt 1981, p. 11).

Shallow lakes, such as Utah Lake, are typically characterized as having one of two ecological states: A clear water state or a turbid water state (Scheffer 1998, p. 10). The clear water state is often dominated by rooted aquatic macrophytes (aquatic plants) that can greatly reduce turbidity by securing bottom sediments (Carpenter and Lodge 1986, p. 4; Madsen *et al.* 2001, p. 6) and preventing excessive phytoplankton (algae) production through a suite of mechanisms (Timms and Moss 1984, pp. 3–5). Alternatively, a shallow lake in a turbid water state contains little or no aquatic vegetation to secure bottom sediments (Madsen *et al.* 2001, p. 9). As a result, fish movement and wave action can easily suspend lake-bottom sediments (Madsen *et al.* 2001, p. 9). In addition, fish can promote algal production by recycling nutrients (both through feeding activity and excretion). Fish can also suppress zooplankton densities through predation, and the zooplankton would otherwise suppress algal abundance (Timms and Moss 1984, p. 11; Brett and Goldman 1996, p. 3).

Historically, Utah Lake existed in a clear water state dominated by rooted aquatic vegetation, as shown in sediment cores extracted from Utah Lake (Macharia and Power 2011, p. 3). Sediment cores reveal a shift in the state of the lake shortly after European settlement of Utah Valley to an algae-dominated, turbid condition, lacking macrophytic vegetation that serves as refugial habitat for June sucker (Brimhill and Merritt 1981, p. 16; Scheffer 1998, p. 6; Hickman and Thurin 2007, p. 8; Macharia and Power 2011, p. 5). This shift is believed to be a result of excessive nutrient input, management-induced fluctuations in lake levels, and the introduction of common carp (*Cyprinus carpio*). The result of compounded natural and human-caused effects is a present-day lake ecosystem that is dominated by algae, rather than the clear water state in which June sucker evolved.

The extent of ideal riverine habitat available for spawning adults and developing larval June sucker was more abundant historically than it is currently. Prior to settlement of Utah Valley, spawning tributaries, such as the Provo, Spanish Fork, and American Fork Rivers, and Hobble Creek, contained large deltas with braided, slow, meandering channels and aquatic vegetation that provided suitable spawning and larval rearing habitat (Olsen *et al.* 2002, p. 4). Multiple spawning tributaries provided redundancy for June sucker. The range of diverse habitats historically present

within these tributaries was essential to larval sucker survival and maintaining the species' resiliency. Most importantly, slow water pool and marsh habitats provided refuge from predation by larger fishes.

Since European colonization of Utah Valley, changes to the tributaries have decreased the available habitat for June sucker spawning and rearing, although recent restoration projects have improved conditions in the Provo River and Hobble Creek. The Provo River contains many natural characteristics that support the majority of the June sucker spawning run and also play an important role in contributing to the recovery of the species. The Provo River is the largest tributary to the lake in terms of annual flow, width, and watershed area (Stamp *et al.* 2002, p. 19). All of these characteristics contribute to higher numbers of spawning June suckers using the Provo River than the other Utah Lake tributaries. These characteristics also best support the proper timing of the June sucker's spawning period and help protect against further hybridization with Utah sucker. Continued increase and improvement of available larval rearing habitat in the Provo River is necessary for recovery of the species.

Biology and Ecology

June suckers are highly mobile and can cover large portions of their range in a short period of time (Radant and Sakaguchi 1981, p. 7; Buelow 2006, p. 4; Landom *et al.* 2006, p. 13). Adult June suckers exhibit lake-wide distributional behavior throughout most of the year (Buelow 2006). However, in the fall, June suckers congregate along the western lakeshore, and in the winter, move to the eastern areas. One explanation for the easterly orientation in the winter may be the presence of relatively warm fresh-water springs along the eastern shore of Utah Lake (SWCA 2002, p. 14).

During pre-spawn staging, in April and May, June suckers congregate in large numbers near the mouths of the Provo River, Hobble Creek, Spanish Fork River, and American Fork River (Radant and Hickman 1984, p. 3; Buelow *et al.* 2006, p. 4; Hines 2011, p. 8). June suckers generally initiate a spawning migration into Utah Lake tributaries (primarily the Provo River, but also Hobble Creek and, to a lesser extent, Spanish Fork River and American Fork River) during the second and third weeks of May (Radant and Hickman 1984, p. 7). Provo Bay is likely one of their primary pre-spawn and post-spawn congregation areas (Buelow 2006, p. 4).

Most spawning is completed within 5–8 days. Post-spawning suckers congregate near the mouth of Provo Bay, which could be a response to the high food productivity that remains in the bay until the fall (Radant and Shirley 1987, p. 13; Buelow 2006, p. 8). Zooplankton densities are greater in Provo Bay than in other lake areas (Kreitzer *et al.* 2011, p. 9), providing abundant food to meet the energy demands of post-spawn suckers, as well as an ideal location for the growth and survival of young-of-year June suckers recently emerged from the spawning tributaries (Kreitzer *et al.* 2011, p. 10).

June sucker spawning habitat consists of moderately deep runs and riffles in slow to moderate current with a substrate composed of 4–8 in (100–200 mm) coarse gravel or small cobble that is free of silt and algae. Deeper pools adjacent to spawning areas may provide important resting or staging areas (Stamp *et al.* 2002, p. 5).

Under natural conditions, June sucker larvae drift downstream and rear in shallow vegetated habitats near tributary mouths in Utah Lake (Modde and Muirhead 1990, pp. 7–8; Crowl and Thomas 1997, p. 11; Keleher *et al.* 1998, p. 47). Juvenile June suckers then migrate into Utah Lake and use littoral aquatic vegetation as cover and refuge (Crowl and Thomas 1997, p. 11). June sucker juveniles form schools near the water surface, presumably feeding on zooplankton in the shallows. Young-of-year suckers form shoals (aggregations of hundreds of fish) near the surface under the cover of aquatic vegetation (Billman 2008, p. 3).

However, effects from nonnative common carp, altered tributary flows, lake water level management, nutrient loading, poor water quality, and river channelization have reduced the amount of shallow, warm, and complex vegetated aquatic habitat for rearing at the tributary mouths and Utah Lake interface. This reduction in rearing habitat has reduced survival of June suckers during the early life stages (Modde and Muirhead 1990, p. 9; Olsen *et al.* 2002, p. 6), resulting in reduced population viability and resiliency. As June suckers reach the subadult stage, they begin to move offshore (Billman 2005, p. 16).

Species Abundance and Trends

Early accounts indicate that Utah Lake supported an enormous population of June suckers (Heckmann *et al.* 1981, p. 8), and was proclaimed ''the greatest sucker pond in the universe'' (Jordan 1878, p. 2). The first major reductions in the number of June suckers were in the late 1800s. Through the mid-1900s, June suckers were caught during their spawning runs and widely used as fertilizer and food (Carter 1969, p. 7). During this period, an estimated 1,653 tons (1,500 metric tons) of spawning suckers were killed when 2.1 mi (3.3 km) of the Provo River was dewatered due to reduced water availability and high demand (Carter 1969, p. 8).

Hundreds of tons of suckers also died when Utah Lake was nearly emptied during a 1932–1935 drought (Tanner 1936, p. 3). After the drought, June sucker populations gradually increased again, but due to the combined impacts of ongoing drought, overexploitation, and habitat destruction, the population did not return to its historical level (Heckmann *et al.* 1981, p. 9). June suckers were rare in monitoring surveys during the 1950s through the 1970s (Heckmann *et al.* 1981, p. 11; Radant and Sakaguchi 1981, p. 5).

By the time the species was listed under the Act (16 U.S.C. 1531 *et seq.*) in 1986, the June sucker had an estimated wild spawning population of fewer than 1,000 individuals. In 1999, we estimated the wild spawning population to be approximately 300 individuals, with no evidence of wild recruitment (Keleher *et al.* 1998, pp. 12, 53; Service 1999, p. 5).

Due to the immediate threat of June sucker extinction at the time of listing, the UDWR began raising populations in hatcheries and at secure refuge sites. These efforts resulted in the stocking of June suckers into Utah Lake to boost population numbers beginning in the 1990s and continuing through the present day (UDWR 2018b, p. 3). As of 2017, more than 800,000 captive-bred June suckers have been stocked in Utah Lake (UDWR 2017b, p. 6). Stocking is planned to continue until the wild population is self-sustaining, which will be determined by population viability analysis (JSRIP 2018, p. 10).

Approximately 3,500 June suckers were spawning annually in Utah Lake tributaries as of 2016 (Conner and Landom 2018, p. 2). This represents at least a ten-fold increase in spawning fish from when the recovery plan was finalized in 1999 (Conner and Landom 2018, p. 2). The vast majority of fish detected spawning in Utah Lake tributaries are stocked fish that have become naturalized (survived for multiple years until reaching breeding age) (UDWR 2018c, p. 7). For all spawning tributaries combined, the spawning population size for both sexes substantially increased from 2008 to 2016, and the total known spawning population size grew by 22 percent. These figures represent a minimum number of confirmed spawning June

suckers, not a population estimate. They do not include subadult or juvenile individuals, non-spawning adults, untagged fish, or tagged fish that were not detected via the monitoring antennae.

The actual population of wild June suckers in Utah Lake is likely greater than 3,500, because this number represents only the spawning adults. However, we did not attempt to extrapolate a total population estimate from the adult spawning data because monitoring efforts in tributaries were not consistent across all years, data were not available for one year due to high flows, and the percentage and origin of untagged fish in Utah Lake is not yet clear (Conner and Landom 2018, p. 4). Stocked June suckers are tagged with a passive integrated transponder (PIT). Untagged fish may be stocked fish that lost their PIT tag or the result of reproduction (*i.e.,* recruitment) in the wild (UDWR 2017, entire).

Monitoring of June suckers in the lower Provo River during the 2018 spawning period captured a significant portion of fish that were not PIT tagged (UDWR 2018, p. 3). The natural geochemical markers (signatures) in the otoliths (ear bones) and fin rays of collected, unmarked June suckers show that 39 percent (12 of 31) of these fish likely originated from the FES hatchery; 42 percent from Red Butte reservoir, other rearing facilities, or inconclusive; and 19 percent (6 of 31) had signatures indicating they originated in Utah Lake (Wolff and Johnson 2013, p. 9), meaning they were likely recruited naturally into Utah Lake. These results indicate that successful natural reproduction and recruitment are occurring, although the exact location and conditions that contributed to this successful natural recruitment are not known. Additional analysis of June suckers of unknown origin is planned within the next several years to determine the level of natural recruitment occurring in Utah Lake. Regardless of origin, capture of untagged fish indicates there is an unknown number of spawning June suckers that were not accounted for in the spawning population estimate.

The year-to-year survival rate of fish stocked into Utah Lake varies significantly depending on a number of factors, including length of fish at stock (which correlates to age) and time of year stocked (Goldsmith *et al.* 2016, p. 5). June suckers stocked in early summer that were 11.6 in (296 mm) in length or more (usually representing an individual that was 2 years old) had a survival rate of 83 percent. June suckers stocked at age 1 had survival rates ranging from 0 to 67 percent. The smallest June suckers, those stocked at under 7.9 in (200 mm), had a survival rate into the next year of only 2 percent (Goldsmith *et al.* 2016, p. 14).

Year-to-year survival rates for spawning June suckers ranged from 65 to 95 percent depending on the tributary and the year (Goldsmith *et al.* 2016, p. 3). Additionally, June suckers that were stocked more than 10 years prior were detected spawning on multiple occasions, indicating the capability for long-term survival in Utah Lake (Conner and Landom 2018, p. 3). Between 2013 and 2016, June sucker showed a positive population trend with a combined annual growth rate of 1.06 for females and 1.04 for males across three tributaries (Provo River, Spanish Fork, and Hobble Creek), with Provo River having the highest population growth rate and Hobble Creek showing an overall decline (Conner and Landom 2018, p. 3). However, nearly 50 percent of spawning June sucker detected in Hobble Creek were of unknown origin. Therefore, a decline in detected spawners in this tributary does not necessarily mean fewer fish overall are using the tributary. Naturally recruited fish that have never been tagged would not be detected by the remote electronic methods used to collect June sucker presence information at spawning locations.

In summary, the viability of June sucker in its native range—as indicated by its representation, resiliency, and redundancy—has improved significantly since the time of listing, largely due to the efforts of the JSRIP (see Recovery, below). Stocking of June suckers, a program designed to maximize representation through genetic diversity, has been very successful at increasing the number of fish in Utah Lake. Stocked individuals are behaving as wild fish by migrating to new habitats, surviving many years, and participating in spawning activities. The JSRIP stocking program is planning to continue until the June sucker reaches self-sustaining population levels, with a focus on stocking 2-year-old fish over 12 in (300 mm) long to increase their chances of survival. The spawning population has increased at least ten-fold since 1999; there is evidence of high year-to-year survival rates and long-term survival for spawning individuals; and the spawning population is increasing at a high rate, improving the resiliency of the wild population. The stocking program and maintenance of two additional populations (the refuge population at FES hatchery and the introduced population at Red Butte Reservoir) also provide redundancy to the wild population. In 2020–2021, a study is underway to improve our understanding of the degree of natural recruitment of June sucker in Utah Lake and the origin of untagged June suckers. This information will, combined with future monitoring, yield a population estimate and help inform future stocking rates and management decisions for the purposes of further bolstering the species' representation, resiliency, and redundancy to achieve full recovery.

Recovery

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Under section 4(f)(1)(B)(ii), recovery plans must, to the maximum extent practicable, include objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of section 4 of the Act, that the species be removed from the List.

Recovery plans provide a roadmap for us and our partners on methods of enhancing conservation and minimizing threats to listed species, as well as measurable criteria against which to evaluate progress towards recovery and assess the species' likely future condition. However, they are not regulatory documents and do not substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to revise the status of a species, or to delist a species, is ultimately based on an analysis of the best scientific and commercial data available to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan.

There are many paths to accomplishing recovery of a species, and recovery may be achieved without all of the criteria in a recovery plan being fully met. For example, one or more criteria may be exceeded while other criteria may not yet be accomplished. In that instance, we may determine that the threats are minimized sufficiently and that the species is robust enough that it no longer meets the definition of an endangered species or a threatened species. In other cases, we may discover new recovery opportunities after having finalized the recovery plan. Parties seeking to conserve the species may use these opportunities instead of methods identified in the recovery plan.

Likewise, we may learn new information about the species after we finalize the recovery plan. The new information may change the extent to which existing criteria are appropriate for identifying recovery of the species. The recovery of a species is a dynamic process requiring adaptive management that may, or may not, follow all of the guidance provided in a recovery plan.

We finalized a recovery plan for June sucker in 1999, which included recovery actions and recovery criteria for downlisting and delisting of June sucker. These criteria lack specific metrics and will be updated in a forthcoming revised recovery plan for the species. However, they are still relevant to the evaluation of recovery, and we discuss them in this document as one way to evaluate the change in status of June sucker.

Since 2002, the JSRIP has funded, implemented, and overseen recovery actions for the conservation of June sucker in accordance with the guidance provided by the recovery plan, including using adaptive management techniques to address new stressors as they arose. These recovery actions include: (1) Acquiring and managing water flows, (2) restoring habitat, (3) removing carp, and (4) augmenting the wild June sucker population. These efforts, and how they relate to the recovery criteria, are described in the following paragraphs.

Acquisition and Management of Water Flows

The first downlisting criterion requires that Provo River flows essential for June sucker spawning and recruitment are protected (Service 2011, p. 5). We consider this criterion to have been met. The JSRIP provides annual recommendations for river flows to support June suckers on the Provo River and Hobble Creek based on the known biology of the species and the historical flow levels to the CUWCD and other water-managing bodies. The JSRIP has also acquired water totaling over 21,000 acre-ft (25,903,080 cubic m (m^3)) per year to enhance flows during the spawning season on the Provo River and to supplement base flows through the summer for the benefit of larval June sucker. Approximately 13,000 acre-ft (16,035,240 m^3) of this water is permanently allocated, and the remainder is allocated through 2021. The JSRIP is pursuing additional water, permanent and temporary, to bolster June sucker allocations after 2021 (JSRIP 2018, p. 5). Additionally, the JSRIP has acquired 8,500 acre-ft (10,485,000 m^3) of permanent water for Hobble Creek, up to 4,500 acre-ft (5,550,660 m^3) of which may be used to supplement Provo river flows as needed in any given year (USBR 2017, pp. 3–5). These protected water sources, when delivered as additional water, provide added resiliency by improving habitat quality for the species, and operational flexibility to address fluctuating annual precipitation scenarios in a timely manner.

The amount of water delivered to supplement flows in the Provo River and Hobble Creek and the timing of those deliveries are determined annually through a cooperative process involving multiple agencies. In 1996, the June Sucker Flow Work Group (Flow Work Group) was formed by the USBR, DOI Central Utah Project Completion Act (CUPCA) Office, Provo River Water Users Association, Provo River Water Commissioner, CUWCD, UDWR, the Service, Provo City Public Works, and the URMCC. These agencies initially worked together to adjust reservoir releases to mimic a Provo River spring runoff hydrograph and improve June sucker spawning success. Since 2002, this process has been overseen by the JSRIP.

As recovery-specific water was acquired, the role of the Flow Work Group expanded to provide a forum for determining the optimal delivery pattern of supplemental flows. Based on existing conditions for a given year (*e.g.,* snow pack and reservoir storage), the multi-disciplinary work group uses operational flexibility for reservoir water delivery and runoff timing to evaluate and operate the system to deliver year-round flows to benefit June sucker recovery. Based on recommendations of the Flow Work Group, the JSRIP makes annual recommendations for flow deliveries to the Provo River and Hobble Creek, adjusted for the available water conditions. Water managers (including USBR, CUPCA, Provo River Water Users Association, the Provo River Water Commissioner, CUWCD, and Provo City Public Works) then work to deliver water to meet that specific annual recommendation and have been successful in meeting the hydrograph scenarios agreed to by the Flow Work Group on an annual basis since 2004.

In 2004, the CUWCD, in cooperation with the Service and other members of the Flow Work Group, agreed on operational scenarios that mimic dry, moderate, and wet year flow patterns for the Provo River (CUWCD *et al.* 2004, p. 17). The Flow Work Group applied these operational scenarios in determining the spawning season flow pattern for the Provo River with the goal of benefiting June sucker recovery. In 2008, an ecosystem-based flow regime recommendation was finalized for the lower Provo River (Stamp *et al.* 2008, p. 13). This year-round flow recommendation refined the operational scenarios identified in 2004, through the incorporation of relevant ecological functions into the in-stream flow analysis. Hydrologic variability, geomorphology, water quality, aquatic biology, and riparian biology were considered as aspects of flow recommendations. The year-round flow recommendations are adaptive, with consideration of the variability within and among each water year. These include recommendations for a baseline flow, a spring runoff flow, and the duration of the rising and receding flow periods before and after runoff. As more is learned about the associations between flow and river functions, the recommendations can be adjusted (Stamp *et al.* 2008, p. 10). In 2015, the JSRIP passed a resolution affirming this process, which further defined how flows in the Provo River should be prioritized for the benefit of the June sucker, and defined the roles of partners in supporting the water needs of June sucker in the Provo River (JSRIP 2015, entire).

In 2009, ecosystem-based flow recommendations were developed for Hobble Creek in the Lower Hobble Creek Ecosystem Flow Recommendations Report (Stamp *et al.* 2009, pp. 11–12). These recommendations were adopted by the JSRIP, included in the East Hobble Creek Restoration Project Environmental Analysis (JSRIP 2009, p. 5), and are currently considered each April when determining the annual recommendations for delivery of flows to Hobble Creek (DOI *et al.* 2013, p. 41). Similar to the Provo River, these recommendations are intended to be adaptive. In 2012, the JSRIP passed a resolution affirming this process, which further defines how flows in Hobble Creek should be prioritized for the benefit of June sucker, and defines the roles of partners in supporting the water needs of June sucker in Hobble Creek (JSRIP 2012, entire).

Habitat Restoration

The second downlisting criterion for June sucker requires that spawning and brood-rearing habitat in the Provo River and Utah Lake be enhanced or established to provide for the continued existence of all life stages (Service 1999, p. 4). We consider this criterion to have been met. Habitat restoration projects occurred on the Provo River and Hobble Creek, and habitat quality was enhanced in Utah Lake as a result of nonnative

species removal (see *Carp Removal,* below).

Modifications of the Fort Field diversion structure on the Provo River, located within critical habitat, were completed in October 2009. This modification made an additional 1.2 mi (1.9 km) of spawning habitat available for the June sucker, permitting fish passage farther upstream in the historical range (URMCC 2009, pp. 8–9; JSRIP 2008, p. 12). During the 2010 spawning season, June suckers were observed in the Provo River upstream of the modified Fort Field Diversion structure (UDWR 2011, pp. 7–8). In cooperation with the JSRIP, the CUWCD and URMCC are working with other diverters on the Provo River to evaluate further diversion structure removal or modification.

The JSRIP is also implementing a large-scale stream channel and delta restoration project for the lower Provo River and its interface with Utah Lake, called the Provo River Delta Restoration Project (PRDRP). This project will restore, enhance, and create habitat conditions in the lower Provo River for spawning, hatching, larval transport, rearing, and recruitment of the June sucker to the adult life stage, thus increasing the species' resiliency (Olson *et al.* 2002, p. 15; BIO–WEST 2010, p. 3). The PRDRP will reestablish some of the historical delta conditions in the Provo River, thereby increasing habitat complexity and providing appropriate physical and biological conditions necessary for egg hatching, larval development, growth, young-of-year survival, and recruitment of young fish into the adult population. A final environmental impact statement (EIS) for the PRDRP was released in April 2015, with a record of decision signed in May 2015. Federal agencies have acquired lands needed for the PRDRP and developed a detailed design to provide optimal rearing habitat for June sucker (PRDRP 2017, entire). Work began spring of 2020, and is expected to be completed in 2024 (Stamp 2020, pers. comm.).

Shortly after formation of the JSRIP, and based on delisting criteria identified in the 1999 June Sucker Recovery Plan (Service 1999, pp. 5–6), several Utah Lake tributaries were evaluated for the purpose of establishing a second spawning run of June sucker in addition to the Provo River spawning run (Stamp *et al.* 2002, p. 13). Depending on the availability of water in any given year, June suckers will use multiple other tributaries for spawning, including Spanish Fork, American Fork, and Current Creek. However, not all tributaries are available in every year, due to changing lake levels and water availability. Therefore, we determined that an additional, reliably available (*i.e.,* available every year) spawning run would improve redundancy for the species by providing security in the event that a catastrophic event eliminated the Provo River spawning habitat. Hobble Creek provides the best opportunity of the available spawning tributaries for establishing a second consistent spawning run (Stamp *et al.* 2002, p. 13). Hobble Creek is more frequently available to fish in low water years compared to other tributaries. However, Hobble Creek would still require habitat enhancements to make it suitable for consistent, annual June sucker spawning runs and allow for the development of quality rearing habitat for young suckers (Stamp *et al.* 2002, p. 13).

In 2008, the lower 0.5 mi (0.8 km) of Hobble Creek was relocated and reconstructed on land purchased by the JSRIP to provide June sucker spawning habitat, a more naturally functioning stream channel, and suitable nursery habitat for young suckers. The JSRIP partnered with the Utah Transit Authority to implement the habitat restoration project on the purchased property (DOI 2008, p. 14). The project re-created a functioning delta at the interface between Hobble Creek and Utah Lake, and allowed the reestablishment of a June sucker spawning run. The restoration resulted in more active river processes and includes numerous seasonally inundated off-channel ponds, which serve as larval nursery and rearing habitat to increase larval fish growth and survival (DOI 2008, p. 22).

In 2009, June suckers spawned in the restored Hobble Creek, with verified larval production (Landom and Crowl 2010, pp. 1–12), and in 2010, juvenile June suckers (from 2009 spawning) were found in ponds within the Hobble Creek restoration area (Landress 2011, p. 4). Due to the success of the restoration, additional reaches of Hobble Creek have been selected for habitat enhancements to increase the amount of available spawning habitat. For example, approximately 1 mi (1.6 km) upstream of the lower Hobble Creek restoration area, the East Hobble Creek Restoration Project was completed to enhance the stream channel by increasing floodplain width, sinuosity, and floodplain connectivity; modify or remove diversion structures; and provide additional stream flows for Hobble Creek (JSRIP 2016b, p. 17). An age-1 June sucker was observed in this area in January 2018, indicating that June suckers are using this area for rearing (Fonken 2018, pers. comm.).

Improving water quality in Utah Lake is also an important part of enhancing June sucker habitat. In the interest of supporting June sucker recovery through increased water quality, the Utah Division of Water Quality (UDWQ) became a member of the JSRIP in 2017 (JSRIP 2017). As part of the State's commitment to water quality management and improvement in Utah Lake, UDWQ formed a science panel composed of independent experts and representatives of all stakeholder agencies for the express purpose of furthering scientific understanding of the conditions in Utah Lake and creating a comprehensive plan for improvement. This plan will support June sucker recovery by including recommendations for actions and threshold limits of nutrients and other anthropogenic inputs for the benefit of June sucker specifically and the Utah Lake ecosystem as a whole (UDWQ 2017, entire).

Carp Removal

The third downlisting criterion requires that nonnative species that present a threat to the continued existence of June sucker are reduced or eliminated from Utah Lake. We consider this criterion met, but ongoing. The common carp was identified as the nonnative species having the greatest adverse impact on June sucker habitat and resiliency, due to the large-scale changes in water quality and macrophytic vegetation caused by these fish (see *Distribution and Habitat,* above).

In 2009, a mechanical removal program was instituted to remove common carp from Utah Lake. Between 2009 and 2017, over 13,000 tons (11,750 metric tons) of common carp were removed from the lake (UDWR 2017c, p. 2). This removal resulted in a decline of the common carp population. Catch-per-unit effort of common carp has decreased over the past 4 years, while average weight of individual common carp has increased, thus indicating a trend of reduction in common carp density in Utah Lake (Gaeta and Landom 2017, p. 7).

In 2015, after 6 years of common carp removal, native macrophytes were observed in Utah Lake vegetation monitoring studies for the first time (Landom 2016, pers. comm.). As of 2017, multiple sites in the lake have native littoral vegetation, including sites with increasing complexity supporting more than four native macrophytic species at one site (Dillingham 2018, entire). Sites with more complex

vegetation support a higher diversity of macroinvertebrates, which provide additional food for June sucker, provide greater opportunities for June sucker to shelter from predators, and indicate improved water quality in the lake (Dillingham 2018, entire).

The common carp removal program in Utah Lake has a positive impact on habitat quality, which may be contributing to natural recruitment and survival rates for the June sucker (Gaeta and Landom 2017, p. 8; see *Species Abundance and Trends,* above). Ongoing research by Utah State University continues to assess the relationship between common carp removal, habitat improvement, and June sucker population response as well as develop long-term recommendations for sustainable common carp management (Gaeta *et al.* 2018, entire). The JSRIP prioritizes continued suppression of the common carp population via mechanical removal, as well as research into genetically modified sterile (YY) male technology that has the potential to reduce or eliminate carp from Utah Lake in the future (JSRIP 2018, p. 2).

Population Augmentation

The fourth and final downlisting criterion in the June sucker recovery plan is that an increasing, self-sustaining spawning run of wild June sucker resulting in significant recruitment over 10 years has been reestablished in the Provo River. We consider this criterion to be ongoing. This criterion does not define ''significant'' recruitment. Although the spawning population of June sucker is increasing, annual stocking continues in order to maintain the population. An augmentation plan for the June sucker set a goal, for the purposes of meeting the recovery criterion of a self-sustaining population, of stocking 2.8 million individuals into Utah Lake (Service and URMCC 1998, entire). The goal was based on early studies of June sucker survival and the production capabilities of the facilities. As of 2017, more than 800,000 captive-bred June sucker have been stocked in Utah Lake from the various rearing locations, and a long-term, continued stocking strategy based on the most up-to-date research on stocking success and survival rates is under development (JSRIP 2008, p. 8; UDWR 2017b, p. 6).

Although the June sucker has not yet met this downlisting criterion identified in the 1999 recovery plan, we find that the population increases and trends achieved thus far (see *Species Abundance and Trends,* above), along with the addition of refuge populations to increase redundancy and genetic representation, support downlisting the species. The criterion of an increasing, self-sustaining spawning run of wild June sucker resulting in significant recruitment over 10 years is more suitable as a delisting criterion and indicative of full recovery.

Overall, recovery actions have addressed many of the threats and stressors affecting the June sucker. The JSRIP has been effective in collaborating to implement a stocking program, increase June sucker spawning locations, acquire and manage water flows, remove nonnative common carp, and develop and conduct habitat restorations that target all life stages of June sucker. Studies are planned to improve understanding of the effects of other threats and stressors, including lake water quality and the impact of other invasive species on the June sucker. The JSRIP continues to be active and committed to full recovery of the June sucker.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for listing species, reclassifying species, or removing species from listed status. ''Species'' is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct vertebrate population segment of fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). The Act defines an endangered species as a species that is ''in danger of extinction throughout all or a significant portion of its range,'' and a threatened species as a species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.''

The Act requires that we determine whether any species is an ''endangered species'' or a ''threatened species'' because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We must consider these same five factors in downlisting a species from endangered to threatened. Under our regulations at 50 CFR 424.11(c)-(e), we may downlist a species if, after a review of the species' status, the best available scientific and commercial data indicate that the species no longer meets the definition of an endangered species, but that it meets the definition of a threatened species.

For the purposes of this analysis, we evaluate whether or not the June sucker meets the Act's definition of an ''endangered species'' or a ''threatened species,'' based on the best scientific and commercial information available. We use the term ''threat'' to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term ''threat'' includes actions or conditions that directly affect individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an ''endangered species'' or a ''threatened species.'' In determining whether a species meets either definition, we must evaluate all identified threats by considering the species' expected response and the effects of the threats—with regard to those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species and then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats with regard to those actions and conditions that will have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the Act's definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Our implementing regulations

at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term foreseeable future extends only so far into the future as we can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. ''Reliable'' does not mean ''certain''; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

In our determination, we correlate the threats acting on the species to the factors in section 4(a)(1) of the Act.

The following analysis examines factors currently affecting the June sucker or that are likely to affect it within the foreseeable future. For each factor, we examine the threats at the time of listing in 1986 (or if not present at the time of listing, the status of the threat when first detected), the downlisting criterion pertinent to the threat, what conservation actions have been taken to meet the downlisting criteria or otherwise mitigate the threat, the current status of the threat, and its likely future impact on June sucker. We also consider stressors not originally considered at the time of listing, most notably climate change.

Habitat Destruction and Modification

Loss and alteration of spawning and rearing habitat were major factors leading to the listing of the June sucker (51 FR 10851; March 31, 1986) and continue to pose a threat to the species' overall resiliency and its recovery. Suitable spawning and rearing habitat in Utah Lake and its tributaries declined due to water development, habitat modification, introduction of common carp, and urbanization, but has improved since listing due to recovery actions taken by the JSRIP.

Water Development and Habitat Modification

Water development and substantial habitat modifications have occurred in the Utah Lake drainage since the mid-1800s. These changes include the reduction in riverine flows (including the Provo River) from numerous water diversions, various water storage projects, channelization, and additional lake and in-stream alterations (Radant *et al.* 1987, p. 13; UDWR and UDNR 1997, p. 11; Andersen *et al.* 2007, p. 8). Many of these modifications and water depletions remain today, and continue to hinder the quantity and quality of June sucker rearing and spawning habitat, which in turn impacts species resiliency.

In 1849, settlers founded Fort Utah along the Provo River and began modifying the waters of Utah Lake and its main tributaries (USBR 1989, p. 3). In 1872, a low dam was placed across the lake outflow to the Jordan River, changing the function of Utah Lake into a storage reservoir (CUWCD 2004, p. 2). By the early 1900s, a pumping plant was constructed at the outflow to allow the lake to be lowered below the outlet elevation; this structure has since been modified and enlarged (Andersen *et al.* 2007, p. 5). The present capacity of the pumping plant is 1,050 cubic feet per second (cfs) (29.7 cubic meters per second (cms)), and it can lower the lake level 8–10 ft (2.4–3.0 m) below the compromise elevation of 4,489 ft (1,368 m) (Andersen *et al.* 2007, p. 5). The compromise elevation is a managed lake elevation target that the responsible water authorities have agreed not to exceed through the active storage of water. This compromise elevation was intended to balance the threat of flooding among lands adjacent to Utah Lake and those downstream along the Jordan River (CUWCD 2004, p. 7).

As a storage reservoir, the surface elevation of Utah Lake fluctuates widely. Prior to the influence of water development projects, annual fluctuations averaged 2.1 ft (0.6 m) per year. For approximately 50 years, under the influence of water development projects, water levels fluctuated an average of 3.5 ft (1.0 m) annually prior to the completion of the Central Utah Project. The Central Utah Project was the largest water resources development program in Utah, distributing portions of Utah's share of Colorado River water. After its completion, annual lake fluctuations averaged 2.5 ft (0.8 m) (Hickman and Thurin 2007, p. 20). Fluctuation in surface elevation of Utah Lake (particularly while the Central Utah Project was under construction) is one of the possible factors that contributed to the marked degradation of shoreline habitat and aquatic vegetation in the lake and to a decline in June sucker refugial habitat from predators (Hickman and Thurin 2007, p. 23).

The long history of water management in the Provo River, including river alterations, dredging, and channelization efforts, has modified the historical braided and complex delta into a single trapezoidal channel (Radant *et al.* 1987, p. 15; Olsen *et al.* 2002, p. 11). The current channel lacks vegetative cover, habitat complexity, and the food sources necessary to sustain larval fishes rearing in the lower Provo River (Stamp *et al.* 2008, p. 20). Additionally, the lower 2 mi (3.2 km) of the Provo River experience a backwater effect, where the velocity stalls under low-flow scenarios and a high seasonal lake level causes the water to back up from the lake into the Provo River (Stamp *et al.* 2008, p. 20). The slack water substantially reduces the number of larvae drifting into the lake. As a result of their poorly developed swimming abilities, the larvae either starve or are consumed by predators in this lower stretch of river (Ellsworth *et al.* 2010, p. 9). Because of the extensive modification of the lower Provo River, in the past, most June sucker larvae have not survived longer than 20 days after hatching (Ellsworth *et al.* 2010, pp. 9–10). The upcoming PRDRP is designed to increase survival of larvae by providing additional rearing habitat along the Provo River (PRDRP 2017, entire).

Similar to the Provo River, Hobble Creek and other tributaries of significance (Spanish Fork River and American Fork River) have been extensively modified by human activities. The hydrological regimes are altered by multiple dams and diversions, and the stream channels have been straightened and dredged into incised trapezoidal canals (Stamp *et al.* 2002, p. 5). These alterations resulted in the streams becoming isolated from their historical floodplains and having modified flow velocities and pool-riffle sequences (Stamp *et al.* 2002, p. 6). Until recent restoration efforts were implemented, the Hobble Creek channel had almost no gradient and ended without a defined connection to the lake interface in Provo Bay due to diversion structures and dredging. In the past, the channel was blocked by debris that created barriers to fish migration, preventing adult June suckers from accessing the main stem of Hobble Creek.

Located south of Provo Bay, the Spanish Fork River is the second largest stream inflow to Utah Lake, but the majority of the discharge is diverted during the irrigation season (June through September; Psomas 2007, p. 12). Adult and larval June suckers occur in the Spanish Fork River (UDWR 2006, p. 2; 2007, p. 2; 2008a, p. 3; 2009a, p. 4; 2010b, p. 2); however, the seasonally inadequate flows, poor June sucker rearing habitat at the Utah Lake interface, low water clarity, diversion structures, and miles of levees along the channel are obstacles to successful recruitment (Stamp *et al.* 2002, p. 5). Adult spawning habitat is limited to the lower 2.7 mi (4.3 km) of the Spanish Fork River, where it is of poor quality. Other tributaries where spawning may occur under favorable conditions include the American Fork River and Battle Creek, but streamflow to Utah Lake in these tributaries is not available most years; therefore, they are not found to comprise a significant portion of June sucker spawning habitat.

Recovery actions for the June sucker to address impacts from water development and habitat modification have included water acquisition, water flow management, and habitat restoration (see Recovery, above). The availability of quality spawning habitat will improve species resiliency, and multiple spawning tributaries will improve species redundancy. The positive trend in spawning population numbers, increased number of June suckers, and observations of young-of-year and age-1 June suckers in the wild indicate that water acquisition, water flow management, and habitat restoration have had a positive impact on June sucker reproduction (JSRIP 2018, p. 1; see *Species Abundance and Trends,* above).

Introduction of Common Carp

Historically, Utah Lake had a rich array of rooted aquatic vegetation, which provided nursery and rearing habitat for young June suckers (Heckmann *et al.* 1981, p. 2; Ellsworth *et al.* 2010, p. 9). However, with the introduction of common carp around the 1880s (Sigler and Sigler 1996, pp. 5–6), this refugial habitat largely disappeared. Common carp physically uproot and consume macrophytes and disturb sediments, increasing turbidity and decreasing light penetration, which inhibits macrophyte establishment (Crowl and Miller 2004, pp. 11–12). Although not specifically identified at the time of listing in 1986, the successful establishment of common carp and their effects on the Utah Lake ecosystem are a threat to the June sucker (SWCA 2002, p. 19). However, the previously described carp removal program reduced carp populations and increased macrophytic vegetation in the lake, improving resiliency of the June sucker (see Recovery, above).

Urbanization

Rapid urbanization on the floodplains of Utah Lake tributaries stimulated extensive flood and erosion control activities in lake tributaries and reduced available land for the natural meandering of the historical river channels (Stamp *et al.* 2008, p. 4). Channelization for flood control and additional channel manipulation for erosion control further reduced riverine habitat complexity and reduced the total length of tributary rivers for spawning and early-life-stage use (Stamp *et al.* 2008, pp. 12–13). It is anticipated that further urban infrastructure development is likely, as the populations of cities bordering Utah Lake and its tributaries continue to increase.

Among the potential impacts from continued urbanization near Utah Lake is the potential for the construction of bridges or other transportation crossings. One example is the Utah Crossing project, a causeway across Utah Lake proposed in 2009 (Service 2009, entire). An updated application for the project to proceed has not been filed with Utah's Department of Transportation; however, as development continues on the western side of Utah Lake, the potential need for some type of crossing may increase.

A large-scale project to dredge Utah Lake, remove invasive species, and build habitable islands for private development was proposed in 2017, and is under early stages of planning and review at the State level (ULRP 2018, entire). This project has not received any approval or necessary permits at the State or Federal level. We do not expect this Utah Lake Restoration Project or the Utah Crossing project to move forward or impact the June sucker in the next 5–10 years. All development projects on Utah Lake are subject to Federal and State laws, and require consultation with the Service prior to beginning work. However, such projects could potentially impact the June sucker by increasing habitat for predatory fish and restricting June sucker movement in Utah Lake (Service 2009, entire). Additional impacts to water quality due to the runoff from new structures could also pose a threat to the June sucker (Service 2009, entire). The UDWQ is partnering with the Utah Lake Commission and other stakeholders to research and provide recommendations to improve water quality and address impacts of urbanization and other factors that may negatively impact future water quality (UDWQ 2017, entire).

Lake Water Quality

Utah Lake is hypereutrophic, characterized by frequent algal blooms and high turbidity (Merritt 2004, p. 14; Psomas 2007, p. 12). The increased turbidity, decreased water quality, and historical change in the plant community from macrophyte-dominated to algae-dominated (see *Habitat Restoration,* above) affect the fishes of Utah Lake, including the June sucker.

High turbidity decreases the feeding ability of many species of planktivorous fish (Brett and Groot 1963, pp. 5–6; Vinyard and O'Brien 1976, p. 3), and can result in a lack of access to sufficient food for rearing juveniles. Thus, elevated turbidity levels may decrease feeding efficiency of June suckers by limiting their ability to visually prey on preferred plankton food types.

Utah Lake is listed on Utah's 2016 section 303(d) list for exceedance of State criteria for total phosphorus and TDS concentrations (UDWQ 2018, p. 3–7). The majority of the total phosphorus load to Utah Lake is from point sources. Although Utah Lake has naturally elevated salinity levels compared to other intermountain freshwater lakes, the concentrations are substantially higher today than they were before human development (Psomas 2007, p. 8). Within Utah Lake, natural salinity levels are due in part to high evaporation rates, which are a function of the lake's large surface-area-to-depth ratio and drainage basin characteristics. Evaporation naturally removes about 50 percent of the total volume of water that flows into the lake, resulting in a doubling of the mean salt concentration in water passing through the lake (Fuhriman *et al.* 1981, p. 7).

In addition, several natural mineral springs near the shores of Utah Lake contribute dissolved salts, although the magnitude and effect of these sources has not been quantitatively evaluated (Hatton 1932, p. 2). Evaporative losses continue to be the main driver of salinity concentrations in Utah Lake. However, settlement and development of the Utah Lake basin since the 1800s led to increases in irrigation return flows containing dissolved salts, which likely exacerbated natural salinity concentrations within Utah Lake (Sanchez 1904, p. 1). Despite the human influences on inflows, in recent years, salinity levels in Utah Lake have not

increased markedly (Psomas 2007, p. 13). The UDWQ continues to monitor Utah Lake for any changes in salinity concentrations.

The effects of increased salinity concentrations on the various life stages of June suckers are unknown. Egg size, hatching success, and mean total length of larvae decreased as salinity levels increased for another lake sucker that occurs in Nevada, the cui-ui (*Chasmistes cujus;* Chatto 1979, p. 7). However, salinity concentrations were much higher in the cui-ui habitat than any recorded concentrations in Utah Lake.

Natural nutrient loading to the lake is high due to the nutrient- and sediment-rich watershed surrounding the lake (Fuhriman *et al.* 1981, p. 12). Additionally, human development in the drainage increased the naturally high inflow of sediments and nutrients to the lake (Fuhriman *et al.* 1981, p. 12). Sewage effluent entering the lake accounts for 50, 76, and 80 percent of all nitrogen, total phosphorous, and ortho-phosphate, respectively (Psomas 2007, p. 12). Phosphorus inputs to the lake (297.6 tons (270.0 metric tons) per year) exceed exports (83.5 tons (75.7 metric tons) per year) during all months of the year. Thus, the lake acts as a phosphorus sink, accumulating approximately 214 tons (194.1 metric tons) annually (Psomas 2007, p. 15). These high nutrient loads increase the frequency and extent of large blue-green algal blooms, which greatly affect overall food web dynamics in Utah Lake (Crowl *et al.* 1998b, p. 13). Blue-green algae is inedible to many zooplankton species, which decreases zooplankton abundance and its availability as a food source for the June sucker (Landom *et al.* 2010, p. 19). Reductions in feeding rates translate into long-term effects such as decreased condition, growth rates, and fish survival (Sigler *et al.* 1984, p. 7; Hayes *et al.* 1992, p. 9). Furthermore, the increased algal biomass limits available light for submergent vegetation (Scheffer 1998, p. 19), thus reducing refugial habitat for early life stages of June sucker. The frequency and size of algal blooms may be increasing based on large-scale algal blooms that occurred in 2016 and 2017 (UDWQ 2017, p. 3).

Although there is a significant amount of research indicating that algal blooms can be harmful to many types of fish, we do not have direct evidence regarding the degree or manner in which they impact June suckers in Utah Lake (Psomas 2007, p. 14; Crowl 2015, entire). No fish kills were documented during recent bloom events, but post-stocking monitoring of June sucker has noted that, during algal blooms, fish movement decreased measurably (Goldsmith *et al.* 2017, p. 13).

The average Utah Lake TDS concentration is about 900 parts per million (ppm)/milligrams per liter (mg/L), but large variations occur, depending on the water year (Hickman and Thurin 2007, p. 9). There is no evidence of direct mortality to June suckers due to higher salinity levels, but it is possible that increased salinity, when combined with increased nutrient input and turbidity, may negatively affect June suckers by reducing zooplankton and refugial habitat abundance as described above. Further study of June sucker responses during high salinity events is needed to better understand this relationship.

Water quality concerns in Utah Lake are being addressed through a large-scale study and the formation of a steering committee and science panel to develop recommendations for Utah Lake water quality for the benefit of June sucker (UDWQ 2017, entire).

Riverine Water Quality

Prior to 1986, the year in which we listed the June sucker, riverine water quality was heavily impacted by water withdrawal, agricultural and municipal effluents, and habitat modification. The water withdrawals reduced the ability of the rivers to effectively transport sediments and other materials from the river channel. Furthermore, withdrawals influenced temperature, dissolved oxygen, and pollutant and nutrient concentrations (Stamp *et al.* 2008, p. 18). Diverted streams with reduced, shallow summertime base flows are very susceptible to solar heating and can experience lethally warm water temperatures (above 80 degrees Fahrenheit (°F) or 27 degrees Celsius (°C), depending on life stage). High water temperature, especially if combined with stagnant flow velocities, can lead to low dissolved oxygen levels in streams where flows have been reduced (Stamp *et al.* 2008, p. 19).

Artificially high temperatures may also occur in streams where flow regime alterations and channelization have limited the recruitment of woody riparian vegetation, thereby reducing the amount of streamside shading (Stamp *et al.* 2008, p. 19). Subsequently, extensive colonization by filamentous algae can occur in warmer temperatures, creating extreme daily dissolved oxygen fluctuations that are harmful to June sucker (Service 1994, p. 12). Agricultural and municipal effluents enrich production of algae, further impacting daily dissolved oxygen levels. These effluents can cause fish kills if significant runoff from agricultural and municipal properties occurs during low flow periods. Furthermore, heavy algal growth can cause the armoring of spawning gravels and aid in the accumulation of fine sediments that degrade spawning habitat quality (Stamp *et al.* 2008, p. 32).

The Provo River is listed on Utah's 2016 section 303(d) list for impairments harmful to cold-water aquatic life. Additionally, water quality is poor in the river's lower reaches during summer low-flow periods due to low dissolved oxygen levels and elevated temperatures (Stamp *et al.* 2008, p. 34). It is likely that the recent supplementation of flows for June sucker recovery in the Provo River are minimizing the risk of lethal temperatures and dissolved oxygen fluctuations by providing water during critical periods and maintaining base flows throughout the summer while larvae are developing. The planned PRDRP will provide additional water storage and refugial habitat (see Recovery, above).

Hobble Creek is not on the Utah section 303(d) list as an impaired waterbody. However, there are indications that total phosphorus and temperature may be problematic in Hobble Creek during certain times of the year (Stamp *et al.* 2009, pp. 22–23). Average total phosphorous concentration is 0.06 ppm/mg/L, which exceeds the Utah indicator value of 0.05 ppm/mg/L (Stamp *et al.* 2009, p. 24). In addition, creek temperatures exceed 68 °F (20 °C), which is the State cold-water fishery standard; this temperature increase typically occurs during summer days when air temperatures are high and flow in the channel is low (Stamp *et al.* 2009, p. 26). Similar to the Provo River, the augmentation of stream flows in Hobble Creek has likely minimized the risk of lethal temperatures by providing flows during critical periods.

Effects of Climate Change

The predicted increase in global average temperatures is expected to negatively affect water quality in shallow lakes (Mooij *et al.* 2007, p. 2). Turbid shallow lakes such as Utah Lake are likely to have higher summer chlorophyll-*a* concentrations with a stronger dominance of blue-green algae and reduced zooplankton abundance from the effects of climate change (Mooij *et al.* 2007, p. 5). This could affect June sucker food resources since zooplankton are the primary food source for the species.

In Utah, an increase in the intensity of naturally occurring future droughts and unprecedented warming are

expected (Frankson *et al.* 2017, p. 2). Projected changes in winter precipitation include an increase in the fractions falling as rain, rather than snow, and potentially decreasing snowpack water storage (Frankson *et al.* 2017, p. 2). These changes in timing and amount of flow could affect June sucker spawning, because the spawning cues of increased runoff and water temperature, on which the June sucker relies to determine spawning time, would potentially occur earlier in the year.

As changes to water availability and timing occur in the future, the JSRIP will need to coordinate reservoir operations to ensure timely releases. If runoff and upstream reservoir volumes are insufficient, peak and base flows desired in spawning tributaries will be reduced. This, in turn, would negatively impact the early season attractant flows needed by spawning adults, and potentially limit flows needed by larval suckers to move into downstream rearing habitats. As previously described, the JSRIP partnership has acquired 13,000 acre-ft (16,035,240 m^3) of permanent water for the Provo River and 8,500 acre-ft (10,485,000 m^3) for Hobble Creek. Flows in both systems are intensively managed with consideration for the June sucker. Still, additional permanent water acquisitions may become necessary to secure water that can be used to supplement flows during critical spawning and rearing periods as the climate shifts.

Summary of Habitat-Based Threats

Water development and habitat modification, common carp, urbanization, and water quality are threats to the June sucker. Additionally, potential increased temperatures and decreased precipitation caused by climate change may impact water quality. However, since the time of listing in 1986, the JSRIP partnership has implemented the following recovery actions: (1) 13,000 acre-ft of permanent water for instream flows are secured to benefit the June sucker; (2) a mechanism for annually recommending and providing flows for June sucker spawning was implemented; (3) the common carp population was suppressed, resulting in measurable habitat improvement in Utah Lake; (4) the impacts of urbanization are being considered through active research and planning; (5) a landscape-scale stream channel and delta restoration for the Provo River is being implemented; and (6) future water quality and availability are actively being studied and prioritized by the JSRIP, UDWQ, and the Utah Lake Commission (see Recovery, above). We find that the severity of these threats has decreased since the time of listing; adaptive management of these threats is ongoing, and increased resiliency and redundancy are evident as indicated by increasing survival rates and overall population numbers.

Commercial Fishing

Commercial fishing, including fishing for June suckers, was historically an important use of Utah Lake (Heckman *et al.* 1981, p. 9). Some commercial fishing for June suckers occurred through the 1970s, but on a very limited basis. Shortly thereafter, commercial harvest for the species largely stopped due to the limited population size. Currently, the June sucker is a prohibited species and cannot be harvested (Utah Administrative Code R657–14–8). Consequently, commercial or recreational fishing is no longer considered a threat to the species. Regulated collections of June suckers for scientific purposes occur at a very limited level, but do not pose a threat to the species at the population level.

Disease

Neither disease nor the presence of parasites were considered threats to the June sucker at the time of listing (51 FR 10851; March 31, 1986). Although parasites likely exist in June sucker habitat, there is no evidence that June suckers at the individual or population levels are compromised by the presence of parasites. Fish health inspections are regularly conducted on June suckers at the FES hatchery and in Red Butte Reservoir, and no known pathogens have been detected (JSRIP 2018c, entire). At this time, the best available information does not indicate that the presence of parasites or disease negatively affects the June sucker.

Predation by Nonnative Fishes

Predation by nonnative fishes poses a threat to the successful recruitment of young suckers into the spawning adult life stage (Radant and Hickman 1984, p. 6) and was a major factor for listing the June sucker as endangered (51 FR 10851; March 31, 1986). The introduction of predatory nonnative fishes significantly altered the native Utah Lake fish assemblage. Historically, Bonneville cutthroat trout (*Oncorhynchus clarkii*) was the top-level piscivore (fish-eating predator) in Utah Lake; however, 30 fish species have been introduced since the late 1800s. Twelve nonnative fish species have established self-sustaining populations, and seven of these are piscivorous (SWCA 2002, p. 14). As a result, June suckers face an array of predator species, including white bass (*Morone chrysops*), walleye (*Sander vitreus*), largemouth bass (*Micropterus salmoides*), black crappie (*Pomoxis nigromaculatus*), black bullhead (*Ameiurus melas*), northern pike (*Esox lucius*), and channel catfish (*Ictalurus punctatus*).

Predation by nonnative fishes primarily targets the early life stages of June suckers. Adult June suckers are larger than the gape size of the average predatory fish and, therefore, are significantly less vulnerable. At the time of listing, the effects of predation were exacerbated by the lack of vegetated refuge habitat within Utah Lake.

White bass may have the highest potential to limit recruitment of young suckers into the spawning adult population (SWCA 2002, p. 132; Landom *et al.* 2010, p. 18). White bass become piscivorous at age-0 in Utah Lake (Radant and Sakaguchi 1981, p. 12; Landom *et al.* 2010, pp. 11–12) and are the most abundant piscivore (UDWR 2010, p. 9). The white bass population in Utah Lake could consume as many as 550 million fish of various species throughout the course of 1 year (Landom *et al.* 2010, pp. 8–10). However, it appears that restored habitat with complex aquatic vegetation provides the June sucker with effective refuge from white bass. Thus, habitat restoration is likely paramount to young-of-year June sucker resiliency and survival (see Recovery, above).

The recent illegal introduction of northern pike in Utah Lake raises concerns similar to white bass. Northern pike predominantly feed on juvenile fish; predation on adults is less than 1 percent (Reynolds and Gaeta 2017, p. 12). Thus far, the number of northern pike in the lake has not measurably increased, and active removal efforts continue to suppress populations (Reynolds and Gaeta 2017, p. 13). However, a northern pike population model shows potential for a high degree of population increase with potential for a high negative impact on the June sucker population by the year 2040 (Gaeta *et al.* 2018, entire). Despite these modeling results, unique factors impacting northern pike population dynamics in Utah Lake are still not understood. Recent habitat improvements in the lake from common carp removal (see Recovery, above) may help mitigate northern pike predation by providing refugia for June suckers. Additionally, high levels of total dissolved solids (TDS), such as those found in Utah Lake, may suppress northern pike spawning and development (Scannell and Jacobs 2001, entire; Koel 2011, p. 7). The JSRIP is funding research to clarify this

relationship and to determine a course of action to prevent northern pike from becoming a greater threat to June sucker in the future.

While predation from nonnative species remains a threat, spawning populations of June suckers and the number of untagged fish (*e.g.,* possibly natural recruitment) are increasing. Adaptive management of nonnative fish is ongoing.

In addition to nonnative predatory fishes, avian predation on June suckers has been documented and primarily occurs when stocked June suckers are first released into the lake (Goldsmith *et al.,* p. 12). Predation is primarily from pelicans, and the amount varies based on location of release, time of year, and time of day of the June sucker release (Goldsmith *et al.,* p. 12). When possible, staff releasing stocked fish into Utah Lake drive off waiting pelicans, and do releases in the fall and at night, when predation is lowest (UDWR 2017, p. 3). The best available information does not indicate that pelicans or other avian predators are a threat to June suckers once the fish are established in Utah Lake.

Existing Regulatory Mechanisms

Under this factor, we examine the stressors identified within the other factors as ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts. Section 4(b)(1)(A) of the Act requires that the Service take into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect endangered or threatened species. We consider relevant Federal, State, and Tribal laws, regulations, and other such binding legal mechanisms that may ameliorate or exacerbate any of the threats we describe in threat analyses under the other four factors or otherwise enhance the species' conservation. Our consideration of these mechanisms is described below.

As a listed species, the primary regulatory mechanism for protection of the June sucker is through section 9(a) of the Act, as administered by the Service, which broadly prohibits import, export, take (*e.g.,* to harm, harass, kill, capture), and possession of the species. Additional regulatory mechanisms are provided through section 7(a)(2) of the Act, which states that each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species that is determined by the Secretary, after soliciting comments from affected States, counties, and equivalent jurisdictions, to be critical. Section 10(a)(1)(A) of the Act provides a mechanism for research and propagation of listed species for recovery purposes through a permitting system that allows incidental take of a listed species in the course of scientific projects that will benefit the species as a whole. For non-Federal actions, section 10(a)(1)(B) of the Act authorizes the Service to issue a permit allowing take of species provided that the taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Section 10(a)(2)(A) of the Act requires that a conservation plan, which is part of an application for an incidental take permit, describe the impact of the taking and identify steps to minimize and mitigate the impacts.

The Act will continue to provide protection to the June sucker after downlisting to threatened status, for as long as it remains on the List. The June sucker and its habitat will also continue to receive consideration and protection through the other regulatory mechanisms discussed below.

The NEPA requires Federal agencies to evaluate the potential effects of their proposed actions on the quality of the human environment and requires the preparation of an EIS whenever projects may result in significant impacts. Federal agencies must identify adverse environmental impacts of their proposed actions and develop alternatives that undergo the scrutiny of other public and private organizations as a part of their decision-making process. However, impacts may still occur under NEPA, and the implementation of conservation measures is largely voluntary. Actions evaluated under NEPA only affect the June sucker if they address potential impacts to the species or its habitat.

The Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*) requires that Federal agencies sponsoring, funding, or permitting activities related to water resource development projects request review of these actions by the Service and the State natural resources management agency. Similar to caveats noted for NEPA, actions considered under the Fish and Wildlife Coordination Act are only relevant if they potentially impact the species or its habitat. The Fish and Wildlife Coordination Act does not provide strong or broad protections for listed species, but it provides an additional layer of review for projects likely to impact the June sucker and works in concert with other regulatory mechanisms.

Section 101(a) of the Federal Water Pollution Control Act (*i.e.,* Clean Water Act; 33 U.S.C. 1251 *et seq.*) states that the objective of this law is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters and provide the means to assure protection of fish and wildlife. This statute contributes to the protection of the June sucker through provisions for water quality standards, protection from the discharge of harmful pollutants and contaminants (sections 303(c), 304(a), and 402), and protection from the discharge of dredged or fill material into all waters, including certain wetlands (section 404).

The Clean Water Act requires every State to establish and maintain water quality standards designed to protect, restore, and preserve water quality in the State. However, Utah Lake has failed to meet water quality standards due to exceedance of total phosphorus and TDS concentrations (Psomas 2007, p. 11), and it is listed as a section 303(d) ''impaired'' water (Utah Lake Commission 2018, p. 7). Poor water quality in Utah Lake could alter food availability for the June sucker and contribute to increases in harmful algal bloom events and toxin concentrations from those events, which could increase the risk of large-scale June sucker mortality events. To meet Clean Water Act requirements, the UDWQ and the Utah Lake Commission are studying water quality in Utah Lake. They have a steering committee and science panel for the purposes of providing recommendations to improve water quality standards in Utah Lake (Utah Lake Commission 2018, entire).

June suckers receive some protections at the State level. Under Utah Administrative Code R657–14–8, June suckers may not be harvested, and if caught must be immediately returned alive and unharmed to the water from which they were taken.

When this rule is effective (see **DATES**, above), the June sucker will continue to receive protection under the Act as a threatened species. The June sucker will also continue to receive protection under the other aforementioned regulatory mechanisms. Despite these existing regulatory mechanisms, the threats discussed under the other factors continue to affect the June sucker such that it now meets the definition of a threatened species rather than an endangered species.

Cumulative Threats

The June sucker faces threats primarily from degraded habitat and water quality, water availability, predation from nonnative species, and urbanization. Furthermore, existing regulatory mechanisms do not adequately address these threats. The June sucker also faces a future threat of climate change, which may exacerbate other existing threats. These factors may act cumulatively on the species. For example, urbanization can result in increased pressure on existing water resources as well as degraded water quality, which, when combined with rising temperatures and decreased rainfall, can result in less available water, increased water temperatures, and decreased habitat quality. These factors can cause reduced availability of food for the June sucker, decreased reproductive success, and increased mortality.

However, since the time of listing (51 FR 10851; March 31, 1986), all of the identified threats to the June sucker have either improved measurably or are being adaptively managed according to the best available scientific information for the benefit of the June sucker (see Recovery, above). Conservation measures, including establishing refuge populations, stocking of June suckers in Utah Lake, habitat restoration projects on spawning tributaries, and nonnative fish removal, have resulted in increased numbers of June suckers in the lake, evidence of wild reproduction, and improved habitat within the lake and its tributaries. As a result, resiliency, redundancy, and representation have all improved. Continued research and monitoring provide an avenue to respond to new and evolving threats, such as the effects of climate change, to recovery progress. The existence of refuge populations ensures that, should a stochastic event or extreme combination of existing threats greatly impact the population in Utah Lake, the June sucker would not become extinct.

This resilience to the cumulative threats is due largely to the actions of an active, committed, and well-funded recovery partnership. The JSRIP is the driving force behind the reduction in threats, habitat improvement, and population augmentation, and the JSRIP is able to adaptively manage new stressors as they arise. The improvement of conditions and success of the JSRIP can be measured via the increased number of spawning June suckers, the positive population trend, and the high level of year-to-year survival.

Summary of Comments and Recommendations

In the proposed rule published in the **Federal Register** on November 26, 2019 (84 FR 65080), we requested that all interested parties submit written comments on our proposal to downlist the June sucker by January 27, 2020. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Salt Tribune (Salt Lake City) and Daily Herald (Provo). We did not receive any requests for a public hearing. All substantive information provided during the comment period is either incorporated directly into this final rule or is addressed below.

Peer Reviewer Comments

In accordance with our joint policy on peer review published on July 1, 1994 (59 FR 34270) and our August 22, 2016, memorandum (USFWS 2016, entire) updating and clarifying the role of peer review of listing actions under the Act, we solicited expert opinion from three knowledgeable individuals with scientific expertise and familiarity with the June sucker, its habitat, its biological needs and potential threats, or principles of conservation biology. The purpose of peer review is to ensure that our listing and reclassification determinations are based on scientifically sound data, assumptions, and analyses. We received responses from two peer reviewers.

We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the proposed downlisting of the June sucker. The peer reviewers provided additional information, clarifications, and suggestions to improve the final rule, which we include in this rule or address in the responses to comments below. One peer reviewer favored the downlisting of the June sucker and provided only small, technical edits to the document. The other peer reviewer also provided technical edits and suggestions. This reviewer also expressed concern that there was not enough detail in the proposed rule to determine whether June sucker meets the definition of a threatened species, and stated that many of the known threats should be more thoroughly mitigated before downlisting should be considered. Substantive comments from this reviewer are addressed below, and minor editorial comments were resolved in the text of the rule itself.

(1) *Comment:* The reviewer suggested that there may be additional information that could contribute to the accuracy and completeness of our description and analysis of the biology, habitat, population trends, and historical and current distribution of the June sucker. The reviewer stated there is quantitative information on population dynamics and trends that was not considered in the proposed rule.

Our Response: The reviewer did not specify what information may be missing from the rule or provide information on population dynamics and trends that we failed to consider. We were unable to find additional population or biological information about the June sucker that we had not reviewed when the proposed rule was published. Some additional information has become available since publication of the proposed rule, and it is included in the text of this rule where relevant.

(2) *Comment:* The reviewer commented that we referred the reader to the final listing rule and recovery plan, respectively published in 1986 and 1999, but that these documents are relatively old, and substantial new information has accrued since their appearance, which we reference later.

Our Response: The final listing rule (51 FR 10851; March 31, 1986) and the recovery plan (Service 1999) represent the only two Service-published documents with significant information on the biology and habitat of the June sucker, until the proposed rule was published in 2019 (84 FR 65080; November 26, 2019). We referenced the older documents in the proposed rule because the proposed rule itself also served as the 5-year review and our most recent update to those documents. As the reviewer notes, many other and more recent references are available for additional information and are cited in the text of both the proposed and final rules.

(3) *Comment:* The reviewer stated that we did not adequately consider some of the threats to June sucker in our analysis, particularly predation by white bass on juvenile June suckers, avian predation, and the reliance on hatchery-produced fish to maintain the population, as natural reproduction and recruitment are not sufficient. The reviewer did not provide any additional information to support these comments.

Our Response: The November 26, 2019, proposed rule (84 FR 65080), as well as this final rule, recognize that the June sucker currently relies on stocking to maintain the population in Utah Lake. We do not find this reliance to be in conflict with a ''threatened'' status determination, as we have reasonable

certainty based on partner agreements that stocking will continue until the Utah Lake population can be shown to be self-sustaining. Continued and planned recovery actions, such as habitat restoration and removal of nonnative species, are likely to continue to have a positive effect on reproduction, recruitment, and survival, and the system is monitored intensely to detect any rising threats or reversal of recovery progress. As we discuss above in this final rule, the best available information does not indicate that white bass or avian predation constitute a threat to the June sucker in Utah Lake under current conditions (which include ongoing recovery actions, like stocking and nonnative fish removal). Some predation does occur, and we have added text regarding methods used to reduce pelican predation on June suckers while they are being stocked, as that is the time the largest number of fish are vulnerable to avian predation. If, in the future, these factors are shown to prevent the June sucker population in Utah Lake from being self-sustaining, they will need to be addressed before we can achieve full recovery.

(4) *Comment:* The reviewer stated that we assume that capture of untagged fish or fish of ''unknown origin'' results in population estimates and other demographic parameters that are incorrect (low), but adds that a population estimate does not depend on tagged fish only and the estimate should include the total number of fish, tagged and untagged.

Our Response: The reviewer is correct. The number we present as the known spawning population is not meant to represent a population estimate, but to provide the number of recorded individual June sucker spawners detected using PIT tags and antennae. That number is the minimum number of spawning adults we can be certain are surviving in the lake, and it does not account for fish that did not spawn in the years analyzed, fish without tags, or tagged fish that were not recorded by monitoring equipment. Due to the lack of information regarding untagged fish or Utah Lake fish that are not spawning, and the various ways the data have been collected, we do not attempt to extrapolate the number of recorded spawning June suckers into a full population estimate. We have removed all references to a population estimate in this document and clarified the nature of the numbers provided.

(5) *Comment:* The reviewer stated that we have not shown adequately that recovery criteria are met in order to allow for a downlisting, and cited the need for actions such as permanent, legally assured flows for spawning, increased habitat, and a permanent continuous plan to remove carp and combat future novel predators that may be introduced.

Our Response: The Recovery discussion in the proposed rule (84 FR 65080, November 26, 2019, pp. 84 FR 65084–65087), as well as in this final rule (above), goes into detail regarding the existing downlisting criteria and how they have been met (if they have) or why they are outdated or irrelevant.

The legal standard for downlisting is whether the species meets the definition of a ''threatened species'' that is, it is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Due to an exceptional track record and proven recovery measures, we are assured that the commitment of our partners and the JSRIP will continue, recovery actions and responses to threats will be implemented, and the existing agreements mean that June sucker is no longer currently in danger of extinction through all or a significant portion of its range. The reviewer's comments regarding downlisting criteria more closely represent the definition of full recovery and delisting than for downlisting the species to threatened status.

(6) *Comment:* The reviewer commented that we did not include all necessary and pertinent information to support our arguments, and they identified a number of references for June sucker that we did not cite in our proposed rule that were found through an internet search. The reviewer did not state that these particular references had information that would impact our status evaluation; in fact, the reviewer said that they had not read them. The reviewer only stated that they believed the fact that they could find references we did not cite meant we had not been thorough in our analysis.

Our Response: The literature cited in the proposed rule (84 FR 65080; November 26, 2019) constitutes the best scientific and commercial information available regarding the downlisting of the June sucker. Additional literature, including all of the citations provided by the reviewer, were previously evaluated as part of the rule development, and they remain on file as part of the record. A significant amount of literature on the June sucker and Utah Lake exists, some of which is outdated or redundant. Some was not necessary to include, as it provides a level of detail on aspects of June sucker biology that was superfluous to reaching a status determination. For the sake of clarity and brevity, we did not cite every existing piece of literature on the species, but limited our citations to the best scientific and commercial information available regarding the status of, and threats to, the June sucker. However, no piece of literature that we found might have bearing on our analysis, either positively or negatively, was excluded from our review, including the citations provided by the commenter.

Public Comments

We received 19 letters from the public that provided comments on our November 26, 2019, proposed rule (84 FR 65080). Twelve of the commenters expressed their explicit support for the proposed downlisting, and three expressed their opposition to it. Four commenters either did not explicitly state their position or expressed general concerns that threats should be addressed if the June sucker is to be downlisted. Relevant and substantive public comments that have not been addressed through changes to the text are addressed in the following summary.

(1) *Comment:* One commenter objected to the proposed downlisting on the basis that too many threats to the species (including climate change and carp) still exist to justify reduced protections, and stated that increased human development inevitably results in death or extinction of animals in the area.

Our Response: We agree that a number of threats still impact the June sucker and need to be continually managed for the species' protection and recovery. This rule analyzes adaptive measures for all known threats, including water management plans and habitat restoration to mitigate the effects of climate change; long-term management plans for carp and other nonnative, invasive species; and protections that prevent future development from increasing the June sucker's risk of becoming endangered again. All exceptions from take restrictions included in the 4(d) rule, as described below under *Provisions of the 4(d) Rule,* are tied directly to the benefit of June sucker recovery and the health of its native habitat. We are confident in the JSRIP's and our partners' commitment to following through with existing plans and continuing to manage the June sucker in accordance with recovery objectives, as they have for the last 18 years. Should threats to the June sucker increase to the point where there is an increased risk of extinction, the Service can and will reevaluate its status and protections accordingly.

(2) *Comment:* One commenter suggested removing all June suckers and other desirable native fishes from Utah Lake to a safe holding facility, exterminating the nonnative species, and then reintroducing native species back into the lake.

Our Response: This comment does not relate to the status of June sucker now, but to potential ways to continue recovery in the future. However, due to the size of Utah Lake and unique hydrological factors, removal of all nonnative fishes from the system, even using strong piscicides, is not feasible. Mechanical removal is not able to capture all nonnative fish at a rate that would prevent reestablishment, and suitable piscicides are not available in enough quantity to eradicate all nonnative fish from the lake, even if a practical and comprehensive application method could be found.

(3) *Comment:* One commenter requested that we update the June sucker recovery plan in order to specify what needs to be done to reach full recovery and delisting.

Our Response: An update of the June sucker recovery plan, including quantitative delisting criteria, is underway, and a draft will be published for public comment at a later date, after this rule goes into effect (see **DATES**, above).

(4) *Comment:* We received several comments requesting that provisions be added to the 4(d) rule regarding State management of recreational fisheries of Utah Lake and for education and outreach efforts for June sucker and Utah Lake. In addition to official public comments, both of these provisions were also informally requested by recovery partners at JSRIP meetings.

Our Response: We have added the requested provisions to the final 4(d) rule; both provisions will contribute to June sucker conservation.

Summary of Changes From the Proposed Rule

As explained above under Summary of Comments and Recommendations, we made several changes in this final rule in response to public comments we received on our November 26, 2019, proposed rule (84 FR 65080). The primary changes are to add exceptions to the prohibitions on take in the 4(d) rule for recreational fisheries management and for education and outreach. See ''Recreational Fisheries Management'' and ''Education and Outreach,'' under *Provisions of the 4(d) Rule,* below, for a description of these take exceptions. These changes address requests made both in public comments and by our recovery partners at JSRIP meetings.

Additionally, in response to a peer-review comment, in this final rule, we do not attempt to extrapolate the number of recorded spawning June suckers into a full population estimate; we have removed all references to a population estimate in this document and clarified the nature of the numbers provided. We also cite more recent information (published since the November 26, 2019, publication of the proposed rule), where it is relevant, in this final rule.

Finally, we made nonsubstantive, editorial changes, such as to explain a cross-reference to other regulations, to the text of the 4(d) rule to improve its clarity.

Determination of June Sucker's Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of ''endangered species'' or ''threatened species.'' The Act defines an ''endangered species'' as a species that is ''in danger of extinction throughout all or a significant portion of its range,'' and a ''threatened species'' as a species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The Act requires that we determine whether a species meets the definition of ''endangered species'' or ''threatened species'' because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

As required by the Act, we considered the five factors in assessing whether the June sucker is an endangered or threatened species throughout all of its range. We carefully examined the best scientific and commercial information available regarding the past, present, and future threats faced by the June sucker. We reviewed the information available in our files and other available published and unpublished information, and we consulted with recognized experts and State agencies. We evaluated the changes in resiliency, redundancy, and representation for the June sucker since the time of listing (51 FR 10851; March 31, 1986).

June sucker resiliency has improved since the time of listing, with an increase in the wild spawning population of at least ten-fold, a positive population trend, and increases in both the quality and quantity of habitat. We project that these conditions will continue to improve based on plans to continue successful management actions and implement new projects, such as the PRDRP and the Utah Water Quality Study. Redundancy in June sucker is assured by the existence of two new populations, including the refuge population maintained at FES hatchery and an additional naturally self-sustaining population in Red Butte Reservoir, as well as the presence of water flows in at least two spawning tributaries each year (Provo River and Hobble Creek), with up to five spawning tributaries available in good water years. Prior to the June sucker's listing, there were no refuge populations, and in low water years, there might be no available spawning tributaries with water throughout the summer. Representation for the June sucker exists in the form of genetic diversity in the breeding and stocking program, which has preserved a high degree of genetic variation in the fish stocked in Utah Lake since listing. Based on these elements, we find that overall viability for the June sucker has improved since the time of listing.

Factor B is not considered a threat to the June sucker due to the fact that harvest and collection of the species are strictly regulated and very limited. June suckers are affected by loss and degradation of habitat (Factor A), predation (Factor C), and other effects of human activities, including climate change (Factor E). Existing regulatory mechanisms outside of the Act (Factor D) do not address all the identified threats to the June sucker, as indicated by the fact that these threats continue to affect the species throughout its range. However, recovery actions have significantly improved viability of the June sucker and reduced the immediacy of these threats.

Status Throughout All of Its Range

After evaluating threats to the species and assessing the cumulative effects of the threats under the section 4(a)(1) factors, we find that the threats of loss and degradation of habitat (Factor A), predation (Factor C), and other effects of human activities including climate change (Factor E) are still acting on the June sucker. Existing regulatory mechanisms outside of the Act (Factor D) do not address all the identified threats to the June sucker, as indicated by the fact that these threats continue to affect the species throughout its range, although with less intensity than at the time of listing (51 FR 10851; March 31,

1986). However, given increases in population numbers due to sustained recovery efforts by the JSRIP over the last 18 years, we determine the June sucker no longer meets the Act's definition of an endangered species. We therefore proceed with determining whether the June sucker meets the Act's definition of a threatened species.

Based solely on biological factors, we consider 25 years to be the foreseeable future within which we can reasonably determine that the future threats and the June sucker's response to those threats is likely. This time period includes multiple generations of the species and allows adequate time for impacts from conservation efforts or changes in threats to be indicated through population response.

The foreseeable future for the individual threats vary. Management and recovery progress of the population and its threats are overseen by the JSRIP. The charter of this program states that the purpose of the JSRIP is to recover the June sucker to the point at which it no longer requires protections under the Act, and to do so based on recovery guidance provided by the Service using the best available scientific and biological information in an adaptive management approach. Because the JSRIP is committed to achieving recovery and the partners have committed to continued funding, threats to the June sucker will continue to be adaptively managed by the JSRIP until such time as we find it no longer requires protections under the Act. For at least as long as the species remains listed, the JSRIP will continue to manage June sucker threats and population health and trends in an adaptive way, ensuring that the species is extremely unlikely to go extinct. The Service will then rely on management actions that have been put in place by the JSRIP, and other factors such as a population viability analysis, habitat improvements, and future long-term agreements, when delisting is being considered. This long-term management (*e.g.,* permanent water acquisition, breeding program, stocking, and nonnative fish removal) ensures continued stability in the absence of the protections of the Act after the June sucker reaches full recovery.

Although population numbers have increased and the intensity of the identified threats have decreased, our analysis indicates that, because of the remaining threats and stressors, the species meets the Act's definition of a threatened species. Thus, after assessing the best available information, we conclude that the June sucker is not currently in danger of extinction, but is still likely to become endangered within the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. The court in *Center for Biological Diversity* v. *Everson,* 2020 WL 437289 (D.D.C. Jan. 28, 2020) (*Center for Biological Diversity*), vacated the aspect of the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578; July 1, 2014) that provided that the Services do not undertake an analysis of significant portions of a species' range if the species warrants listing as threatened throughout all of its range. Therefore, we proceed to evaluating whether the species is endangered in a significant portion of its range—that is, whether there is any portion of the species' range for which both (1) the portion is significant; and, (2) the species is in danger of extinction in that portion. Depending on the case, it might be more efficient for us to address the ''significance'' question or the ''status'' question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

Following the court's holding in *Center for Biological Diversity,* we now consider whether there are any significant portions of the species' range where the species is in danger of extinction now (*i.e.,* endangered). In undertaking this analysis for the June sucker, we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify any portions of the range where the species is endangered.

The June sucker is a narrow endemic that functions as a single, contiguous population and occurs within a small area that includes one lake and associated tributaries. Thus, there is no biologically meaningful way to break this limited range into portions, and the threats that the species faces affect the species throughout its entire range. This means that no portions of the species' range have a different status from its rangewide status. Therefore, no portion of the species' range can provide a basis for determining that the species is in danger of extinction in a significant portion of its range, and we determine that the species is likely to become in danger of extinction within the foreseeable future throughout all of its range. This is consistent with the courts' holdings in *Desert Survivors* v. *Department of the Interior,* No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018), and *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d, 946, 959 (D. Ariz. 2017).

Determination of Status

Our review of the best available scientific and commercial information indicates that the June sucker does not meet the definition of an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act, but does meet the definition of a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act. Therefore, we are downlisting the June sucker in the List of Endangered and Threatened Wildlife from endangered to threatened.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is classified, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the range of the species being listed. Because we are listing this species as a threatened species, the prohibitions in section 9 would not apply directly. We are therefore putting into place below a set of regulations to provide for the conservation of the species in accordance with section 4(d), which also authorizes us to apply any of the prohibitions in section 9 to a threatened species. The 4(d) rule, which includes a description of the kinds of activities that would or would not constitute a violation, complies with this policy.

Final Rule Issued Under Section 4(d) of the Act

Background

Section 4(d) of the Act contains two sentences. The first sentence states that the ''Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation'' of species listed as threatened. The U.S. Supreme Court has noted that statutory language like ''necessary and advisable'' demonstrates a large degree of deference to the agency (see *Webster* v. *Doe,* 486 U.S. 592 (1988)). Conservation is defined in the

Act to mean ''the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to [the Act] are no longer necessary.'' Additionally, the second sentence of section 4(d) of the Act states that the Secretary ''may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants.'' Thus, the combination of the two sentences of section 4(d) provides the Secretary with wide latitude of discretion to select and promulgate appropriate regulations tailored to the specific conservation needs of the threatened species. The second sentence grants particularly broad discretion to us when adopting the prohibitions under section 9.

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, courts have upheld rules developed under section 4(d) as a valid exercise of agency authority where they prohibited take of threatened wildlife, or include a limited taking prohibition (see *Alsea Valley Alliance* v. *Lautenbacher,* 2007 U.S. Dist. Lexis 60203 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* 2002 U.S. Dist. Lexis 5432 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (*see State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to him with regard to the permitted activities for those species. He may, for example, permit taking, but not importation of such species, or he may choose to forbid both taking and importation but allow the transportation of such species'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Exercising this authority under section 4(d), we have developed a species-specific 4(d) rule that is designed to address the June sucker's specific threats and conservation needs. Although the statute does not require us to make a ''necessary and advisable'' finding with respect to the adoption of specific prohibitions under section 9, we find that this rule as a whole satisfies the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of the June sucker. As discussed under Summary of Factors Affecting the Species, we conclude that the June sucker is no longer at risk of extinction, but is still likely to become so in the foreseeable future, primarily due to the identified threats of water development, habitat degradation, and the introduction of nonnative species. The provisions of this 4(d) rule promote conservation of the June sucker by encouraging management of the Utah Lake system in ways that meet the conservation needs of the June sucker while taking into consideration the stakeholders' needs. The provisions in this rule are some of many regulatory tools that we will use to promote the conservation of the June sucker.

Provisions of the 4(d) Rule

This 4(d) rule provides for the conservation of the June sucker by prohibiting the following activities, with certain exceptions (discussed below): Importing or exporting; possession and other acts with unlawfully taken specimens; delivering, receiving, transporting, or shipping in interstate or foreign commerce in the course of commercial activity; and selling or offering for sale in interstate or foreign commerce. In addition, anyone taking, attempting to take, or otherwise possessing a June sucker, or parts thereof, in violation of section 9 of the Act will be subject to a penalty under section 11 of the Act, with certain exceptions (discussed below). Under section 7 of the Act, Federal agencies must continue to ensure that any actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of the June sucker.

Under the Act, ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Some of these provisions have been further defined in regulations at 50 CFR 17.3. Take can result knowingly or otherwise, by direct and indirect impacts, intentionally or incidentally. Allowing incidental and intentional take in certain cases, such as for the purposes of scientific inquiry, monitoring, or to improve habitat or water availability and quality, would help preserve a species' remaining populations, slow their rate of decline, and decrease synergistic, negative effects from other stressors.

We may issue permits to carry out otherwise prohibited activities, including those described above, involving threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for the following purposes: For scientific purposes, to enhance propagation or survival, for economic hardship, for zoological exhibition, for educational purposes, for incidental taking, or for special purposes consistent with the purposes of the Act. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

We recognize the special and unique relationship with our State natural resource agency partners in contributing to conservation of listed species. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist us in implementing all aspects of the Act. In this regard, section 6 of the Act provides that we shall cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a State conservation agency that is a party to a cooperative agreement with us in accordance with section 6(c) of the Act, who is designated by his or her agency for such purposes, will be able to conduct activities designed to conserve the June sucker that may result in otherwise prohibited take without additional authorization.

As discussed above under Summary of Factors Affecting the Species, nonnative species, water development, and habitat degradation affect the status of the June sucker. A range of conservation activities, therefore, have the potential to benefit the June sucker, including nonnative fish removal, habitat restoration projects, monitoring of June sucker, management of recreational fisheries, June sucker research projects, educational and outreach efforts, and maintenance of June sucker refuges and stocking programs. Accordingly, this 4(d) rule addresses activities to facilitate conservation and management of the June sucker where they currently occur and may occur in the future by excepting them from the Act's take prohibition under certain specific conditions. These activities are intended to increase management flexibility and encourage support for the conservation and habitat improvement of the June sucker. Under this 4(d) rule, take will continue to be prohibited, except for actions allowed in this 4(d) rule, provided the actions are approved by the Service, in coordination with any existing designated recovery program (*e.g.,* JSRIP), for the purpose of June

sucker conservation or recovery. Approval must be in writing (by letter or email) from a Service biologist or supervisor with authority over June sucker decisions. Take is allowed under this 4(d) rule as follows, and is further described below:

- Incidental take resulting from activities intended to reduce or eliminate nonnative fish, including, but not limited to, common carp, northern pike, and white bass, from Utah Lake or its tributaries.
- Incidental take resulting from habitat restoration projects or projects that allow for the increase of instream flows in Utah Lake tributaries, such as diversion removals.
- Incidental take resulting from monitoring of June sucker in Utah Lake and its tributaries.
- Incidental take resulting from monitoring and management of recreational sportfish populations in Utah Lake and its tributaries.
- Incidental and direct take resulting from research projects to study factors affecting June sucker or its habitat for the purposes of providing management recommendations or improved condition of June sucker.
- Incidental and direct take resulting from educational or outreach efforts to increase public awareness, engagement, and support for June sucker recovery efforts.
- Incidental and direct take resulting from maintaining June sucker refuges and stocking population, and from moving June sucker for the purposes of stocking them in Utah Lake.

These forms of allowable take are explained in more detail below. For all forms of allowable take, reasonable care must be practiced to minimize the impacts from the actions. Reasonable care means limiting the impacts to June sucker individuals and populations by complying with all applicable Federal, State, and Tribal regulations for the activity in question; using methods and techniques that result in the least harm, injury, or death, as feasible; undertaking activities at the least impactful times (*e.g.,* conducting activities that might impact spawning habitat in a tributary only after spawning is concluded for the year) and locations, as feasible; procuring and implementing technical assistance from a qualified biologist on projects regarding all methods prior to the implementation of those methods; ensuring the number of individuals removed or sampled minimally impacts the existing wild population; ensuring no disease or parasites are introduced into the existing June sucker population; and preserving the genetic diversity of wild populations.

Nonnative Fish Removal

Incidental take is allowed where it results from activities intended to reduce or eliminate nonnative fish, including, but not limited to, common carp, northern pike, and white bass, from Utah Lake or its tributaries. Control of nonnative fish is vital for the continued recovery of June sucker. Control of nonnative fish is primarily conducted with mechanical removal via commercial seine netting and, to a limited extent, through angling (for northern pike). Other methods, including the use of genetically modified nonnative fish and electrofishing to reduce existing populations, may be implemented in the future.

This 4(d) rule defines nonnative fish removal as any action with the primary or secondary purpose (such as the introduction of genetically engineered nonnative fish as part of an elimination strategy) of removing nonnative fish from Utah Lake and its tributaries that compete with, predate upon, or degrade the habitat of the June sucker. These removal methods must be approved by the Service in writing (by letter or email), in coordination with an existing designated recovery program (*e.g.,* JSRIP) for that purpose. Such methods may include, but are not limited to, mechanical removal, chemical treatments such as piscicides, or biological controls. All methods used must be in compliance with State and Federal regulations. Whenever possible, June suckers that are caught alive as part of nonnative fish removal should be returned to their source as quickly as possible.

Habitat Restoration and Improvement of Instream Flows

Incidental take resulting from habitat restoration projects or projects that increase instream flows in Utah Lake tributaries is allowed under this 4(d) rule. Habitat restoration projects are needed to provide additional spawning and rearing habitat and refugia for June sucker. Improvements in the ability to obtain and deliver water to any of the known spawning tributaries will allow for improved spawning conditions, entrainment of June sucker larvae for development, and periodic high flows providing scouring of spawning habitats. This 4(d) rule defines habitat restoration or water delivery improvement projects as any action with the primary or secondary purpose of improving habitat conditions in Utah Lake and its tributaries or improving water delivery and available instream flows in spawning tributaries. These projects must be approved by the Service in writing, in coordination with any existing designated recovery program, for that purpose. Examples of planned or suggested projects where incidental take is allowed to occur include the Provo River Delta Restoration Project and the removal of water diversion structures from the Provo River and Hobble Creek.

June Sucker Monitoring

This 4(d) rule allows incidental take associated with any method used to detect June suckers in the wild for the purposes of better understanding population numbers, trends, or response to stressors that is not intended to be destructive, but that may unintentionally cause harm or death. Monitoring of June suckers is vital to understanding the population dynamics, health, and trends; for measuring the success of the stocking program; for evaluating impacts from threats; and for evaluating recovery actions that address threats to the species. With the use of PIT tag technology, monitoring is becoming less disruptive to the June sucker. However, many monitoring methods, including the initial PIT tagging of individuals, may accidentally harm fish or result in death. In addition to PIT tag readers, methods that may be used to detect June suckers in the wild include trammel netting, spotlighting, minnow trapping, trap netting, gill-netting, electrofishing, and seining. Any monitoring activities not conducted by the State or under the State's section 6 permit must be approved by the Service in writing and be conducted in coordination with any existing designated recovery program.

Recreational Fisheries Management

Recreational fisheries monitoring actions conducted by the State are allowed to cause incidental take of June suckers through this 4(d) rule, provided that, whenever possible, June suckers that are caught alive as part of recreational fisheries are returned to their source as quickly as possible. These activities do not include fishing or other recreational activities conducted by private individuals but only those conducted by the State to manage fisheries in Utah Lake. Covered activities are those that do not occur in June sucker spawning habitat during the season of use or rearing habitat at any time of year, and are designed to count or capture recreational sport fish only. According to the interagency ''Policy for Conserving Species Listed or Proposed for Listing Under the Endangered Species Act While Providing and Enhancing Recreational Fisheries

Opportunities'' published in the **Federal Register** on June 3, 1996 (61 FR 27978), the Service will support management practices that are consistent with recovery objectives and compatible with existing recreational fisheries. Management of recreational fishing opportunities undertaken by the State, or its designated agent, on Utah Lake and its tributaries require regular monitoring of sport fish populations. Methods that may be used to monitor sport fish populations include trammel netting, spotlighting, trawling, minnow trapping, trap netting, gill-netting, electrofishing, and seining. Use of these methods may inadvertently result in the capture, and incidental take, of individual June Sucker. Any activities associated with recreational fisheries management that are likely to significantly or repeatedly impact June suckers, such as those in spawning habitat during the season of use, those in the rearing habitat any time of year, or those that use methods not targeted to count or capture recreational sport fish only, must be approved by the Service in writing (by letter or email) and conducted in coordination with any existing recovery program in order to minimize effects on the population.

Research

This 4(d) rule defines June sucker research allowed to cause take as any activity undertaken for the purposes of increasing our understanding of June sucker biology, ecology, or recovery needs under the auspices of UDWR, a recognized academic institution, or a qualified scientific contractor and approved by the Service in writing, in coordination with any existing designated recovery program, as a necessary and productive study for June sucker recovery. Additional research is needed on June sucker biology, ecology, habitat needs, predators, and response to threats in order to improve the species' status and provide recommendations for population management, habitat improvement, and threat reduction. Research may involve capture of June suckers using methods described above, or a variety of other activities to study water quality, nonnative fishes, lake and riverine ecosystems, tributary flows, habitat, or other factors affecting June suckers that may impact individual fish inadvertently. In some cases, lethal sampling of June suckers for research purposes may be necessary and appropriate.

Education and Outreach

This 4(d) rule defines June sucker educational and outreach actions allowed to cause take as any activity undertaken for the purposes of increasing public awareness of June sucker biology, ecology, or recovery needs and their positive effects on Utah Lake and its tributaries (*e.g.,* a June sucker rearing-and-release program for high school students or a live June sucker display at an outreach event). These activities must be approved by the Service in writing (by letter or email), in coordination with any existing designated recovery program (*e.g.,* JSRIP), as activities likely to benefit June sucker conservation through increased public awareness and engagement, which support June sucker recovery.

Education and outreach are a vital part of June sucker recovery progress. Public awareness of June sucker biology and ecology helps foster support for the recovery program's activities in and around Utah Lake. Increasing the prevailing understanding of how recovery activities for June suckers improve the health, function, beauty, and quality of Utah Lake for sport fishers, recreationists, and the surrounding community will strengthen support for continued conservation of the fish. It will also serve to counteract common and incorrect narratives that the protection of the June sucker is responsible for preventing positive activities and development in and around Utah Lake. This is particularly important during the upcoming PRDRP construction, in order to tie the recovery of the fish to meaningful improvements in ecological conditions and amenities for the public at Utah Lake.

Refuges and Stocking

This 4(d) rule defines June sucker stocking and refuge maintenance as any activity undertaken for the long-term maintenance of the June sucker at facilities outside of Utah Lake and its tributaries or for the production of June suckers for stocking in Utah Lake. Take could occur from necessary facility maintenance or water management, including at Red Butte Reservoir and its downstream drainages. Any breeding, stocking, or refuge program must be approved by the Service in writing, in coordination with any existing designated recovery program. Any June sucker breeding program shall be in compliance with all applicable regulations and best hatchery and fishery management practices as described in the American Fisheries Society's Fish Hatchery Management (Wedemeyer 2002).

Maintaining refuge populations and stocking the June sucker in Utah Lake is an integral part of June sucker recovery. The process of breeding, rearing, growing, maintaining, and stocking June suckers may result in take at all life stages, but the benefits to the species far outweigh any losses. At the present time, one facility (FES hatchery) breeds the June sucker for stocking in Utah Lake; this facility also functions as the designated refuge population for June sucker. In addition to the hatchery, FES uses offsite ponds as a grow-out facility to allow fish to reach a larger size before they are stocked in Utah Lake because this significantly increases survival upon release (Burgad *et al.* 2016, p. 8). Another population of June suckers exists in Red Butte Reservoir and is maintained, but not actively managed as a refuge, for stocking purposes. Red Butte Reservoir is a useful source population and may be used for stocking more intensively in the future, since fish from Red Butte Reservoir consistently have the highest post-stocking success rates.

Nothing in this 4(d) rule changes in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or our ability to enter into partnerships for the management and protection of the June sucker. However, interagency cooperation may be further streamlined through planned programmatic consultations for the species between us and other Federal agencies, where appropriate.

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and EISs, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with determining a species' listing status under the Endangered Species Act. In an October 25, 1983, notice in the **Federal Register** (48 FR 49244), we outlined our reasons for this determination, which included a compelling recommendation from the Council on Environmental Quality that we cease preparing environmental assessments or environmental impact statements for listing decisions.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal

Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We have determined that no Tribes will be affected by this rule because there are no Tribal lands or interests within or adjacent to June sucker habitat.

References Cited

A complete list of all references cited in this final rule is available at *http://www.regulations.gov* at Docket No. FWS–R6–ES–2019–0026, or upon request from the Utah Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are staff members of the Service's Regions 5 and 7 and the Utah Ecological Services Field Office (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by revising the entry for ''Sucker, June (*Chasmistes liorus*)'' under ''FISHES'' in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
* * *	* * *	* * *	* * *	* * *
FISHES				
* * *	* * *	* * *	* * *	* * *
Sucker, June	*Chasmistes liorus*	Wherever found	T	51 FR 10851, 3/31/1986; 85 FR [insert **Federal Register** page where the document begins], 1/4/2021; 50 CFR 17.44(cc)[4d]; 50 CFR 17.95(e).[CH]
* * *	* * *	* * *	* * *	* * *

■ 3. Amend § 17.44 by adding paragraph (cc) to read as follows:

§ 17.44 Special rules—fishes.

* * * * *

(cc) June sucker (*Chasmistes liorus*).

(1) *Prohibitions.* The following prohibitions that apply to endangered wildlife also apply to the June sucker. Except as provided under paragraph (cc)(2) of this section and §§ 17.4 and 17.5, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to this species:

(i) Import or export, as set forth at § 17.21(b) for endangered wildlife.

(ii) Take, as set forth at § 17.21(c)(1) for endangered wildlife.

(iii) Possession and other acts with unlawfully taken specimens, as set forth at § 17.21(d)(1) for endangered wildlife.

(iv) Interstate or foreign commerce in the course of commercial activity, as set forth at § 17.21(e) for endangered wildlife.

(v) Sale or offer for sale, as set forth at § 17.21(f) for endangered wildlife.

(2) *Exceptions from prohibitions.* In regard to this species, you may:

(i) Conduct activities as authorized by an existing permit under § 17.32.

(ii) Conduct activities as authorized by a permit issued prior to February 3, 2021 under § 17.22 for the duration of the permit.

(iii) Take, as set forth at § 17.21(c)(2) through (c)(4) for endangered wildlife.

(iv) Take, as set forth at § 17.31(b).

(v) Take June suckers while carrying out the following legally conducted activities in accordance with this paragraph (cc)(2)(iv):

(A) *Definitions.* For the purposes of this paragraph (cc)(2)(iv):

(*1*) *Qualified biologist* means a full-time fish biologist or aquatic resources manager employed by Utah Division of Wildlife Resources, a Department of the Interior agency, or fish biologist or aquatic resource manager employed by a private consulting firm that has been approved by the Service in writing (by letter or email), the designated recovery program (*e.g.,* June Sucker Recovery Implementation Program), or the Utah Division of Wildlife Resources.

(*2*) *Reasonable care* means limiting the impacts to June sucker individuals and populations by complying with all applicable Federal, State, and Tribal regulations for the activity in question; using methods and techniques that result in the least harm, injury, or death, as feasible; undertaking activities at the least impactful times and locations, as feasible; procuring and implementing technical assistance from a qualified biologist on projects regarding all methods prior to the implementation of those methods; ensuring the number of individuals removed or sampled minimally impacts the existing wild population; ensuring no disease or parasites are introduced into the existing June sucker population; and

preserving the genetic diversity of wild populations.

(B) *Allowable forms of take of June suckers.* Take of June suckers as a result of the following legally conducted activities is allowed, provided that the activity is approved by the Service in writing (by letter or email), in coordination with any existing designated recovery program, for the purpose of the conservation or recovery of the June sucker, and that reasonable care is practiced to minimize the impact of such activities.

(*1*) *Nonnative fish removal.* Take of June suckers as a result of any action with the primary or secondary purpose of removing from Utah Lake and its tributaries nonnative fish that compete with, predate upon, or degrade the habitat of the June sucker is allowed. Allowable methods of removal may include, but are not limited to, mechanical removal, chemical treatments, or biological controls. Whenever possible, June suckers that are caught alive as part of nonnative fish removal should be returned to their source as quickly as possible.

(*2*) *Habitat restoration and improvement of instream flows.* Take of June suckers as a result of any action with the primary or secondary purpose of improving habitat conditions in Utah Lake and its tributaries or improving water delivery and available in-stream flows in spawning tributaries is allowed.

(*3*) *Monitoring.* Take of June suckers as a result of any method that is used to detect June suckers in the wild to better understand population numbers, trends, or response to stressors, and that is not intended to be destructive but that may unintentionally cause harm or death, is allowed.

(*4*) *Recreational fisheries management.* Take of June suckers as a result of any activity by the State, or its designated agent, that is necessary to manage or monitor recreational fisheries in Utah Lake and its tributaries is allowed, provided the management practices do not contradict June sucker recovery objectives and that the activities are not intended to cause harm or death to June suckers.

(*5*) *Research.* Take of June suckers as a result of any activity undertaken for the purposes of increasing scientific understanding of June sucker biology, ecology, or recovery needs under the auspices of the designated recovery program, a recognized academic institution, or a qualified scientific contractor is allowed. Incidental and direct take resulting from such approved research to benefit the June sucker is allowed.

(*6*) *Education and outreach.* Take of June suckers as a result of any activity undertaken under the auspices of the designated recovery program for the purposes of increasing public awareness of June sucker biology, ecology, or recovery needs and June sucker recovery benefits for Utah Lake, its tributaries, and the surrounding communities is allowed. Incidental and direct take resulting from such educational or outreach efforts to benefit the June sucker is allowed.

(*7*) *Refuges and stocking.* Take of June suckers as a result of activities undertaken for the long-term maintenance of June suckers at Service-approved facilities outside of Utah Lake and its tributaries or for the production of June suckers for stocking in Utah Lake is allowed.

(vi) Possess and engage in other acts with unlawfully taken endangered wildlife, as set forth at § 17.21(d)(2).

Aurelia Skipwith

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2020–27833 Filed 12–31–20; 8:45 am]

BILLING CODE 4333–15–P

FEDERAL REGISTER

Vol. 86 Monday,
No. 1 January 4, 2021

Part III

The President

Proclamation 10129—850th Anniversary of the Martyrdom of Saint Thomas Becket
Executive Order 13969—Expanding Educational Opportunity Through School Choice

Federal Register
Vol. 86, No. 1
Monday, January 4, 2021

Presidential Documents

Title 3—

The President

Proclamation 10129 of December 28, 2020

850th Anniversary of the Martyrdom of Saint Thomas Becket

By the President of the United States of America

A Proclamation

Today is the 850th anniversary of the martyrdom of Saint Thomas Becket on December 29, 1170. Thomas Becket was a statesman, a scholar, a chancellor, a priest, an archbishop, and a lion of religious liberty.

Before the Magna Carta was drafted, before the right to free exercise of religion was enshrined as America's first freedom in our glorious Constitution, Thomas gave his life so that, as he said, ''the Church will attain liberty and peace.''

The son of a London sheriff and once described as ''a low-born clerk'' by the King who had him killed, Thomas Becket rose to become the leader of the church in England. When the crown attempted to encroach upon the affairs of the house of God through the Constitutions of Clarendon, Thomas refused to sign the offending document. When the furious King Henry II threatened to hold him in contempt of royal authority and questioned why this ''poor and humble'' priest would dare defy him, Archbishop Becket responded ''God is the supreme ruler, above Kings'' and ''we ought to obey God rather than men.''

Because Thomas would not assent to rendering the church subservient to the state, he was forced to forfeit all his property and flee his own country. Years later, after the intervention of the Pope, Becket was allowed to return—and continued to resist the King's oppressive interferences into the life of the church. Finally, the King had enough of Thomas Becket's stalwart defense of religious faith and reportedly exclaimed in consternation: ''Will no one rid me of this meddlesome priest?''

The King's knights responded and rode to Canterbury Cathedral to deliver Thomas Becket an ultimatum: give in to the King's demands or die. Thomas's reply echoes around the world and across the ages. His last words on this earth were these: ''For the name of Jesus and the protection of the Church, I am ready to embrace death.'' Dressed in holy robes, Thomas was cut down where he stood inside the walls of his own church.

Thomas Becket's martyrdom changed the course of history. It eventually brought about numerous constitutional limitations on the power of the state over the Church across the West. In England, Becket's murder led to the Magna Carta's declaration 45 years later that: ''[T]he English church shall be free, and shall have its rights undiminished and its liberties unimpaired.''

When the Archbishop refused to allow the King to interfere in the affairs of the Church, Thomas Becket stood at the intersection of church and state. That stand, after centuries of state-sponsored religious oppression and religious wars throughout Europe, eventually led to the establishment of religious liberty in the New World. It is because of great men like Thomas Becket that the first American President George Washington could proclaim more than 600 years later that, in the United States, ''All possess alike liberty of conscience and immunities of citizenship'' and that ''it is now no more that toleration is spoken of, as if it was by the indulgence of one class of people, that another enjoyed the exercise of their inherent natural rights.''

Thomas Becket's death serves as a powerful and timeless reminder to every American that our freedom from religious persecution is not a mere luxury or accident of history, but rather an essential element of our liberty. It is our priceless treasure and inheritance. And it was bought with the blood of martyrs.

As Americans, we were first united by our belief that ''rebellion to tyrants is obedience to God'' and that defending liberty is more important than life itself. If we are to continue to be the land of the free, no government official, no governor, no bureaucrat, no judge, and no legislator must be allowed to decree what is orthodox in matters of religion or to require religious believers to violate their consciences. No right is more fundamental to a peaceful, prosperous, and virtuous society than the right to follow one's religious convictions. As I declared in Krasiński Square in Warsaw, Poland on July 6, 2017, the people of America and the people of the world still cry out: ''We want God.''

On this day, we celebrate and revere Thomas Becket's courageous stand for religious liberty and we reaffirm our call to end religious persecution worldwide. In my historic address to the United Nations last year, I made clear that America stands with believers in every country who ask only for the freedom to live according to the faith that is within their own hearts. I also stated that global bureaucrats have absolutely no business attacking the sovereignty of nations that wish to protect innocent life, reflecting the belief held by the United States and many other countries that every child—born and unborn—is a sacred gift from God. Earlier this year, I signed an Executive Order to prioritize religious freedom as a core dimension of United States foreign policy. We have directed every Ambassador—and the over 13,000 United States Foreign Service officers and specialists—in more than 195 countries to promote, defend, and support religious freedom as a central pillar of American diplomacy.

We pray for religious believers everywhere who suffer persecution for their faith. We especially pray for their brave and inspiring shepherds—like Cardinal Joseph Zen of Hong Kong and Pastor Wang Yi of Chengdu—who are tireless witnesses to hope.

To honor Thomas Becket's memory, the crimes against people of faith must stop, prisoners of conscience must be released, laws restricting freedom of religion and belief must be repealed, and the vulnerable, the defenseless, and the oppressed must be protected. The tyranny and murder that shocked the conscience of the Middle Ages must never be allowed to happen again. As long as America stands, we will always defend religious liberty.

A society without religion cannot prosper. A nation without faith cannot endure—because justice, goodness, and peace cannot prevail without the grace of God.

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 December 29, 2020, as the 850th anniversary of the martyrdom of Saint Thomas Becket. I invite the people of the United States to observe the day in schools and churches and customary places of meeting with appropriate ceremonies in commemoration of the life and legacy of Thomas Becket.

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

[FR Doc. 2020–29226
Filed 12–31–20; 11:15 am]
Billing code 3295–F1–P

Presidential Documents

Executive Order 13969 of December 28, 2020

Expanding Educational Opportunity Through School Choice

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure the education, health, safety, and well-being of America's children, our most essential resource upon which the future of our great Nation depends, it is hereby ordered as follows:

Section 1. *Purpose.* As part of their efforts to address the public health challenges and uncertainties posed by the COVID–19 pandemic, State and local officials shut down in-person learning for the vast majority of our more than 56 million elementary and secondary school students beginning in late February and early March of this year. Since then, however, our Nation has identified effective measures to facilitate the safe resumption of in-person learning, and the Federal Government has provided more than $13 billion to States and school districts to implement those measures.

The prolonged deprivation of in-person learning opportunities has produced undeniably dire consequences for the children of this country. The Centers for Disease Control and Prevention has stated that school attendance is negatively correlated with a child's risk of depression and various types of abuse. States have seen substantial declines in reports of child maltreatment while school buildings have been closed, indicating that allegations are going unreported. These reductions are driven in part by social isolation from the schoolteachers and support staff with whom students typically interact and who have an obligation to report suspected child maltreatment. The American Academy of Pediatrics (AAP) has also found that school closures have a ''substantial impact on food security and physical activity for children and families.'' Additionally, a recent survey of educators found student absences from school, including virtual learning, have nearly doubled during the pandemic, and as AAP has noted, chronic absenteeism is associated with alcohol and drug use, teenage pregnancy, juvenile delinquency, and suicide attempts.

School closures are especially difficult for families with children with special needs. Schools provide not only academic supports for students with special needs, but they also provide much-needed in-person therapies and services, including physical and occupational therapies. A recent survey found that 80 percent of children with special needs are not receiving the services and supports to which they are entitled and that approximately 40 percent of children with special needs are receiving no services or supports. Moreover, the survey found that virtual learning may not be fully accessible to these students, as children with special needs are twice as likely to receive little or no remote learning and to be dissatisfied with the remote learning received.

Low-income and minority children are also disproportionately affected by school closures. In low-income zip codes, students' math progress decreased by nearly 50 percent while school buildings were closed in the spring, and the math progress of students in middle-income zip codes fell by almost a third during the same period. A recent analysis projected that, if in-person classes do not fully resume until January 2021, Hispanic, Black, and low-income students will lose 9.2, 10.3, and 12.4 months of learning, respectively.

A failure to quickly resume in-person learning options is likely to have long-term economic effects on children and their families. According to a recent study, if in-person classes do not fully resume until January 2021, the average student could lose $61,000 to $82,000 in lifetime earnings, or the equivalent of a year of full-time work. Additionally, in 2019, more than 90 percent of children under the age of 18 had at least one employed parent. Many employed parents do not have the option of engaging in remote work that allows them the flexibility to supervise their children during the day when in-person learning options are not available. Without the resumption of in-person learning opportunities, the economic and social harms resulting from such lost employment opportunities will continue to compound.

To help mitigate these harms, the Department of Health and Human Services recently announced additional relief for low-income parents by allowing States to use funds available through the Child Care and Development Fund to subsidize child care services and services that supplement academic instruction for children under the age of 13 who are participating in virtual instruction. Nevertheless, virtual instruction is an inadequate substitute for in-person learning opportunities and this aid is insufficient to meet current needs.

While some families, especially those with financial means, have been able to mitigate school disruptions through in-person options such as homeschooling, private schools, charter schools, and innovative models like microschools and ''learning pods,'' for many families, their children's residentially assigned public school remains their only financially available option. Unfortunately, more than 50 percent of all public-school students in the United States began school remotely this fall. These children, including those with special needs, are being underserved due to the public education system's failure to provide in-person learning options.

Students whose families pay tuition for their education are also facing significant hardships due to the economic disruptions caused by the pandemic. Scores of private schools, including approximately 100 Catholic schools, have permanently closed since the onset of COVID–19, and more than half of our Nation's private schools are believed to have lost enrollment due to the pandemic. These closures and declining enrollments are harmful to students, bad for communities, and likely to impose increased strain on public school systems.

I am committed to ensuring that all children of our great Nation have access to the educational resources they need to obtain a high-quality education and to improving students' safety and well-being, including by empowering families with emergency learning scholarships.

Sec. 2. *Providing Emergency Learning Scholarships for Students.* The Secretary of Health and Human Services shall take steps, consistent with law, to allow funds available through the Community Services Block Grant program to be used by grantees and eligible entities to provide emergency learning scholarships to disadvantaged families for use by any child without access to in-person learning. These scholarships may be used for:

(i) tuition and fees for a private or parochial school;

(ii) homeschool, microschool, or learning-pod costs;

(iii) special education and related services, including therapies; or

(iv) tutoring or remedial education.

Sec. 3. *General Provisions.* (a) Nothing in this order 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 order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order 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.

THE WHITE HOUSE,
December 28, 2020.

[FR Doc. 2020–29235
Filed 12–31–20; 11:15 am]
Billing code 3295–F1–P

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Federal Register

Vol. 86, No. 1

Monday, January 4, 2021

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FEDERAL REGISTER PAGES AND DATE, JANUARY

1–222 4

CFR PARTS AFFECTED DURING JANUARY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
10129 215
Executive Orders:
13969 219

10 CFR

431 4

14 CFR

97 (2 documents) 27, 7

20 CFR

655 1
Proposed Rules:
655 29

29 CFR

18 1
503 1
Proposed Rules:
18 29
503 29

33 CFR

Proposed Rules:
165 32

37 CFR

Proposed Rules:
401 35
404 35

47 CFR

0 44
64 44

49 CFR

Proposed Rules:
571 47

50 CFR

17 192

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List December 28, 2020

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—JANUARY 2021

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Date of FR publication	15 days after publication	21 days after publication	30 days after publication	35 days after publication	45 days after publication	60 days after publication	90 days after publication
January 4	Jan 19	Jan 25	Feb 3	Feb 8	Feb 18	Mar 5	Apr 5
January 5	Jan 20	Jan 26	Feb 4	Feb 9	Feb 19	Mar 8	Apr 5
January 6	Jan 21	Jan 27	Feb 5	Feb 10	Feb 22	Mar 8	Apr 6
January 7	Jan 22	Jan 28	Feb 8	Feb 11	Feb 22	Mar 8	Apr 7
January 8	Jan 25	Jan 29	Feb 8	Feb 12	Feb 22	Mar 9	Apr 8
January 11	Jan 26	Feb 1	Feb 10	Feb 16	Feb 25	Mar 12	Apr 12
January 12	Jan 27	Feb 2	Feb 11	Feb 16	Feb 26	Mar 15	Apr 12
January 13	Jan 28	Feb 3	Feb 12	Feb 17	Mar 1	Mar 15	Apr 13
January 14	Jan 29	Feb 4	Feb 16	Feb 18	Mar 1	Mar 15	Apr 14
January 15	Feb 1	Feb 5	Feb 16	Feb 19	Mar 1	Mar 16	Apr 15
January 19	Feb 3	Feb 9	Feb 18	Feb 23	Mar 5	Mar 22	Apr 19
January 20	Feb 4	Feb 10	Feb 19	Feb 24	Mar 8	Mar 22	Apr 20
January 21	Feb 5	Feb 11	Feb 22	Feb 25	Mar 8	Mar 22	Apr 21
January 22	Feb 8	Feb 12	Feb 22	Feb 26	Mar 8	Mar 23	Apr 22
January 25	Feb 9	Feb 16	Feb 24	Mar 1	Mar 11	Mar 26	Apr 26
January 26	Feb 10	Feb 16	Feb 25	Mar 2	Mar 12	Mar 29	Apr 26
January 27	Feb 11	Feb 17	Feb 26	Mar 3	Mar 15	Mar 29	Apr 27
January 28	Feb 12	Feb 18	Mar 1	Mar 4	Mar 15	Mar 29	Apr 28
January 29	Feb 16	Feb 19	Mar 1	Mar 5	Mar 15	Mar 30	Apr 29