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Contents

Federal Register

Vol. 84, No. 57

Monday, March 25, 2019

Separate Parts In This Issue

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.

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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.

7 CFR

Proposed Rules:

54.....10998
56.....10998
70.....10998

9 CFR

54.....11170
79.....11170

12 CFR

701.....10971

26 CFR

1.....10976

Proposed Rules:

1 (2 documents) 11005, 11009

30 CFR

250.....10989

Proposed Rules:

57.....11028
70.....11028
72.....11028
75.....11028

33 CFR

100.....10992
117.....10992
147.....10992
165 (2 documents) 10992, 10993

Proposed Rules:

165 (2 documents) 11029, 11035

38 CFR

Proposed Rules:

38.....11037

40 CFR

52 (2 documents) 11198, 11208

48 CFR

825.....10995

50 CFR

622 (2 documents) 10995, 10996

Rules and Regulations

Federal Register
Vol. 84, No. 57
Monday, March 25, 2019

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AE88

Loans to Members and Lines of Credit to Members

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is amending its regulations regarding loans to members and lines of credit to members to reduce regulatory burden, improve clarity, and make compliance easier. The amendments make the NCUA's regulations more user friendly by identifying in one section all of the various maturity limits applicable to federal credit union (FCU) loans, stating that the maturity date for a new loan under generally accepted accounting principles (GAAP) is calculated from the origination date of the new loan, and more clearly expressing the limits for loans to a single borrower or group of associated borrowers.

DATES: The effective date for this rule is April 24, 2019.

FOR FURTHER INFORMATION CONTACT: Thomas I. Zells, Staff Attorney, Office of General Counsel, at 1775 Duke Street, Alexandria, VA 22314 or telephone: (703) 548–2478.

SUPPLEMENTARY INFORMATION:

I. Background

In August 2017,[1] the Board published and sought comment on the NCUA Regulatory Reform Task Force's (Task Force) first report on implementing the agency's regulatory reform agenda (Agenda). The Agenda identifies those regulations the Board intends to amend or repeal because they are outdated, ineffective, or excessively burdensome.[2] The Board published the Task Force's second and final report in December 2018.[3] The final report contains the Task Force's updated recommendations and a refined blueprint for implementing the Agenda.

A number of the items in the Agenda relate to the NCUA's regulations on loans to members and lines of credit to members.[4] The Board issued a proposed rule in August 2018 to address those items and to request further public comment on other issues.[5] More specifically, the Board proposed changes to make the NCUA's regulations more user friendly by: (1) Identifying in one section the various maturity limits applicable to FCU loans; (2) clarifying that the maturity for a ''new loan'' under GAAP is calculated from the new date of origination; [6] and (3) more clearly expressing the limits in place for loans to a single borrower or group of associated borrowers. The Board also sought advanced comment on: (1) Whether the NCUA should provide for longer, more flexible maturity limits for certain loans as permitted by section 107(5)(A)(i)–(ii) of the FCU Act; and (2) whether the NCUA should establish a single universal limit for loans to a single borrower or group of associated borrowers in lieu of the current system of having various limits depending on the type of loan.[7]

For the reasons discussed below, the Board is adopting the proposed rule largely as proposed. The NCUA is also continuing to evaluate the comments received on the issues for which it sought advanced comment. Any regulatory amendments that the Board decides to propose based on the advanced comments will be done through the NCUA's normal notice and comment rulemaking process to comply with the Administrative Procedure Act (APA).[8]

II. Final Rule and Summary of Comments

The NCUA received 31 comments on the proposed rule. Those comments generally fell into three categories: (1) Comments addressing the technical and clarifying changes the NCUA specifically proposed; (2) comments addressing the issues on which the NCUA sought advanced comment; and (3) comments addressing subjects outside the scope of the proposed amendments. Commenters were overwhelmingly supportive of the technical and clarifying changes that the proposal made with no commenters generally opposing the proposed changes. As stated above, the Board is finalizing these changes largely as proposed.

The majority of commenters heavily focused on the issues on which the NCUA sought advanced comment, namely: (1) Potential alternate maturity limits; and (2) a potential universal limit on loans to one borrower. The Board reiterates that the proposal sought advanced stakeholder input on these topics with an eye toward making future regulatory amendments. Any future changes related to this request for advanced comment will be done through the NCUA's normal notice and comment rulemaking process to comply with the APA. It is worth noting that, as a general matter, commenters expressed confusion about the maturities applicable to various types of loans and the NCUA's authority to alter them. Commenters also addressed a number of issues that were largely unrelated to the issues on which the proposal sought comment. The Board will continue to evaluate these comments, but notes that such unrelated comments are outside the scope of this rulemaking and would require separate future action.

A. Loan Maturity Limits for Federal Credit Unions

Section 107(5) of the Federal Credit Union Act (FCU Act) grants FCUs the power ''to make loans, the maturities of which shall not exceed 15 years, except

[1] 82 FR 39702 (Aug. 22, 2017).

[2] This is consistent with the spirit of the President's regulatory reform agenda and Executive Order 13777. Although the NCUA, as an independent agency, is not required to comply with Executive Order 13777, the Board has chosen to comply with it in spirit and has reviewed all of the NCUA's regulations to that end.

[3] 83 FR 65926 (Dec. 21, 2018).

[4] 12 CFR 701.21.

[5] 83 FR 39622 (Aug. 10, 2018).

[6] GAAP is defined as generally accepted accounting principles in the United States as set forth in the Financial Accounting Standards Board's (FASB) Accounting Standards Codification (ASC).

[7] The proposal sought advanced stakeholder comment on these related issues to help the Board determine what, if any, changes the agency should consider proposing in the future.

[8] 5 U.S.C. 551 *et seq.*

as otherwise provided herein.'' [9] The NCUA implemented this general maturity limit in § 701.21(c)(4) of its regulations. Sections 107(5)(A)(i)–(iii) of the FCU Act provide exceptions to the general 15-year maturity limit, which have been implemented in § 701.21(e) through (g) of the NCUA's regulations.

Section 107(5)(A)(i) of the FCU Act, implemented in § 701.21(g) of the NCUA's regulations, states that ''a residential real estate loan on a one-to-four-family dwelling, including an individual cooperative unit, that is or will be the principal residence of a credit union member, and which is secured by a first lien upon such dwelling, may have a maturity not exceeding thirty years *or such other limits as shall be set by the National Credit Union Administration Board* (except that a loan on an individual cooperative unit shall be adequately secured as defined by the Board), subject to the rules and regulations of the Board.'' [10] Pursuant to its authority in section 107(5)(A)(i) of the FCU Act to set alternate maturities for covered 1–4 family real estate loans, the Board has established a 40-year maximum maturity for such loans and has provided that longer periods may be permitted by the Board on a case-by-case basis.[11]

Section 107(5)(A)(ii) of the FCU Act, implemented in § 701.21(f) of the NCUA's regulations, states that ''a loan to finance the purchase of a mobile home, which shall be secured by a first lien on such mobile home, to be used by the credit union member as his residence, a loan for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member, or a second mortgage loan secured by a residential dwelling which is the residence of a credit union member, shall have a maturity not to exceed 15 years *or any longer term which the Board may allow.*'' [12] Pursuant to its authority in § 107(5)(A)(ii) to set alternate maturities for covered loans, the Board has established a 20-year maximum maturity for such loans.[13]

Finally, section 107(5)(A)(iii) of the FCU Act, implemented in § 701.21(e) of the NCUA's regulations, states that ''a loan secured by the insurance or guarantee of, or with advance commitment to purchase the loan by, the Federal Government, a State Government, or any agency of either may be made for the maturity and under the terms and conditions specified in the law under which such insurance, guarantee, or commitment is provided.'' [14]

i. Identifying the Various Maturity Limits in One Section

Section 701.21 of the NCUA's regulations addresses various loan maturity limits in paragraphs (c), (e), (f), and (g). Paragraph (c) provides the general rules applicable to all loans to members and, where indicated, all lines of credit (including credit cards) to members, except as otherwise provided in the remaining provisions of § 701.21. Paragraph (c)(4) implements the general 15-year maturity limit that § 107(5) of the FCU Act places on loans to members. Paragraphs (e), (f), and (g) of § 701.21 implement the three exceptions to this general 15-year limit that appear in section 107(5)(A)(i)–(iii) of the FCU Act.

Having the various maturity limits spread among numerous sections of the NCUA's regulations, often separated by large amounts of regulatory text unrelated to maturities, can be confusing to a reader and makes it more difficult to understand the lending regulations. To remedy this, in the proposed rule, the Board proposed to make the NCUA's loan maturity requirements more understandable and user friendly by identifying in one section (§ 701.21(c)(4)), including cross-citations, all of the maturity limits applicable to FCU loans.

More than half of the comments received specifically offered support for the NCUA's efforts to provide more regulatory clarity and make compliance easier by identifying all loan maturity requirements in one section and adding cross-citations. No commenters opposed the changes. As such, the NCUA is adopting these changes as proposed.

ii. The Treatment of Maturities for Lending Actions That Qualify as ''New Loans'' Under GAAP

The proposal also clarified that, in the case of a lending action qualifying as a ''new loan'' under GAAP, the maturity limit is calculated from the new date of origination.[15] The Board proposed to accomplish this by adding language to § 701.21(c)(4), which articulates the general 15-year maturity limit. The Board is adopting the proposal without change.

Nearly one-third of commenters addressed this aspect of the proposal. The vast majority of these commenters explicitly supported the proposal. Several commenters noted that it is unclear if the proposal applies only to new loan originations, loan modifications, or both, and they requested further clarity regarding the proposal. To alleviate any potential confusion, the Board clarifies that the final rule applies to any lending action that qualifies as a new loan under GAAP, whether that action is a new origination or a modification.

iii. Request for Comment on Providing Longer Maturity Limits for Certain Loans

In the proposal, the Board sought advanced comment on whether it should provide longer maturity limits for 1–4 family real estate loans and other loans (such as certain home improvement, mobile home, and second mortgage loans) as permitted by section 107(5)(A)(i)–(ii) of the FCU Act and remove the case-by-case exception that the Board can provide for covered 1–4 family real estate loans. As discussed earlier, these maturity limits are implemented in § 701.21(f) and (g) of the NCUA's regulations. The case-by-case exception is located in § 701.21(g)(1) of the NCUA's regulations and provides that the Board can permit an FCU to make loans with maturities that exceed the regulation's 40-year limit ''on a case-by-case basis, subject to the conditions of this paragraph (g).'' [16]

Nearly every commenter addressed the various maturity limits in some manner. Comments on the maturity limits generally fell into three categories: (1) Comments asking the NCUA to take action the Board does not believe it is authorized to take under the FCU Act; (2) responses to the request for advanced comment on actions the Board does believe it is authorized to take under the FCU Act, which the Board is taking under advisement for future rulemaking purposes; and (3) unsolicited comments that are more appropriately handled by guidance or legal opinion.

Category 1. Many commenters expressed displeasure with the general

[9] 12 U.S.C. 1757(5).

[10] 12 U.S.C. 1757(5)(A)(i) (emphasis added); 12 CFR 701.21(g).

[11] 12 CFR 701.21(g)(1) (stating that ''[a] federal credit union may make residential real estate loans to members, including loans secured by manufactured homes permanently affixed to the land, with maturities of up to 40 years, or such longer period as may be permitted by the NCUA Board on a case-by-case basis, subject to the conditions of this paragraph'').

[12] 12 U.S.C. 1757(5)(A)(ii) (emphasis added); 12 CFR 701.21(f).

[13] 12 CFR 701.21(f)(1) (stating that ''[n]otwithstanding the general 15-year maturity limit on loans to members, a federal credit union may make loans with maturities of up to 20 years'' for loans covered by this paragraph.).

[14] 12 U.S.C. 1757(5)(A)(iii); 12 CFR 701.21(e).

[15] ASC 310–20–35–9 & 10.

[16] 12 CFR 701.21(g)(1).

15-year maturity limit [17] and specifically the 15-year maturity limit on first-lien, 1–4 family real estate loans that are not the principal residence of the borrower. The Board has no authority to alter this statutory limit.

Category 2. Commenters addressed the following provisions on which the Board sought advanced comment: (1) The current 40-year maturity limit on long-term residential real estate loans where the 1–4 family unit is the principal residence of the borrower; (2) the case-by-case exception the Board can use to grant maturity limits that exceed 40 years on long-term residential real estate loans; and (3) the 20-year maturity limit for covered home improvement, mobile home, and second mortgage loans. While the Board has the authority to amend these provisions, they are beyond the scope of what the Board proposed and thus under the APA the Board cannot act on them now, and would have to issue a new proposed rule. The Board is taking these comments under advisement and is considering whether to issue a proposed rule at a later date pursuant to the NCUA's normal notice and comment rulemaking process.

Category 3. Commenters provided unsolicited feedback on issues not specifically raised in the proposed rule. For example, several commenters requested clarification on the proper characterization of a loan on a residential dwelling that includes a detached structure on the same parcel of land, such as a ''mother-in-law suite.'' The Board believes this is more appropriately handled by guidance or legal opinion and may take such action later this year.

B. Single Borrower and Group of Associated Borrowers Limits

i. More Clearly Identifying the Various Limits

Three provisions of the NCUA's regulations address limits on loans to a single borrower or group of associated borrowers: (1) § 701.21(c)(5) Addresses the general limit; (2) § 701.22(b)(5)(iv) addresses the limit on loan participations; and (3) § 723.4(c) addresses the limit on commercial loans. Because these provisions are spread among several sections of the NCUA's regulations, some stakeholders are not aware that there are multiple limits that apply in different contexts. To rectify this, the proposal made clear that all three of these limits exist. Rather than move the provisions that specifically apply to loan participations and commercial loans from their current regulatory sections to the general limit section, the NCUA proposed to include cross-citations to the more specific loan participation and commercial loan limits in the general limit section (§ 701.21(c)(5)).

Section 701.21(c)(5), as part of the general rules on loans and lines of credit to members, imposes the FCU Act's ten percent limit on loans and lines of credit to any member.[18] Specifically, § 701.21(c)(5) requires that ''[n]o loan or line of credit advance may be made to any member if such loan or advance would cause that member to be indebted to the Federal credit union upon loans and advances made to the member in the aggregate amount exceeding 10% of the credit union's total unimpaired capital and surplus.'' [19] Section 701.21(c)(5) also provides an outdated cross-citation to part 723 for the specific limit on commercial lending. The proposal removed this outdated cross-citation and provided updated references to both the current loan participation limit in § 701.22(b)(5) and the commercial lending limit in § 723.4(c).

The Board also proposed conforming amendments to update cross-citations to the single borrower and group of associated borrower limits in §§ 701.20(c)(2) and 701.22(b)(1).

One-third of commenters addressed the technical and clarifying amendments the Board proposed related to the limits on loans to a single borrower or group of associated borrowers. All of these commenters supported adding internal cross-citations to more clearly identify the various limits in the general lending, loan participations, and commercial lending regulations. Three of these commenters specifically stated that this would simplify compliance. Several commenters noted confusion with the current layout.

One commenter said that the fact that part 741 incorporates applicable provisions by reference compounds the difficulty for federally insured, state-chartered credit unions (FISCUs). The commenter recommended that the NCUA incorporate loan limitations applicable to FISCUs in § 741.203 in their entirety. The Board appreciates the commenter's suggestion, but does not believe such a change is necessary for FISCUs to understand the applicable maturity limits.

Another commenter recommended that, because the loan participation and commercial loan limits also apply to a group of associated borrowers, the NCUA should also include in the general lending regulations reference and cross-citations to the ''associated borrower'' definition in §§ 701.22 and 723.2 of the NCUA's regulations. The Board is concerned that the commenter's suggestion to include cross-citations in the general lending regulations to the definition of ''associated borrower'' in the loan participation and commercial lending regulations would cause confusion for credit unions. The term ''associated borrower'' does not appear in the general lending regulations and does not apply to the general lending limit. As noted, the Board is of the view that cross-citations to the term ''associated borrower'' in the commercial lending and loan participation regulations would only serve to confuse readers and raise questions of its applicability and relevance to the general lending limit where that term is not defined.

The Board believes that the proposed cross-citations provide an efficient and user-friendly way to identify and comply with the multiple lending limits in the NCUA's regulations. As such, the Board is adopting the amendments as proposed.

ii. Request for Comment Regarding the Limits Applicable to Loan Participations and Commercial Loans

In the proposal, the Board sought advanced comment on the possibility of establishing a single universal limit on loans to a single borrower or group of associated borrowers in lieu of the current system of having various limits depending on the type of loan. The NCUA noted that such a limit may help facilitate compliance and reduce regulatory burden. Currently, a loans to one borrower limit of 15 percent of a federally insured credit union's net worth exists for: (1) Commercial loans and (2) loan participations. A waiver from this limit is available for loan participations, but not for commercial loans. Instead, an alternate limit is available for commercial loans.

More specifically, the 15 percent limit on loan participations can be waived by the appropriate regional director for FCUs, and, in the case of a federally insured, state-chartered credit union, by the regional director with prior written concurrence of the appropriate state supervisory authority.[20] The limit on commercial loans, however, does not provide for a waiver. Instead, it provides

[17] 12 U.S.C. 1757(5).

[18] 12 U.S.C. 1757(5)(A)(x).

[19] 12 CFR 701.21(c)(5).

[20] 12 CFR 701.22(b)(5)(iv). The appropriate regional director for FCUs with $10 billion or more in assets is the Director of the Office of National Examinations and Supervision. 12 CFR 700.2.

that ''the aggregate dollar amount of commercial loans to any one borrower or group of associated borrowers may not exceed the greater of 15 percent of the federally insured credit union's net worth or $100,000, plus an additional 10 percent of the credit union's net worth if the amount that exceeds the credit union's 15 percent general limit is fully secured at all times with a perfected security interest by readily marketable collateral as defined in § 723.2 of this part. Any insured or guaranteed portion of a commercial loan made through a program in which a federal or state agency (or its political subdivision) insures repayment, guarantees repayment, or provides an advance commitment to purchase the loan in full, is excluded from this limit.'' [21]

Approximately half of the commenters specifically addressed a potential universal limit. These commenters offered mixed views on the potential limit and provided the Board with a great deal to consider moving forward. The NCUA will continue to evaluate the comments received and determine whether a single universal limit would be beneficial. If the Board determines that a universal limit should be adopted, the Board will issue a proposed rule at a later date pursuant to the NCUA's normal notice and comment rulemaking process.

III. Section-by-Section Analysis

The clarifying amendments in this final rule are largely technical in nature. As a result, most of the current language in § 701.21 remains. The changes to § 701.21 and the conforming amendments to §§ 701.20 and 701.22 are discussed in more detail below.

Section 701.20 Suretyship and guaranty.

(c) Requirements.

The final rule makes minor conforming amendments to § 701.20(c).

(c)(2).

The final rule makes conforming amendments to the section governing requirements for suretyship or guaranty agreements by removing outdated cross-citations to the loans to one borrower or group of associated borrowers limit in §§ 723.2 and 723.8 of the member business lending regulation and adding an updated cross-citation to § 723.4(c).

Section 701.21

(c) General rules.

(c)(4) Maturity.

The final rule divides § 701.21(c)(4) into two new paragraphs. One paragraph, § 701.21(c)(4)(i), states the general rule that loans carry a 15-year maturity. The other, § 701.21(c)(4)(ii), makes more explicit that there are exceptions to the general 15-year maturity limit in § 701.21(e) through (g) for various types of credit union loans.

(c)(4)(i) General rules.

The final rule maintains all of current § 701.21(c)(4) in § 701.21(c)(4)(i), which articulates the general 15-year maturity limit that exists on FCU loans. However, the final rule also adds language to clarify that the maturity for a new loan under GAAP is calculated from the new date of origination.

(c)(4)(ii) Exceptions.

Section 701.21(c)(4)(ii) of the final rule explicitly states, in three paragraphs ((c)(4)(ii)(A), (B), and (C)), that there are three exceptions to the general 15-year maturity limit and cross-cites to § 701.21(e) through (g) as follows:

(c)(4)(ii)(A).

Section 701.21(c)(4)(ii)(A) of the final rule cross-cites to the exception to the general 15-year maturity limit in § 701.21(e) regarding covered loans secured, in full or in part, by the insurance or guarantee of, or with an advance commitment to purchase the loan, in full or in part, by the Federal Government, a State Government or any agency of either.

(c)(4)(ii)(B).

Section 701.21(c)(4)(ii)(B) of the final rule cross-cites to the exception to the general 15-year maturity limit in § 701.21(f) regarding covered home improvement, mobile home, and second mortgage loans.

(c)(4)(ii)(C).

Section 701.21(c)(4)(ii)(C) of the final rule cross-cites to the exception to the general 15-year maturity limit in § 701.21(g) regarding covered 1–4 family real estate loans.

(c)(5) Ten percent limit.

The final rule revises § 701.21(c)(5) to add cross-citations to the specific requirements on loans to a single borrower or group of associated borrowers in the loan participation rule, § 701.22(b)(5)(iv), and member business lending rule, § 723.4(c).

(e) Insured, Guaranteed, and Advance Commitment Loans.

The final rule revises § 701.21(e) to make more explicit that the maturity limits applicable to loans covered by paragraph (e) are notwithstanding the general 15-year limit in paragraph (c)(4). The final rule also adds a cross-citation to paragraph (c)(4).

(f) 20-Year Loans.

The final rule retains almost all of current § 701.21(f), but inserts some additional language to improve clarity.

(f)(1).

The final rule revises § 701.21(f)(1) to make more explicit that the maturity limit applicable to loans covered by paragraph (f) is notwithstanding the general 15-year limit in paragraph (c)(4). The final rule also adds a cross-citation to paragraph (c)(4).

(g) Long-Term Mortgage Loans.

The final rule retains almost all of § 701.21(g), but inserts some additional language to improve clarity.

(g)(1).

The final rule revises § 701.21(g)(1) to make more explicit that the maturity limit applicable to loans covered by paragraph (g) is notwithstanding the general 15-year limit in paragraph (c)(4). The final rule also adds a cross-citation to paragraph (c)(4).

Section 701.22

(b).

As described in more detail below, the final rule makes minor conforming amendments to § 701.22(b) regarding loan participations.

(b)(1).

The final rule updates the cross-citation in § 701.22(b)(1), which provides that for a federally insured credit union to purchase a participation interest in a loan, the loan must comply with all regulatory requirements to the same extent as if the purchasing federally insured credit union had originated the loan. Specifically, the final rule changes the outdated cross-citation in § 701.22(b)(1) from § 723.8 to § 723.4(c).

IV. Legal Authority

The Board is issuing this rule pursuant to its authority under the FCU Act. Under the FCU Act, the NCUA is the chartering and supervisory authority for FCUs and the federal supervisory authority for federally insured credit unions.[22] The FCU Act grants NCUA a broad mandate to issue regulations governing both FCUs and all federally insured credit unions. Section 120 of the FCU Act is a general grant of regulatory authority and authorizes the Board to prescribe rules and regulations for the administration of the FCU Act.[23] Section 207 of the FCU Act is a specific grant of authority over share insurance coverage, conservatorships, and liquidations.[24] Section 209 of the FCU Act is a plenary grant of regulatory authority to the NCUA to issue rules and regulations necessary or appropriate to carry out its role as share insurer for all federally insured credit unions.[25]

[21] 12 CFR 723.4(c).

[22] 12 U.S.C. 1752–1775.

[23] 12 U.S.C. 1766(a).

[24] 12 U.S.C. 1787.

[25] 12 U.S.C. 1789.

Accordingly, the FCU Act grants the Board broad rulemaking authority to ensure that the credit union industry and the National Credit Union Share Insurance Fund remain safe and sound.

V. Regulatory Procedures

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a final rule, an agency prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of the final rule on small entities. A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include credit unions with assets less than $100 million) [26] and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule. The final rule reduces regulatory burden through clarifying and technical changes and will not have an impact on small credit unions. Accordingly, the NCUA certifies that this final rule will not have a significant economic impact on a substantial number of small credit unions.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates new or amends existing information collection requirements.[27] For purposes of the PRA, an information collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. The final rule does not contain information collection requirements that require approval by OMB under the PRA.[28] The final rule only makes clarifying and technical changes.

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, the NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rulemaking will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

D. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.[29]

E. Small Business Regulatory Enforcement Fairness Act of 1996

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where the NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. The NCUA does not believe this final rule is a ''major rule'' within the meaning of the relevant sections of SBREFA. The NCUA has submitted the rule to the Office of Management and Budget for its determination in that regard.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on March 14, 2019.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the Board amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1785, 1786, 1787, 1788, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.;* 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

§ 701.20 [Amended]

■ 2. Amend § 701.20(c)(2) by removing the words ''723.2 and 723.8'' and adding in their place ''723.4(c)''.

■ 3. Amend § 701.21 by revising paragraphs (c)(4) and (5), (e), (f)(1) introductory text, and (g)(1) to read as follows:

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(c) * * *

(4) *Maturity.* (i) In General. The maturity of a loan to a member may not exceed 15 years. Lines of credit are not subject to a statutory or regulatory maturity limit. Amortization of line of credit balances and the type and amount of security on any line of credit shall be as determined by contract between the Federal credit union and the member/borrower. In the case of a lending action that qualifies as a ''new loan'' under GAAP, the new loan's maturity is calculated from the new date of origination.

(ii) Exceptions. Notwithstanding the general 15-year maturity limit on loans to members, a federal credit union may make loans with maturities:

(A) As specified in the law, regulations or program under which a loan is secured, in full or in part, by the insurance or guarantee of, or with an advance commitment to purchase the loan, in full or in part, by the Federal Government, a State government or any agency of either, as provided in paragraph (e) of this section;

(B) of up to 20 years or such longer term as is provided in paragraph (f) of this section; and

(C) of up to 40 years or such longer term as is provided in paragraph (g) of this section.

(5) *Ten percent limit.* No loan or line of credit advance may be made to any member if such loan or advance would cause that member to be indebted to the Federal credit union upon loans and advances made to the member in an aggregate amount exceeding 10% of the credit union's total unimpaired capital and surplus. In the case of loan participations as defined in § 701.22(a) of this part and commercial loans as defined in § 723.2 of this chapter, additional limitations apply as set forth in § 701.22(b)(5)(iv) of this part and § 723.4(c) of this chapter.

* * * * *

(e) *Insured, Guaranteed, and Advance Commitment Loans.* Notwithstanding the general 15-year maturity limit on loans to members in paragraph (c)(4) of this section, a loan secured, in full or in part, by the insurance or guarantee of, or with an advance commitment to purchase the loan, in full or in part, by the Federal Government, a State government or any agency of either, may be made for the maturity and under the terms and conditions, including rate of interest, specified in the law, regulations or program under which the insurance, guarantee or commitment is provided.

[26] *See* 80 FR 57512 (Sept. 24, 2015).

[27] 44 U.S.C. 3507(d); 5 CFR part 1320.

[28] 44 U.S.C. chap. 35.

[29] Public Law 105–277, 112 Stat. 2681 (1998).

(f) * * *

(1) Notwithstanding the general 15-year maturity limit on loans to members in paragraph (c)(4) of this section, a federal credit union may make loans with maturities of up to 20 years in the case of:

* * * * *

(g) * * *

(1) *Authority.* Notwithstanding the general 15-year maturity limit on loans to members in paragraph (c)(4) of this section, a federal credit union may make residential real estate loans to members, including loans secured by manufactured homes permanently affixed to the land, with maturities of up to 40 years, or such longer period as may be permitted by the NCUA Board on a case-by-case basis, subject to the conditions of this paragraph (g).

* * * * *

§ 701.22 [Amended]

■ 4. Amend § 701.22(b)(1) by removing the words ''§ 723.8'' and adding in their place ''§ 723.4''.

[FR Doc. 2019–05186 Filed 3–22–19; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9852]

RIN 1545–BL96

Chapter 4 Regulations Relating to Verification and Certification Requirements for Certain Entities and Reporting by Foreign Financial Institutions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document finalizes (with limited revisions) certain proposed regulations. The final regulations provide compliance requirements and verification procedures for sponsoring entities of foreign financial institutions (FFIs) and certain non-financial foreign entities (NFFEs), trustees of certain trustee-documented trusts, registered deemed-compliant FFIs, and financial institutions that implement consolidated compliance programs (compliance FIs). These final regulations affect certain financial institutions and NFFEs.

DATES:

Effective date: These regulations are effective on March 25, 2019.

Applicability dates: For dates of applicability, see §§ 1.1471–1(c), 1.1471–4(j), 1.1471–5(m), and 1.1472–1(h).

FOR FURTHER INFORMATION CONTACT: Charles Rioux, at (202) 317–6942 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

This Treasury decision contains amendments to 26 CFR part 1. On January 6, 2017, a notice of proposed rulemaking (REG–103477–14) proposing regulations under chapter 4 of Subtitle A (sections 1471 through 1474) of the Internal Revenue Code of 1986 (Code) relating to verification requirements for certain entities was published in the **Federal Register** (82 FR 1629). The notice of proposed rulemaking also included proposed regulations, unrelated to these verification requirements, by cross-reference to temporary regulations that were published in the same issue of the **Federal Register** (82 FR 2124; TD 9809). On September 15, 2017, a correction to the notice of proposed rulemaking was published in the **Federal Register** (82 FR 43314). No public hearing was requested or held. Written comments were received, and are available at *www.regulations.gov* or upon request. After consideration of the comments received, the proposed regulations relating to verification requirements for certain entities under chapter 4 are adopted (with limited modifications) by this Treasury decision. This Treasury decision does not finalize the proposed regulations in the notice of proposed rulemaking that cross-reference the temporary regulations. Those proposed regulations (REG–132857–17) will be adopted as final regulations at a later date. Hereinafter, the term ''proposed regulations'' when used in this preamble means the proposed regulations (REG–103477–14) relating to verification requirements for certain entities under chapter 4.

The existing chapter 4 regulations permit certain FFIs and NFFEs to be sponsored by other entities (sponsoring entities) for purposes of satisfying their chapter 4 requirements. Generally, a sponsoring entity is an entity that agrees to perform chapter 4 due diligence, withholding, and reporting requirements on behalf of certain FFIs (sponsored FFIs) or chapter 4 due diligence and reporting obligations on behalf of certain direct reporting NFFEs (sponsored direct reporting NFFEs). An FFI that is a sponsored FFI is a deemed-compliant FFI, and a NFFE that is a sponsored direct reporting NFFE is an excepted NFFE. The proposed regulations provide verification requirements (including certifications of compliance) and events of default for sponsoring entities. The proposed regulations also provide certification requirements and procedures for the IRS's review of trustees of certain trustee-documented trusts and procedures for the IRS's review of periodic certifications provided by registered deemed-compliant FFIs. In addition, the proposed regulations describe the procedures for future modifications to the requirements for certifications of compliance for participating FFIs. The proposed regulations also clarify the requirements in the chapter 4 regulations for periodic certifications of compliance for consolidated compliance programs of participating FFIs and provide requirements for preexisting account certifications for these programs.

Summary of Comments and Explanation of Revisions

After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision. The comments and revisions are discussed below.

Definition of Responsible Officer

The proposed regulations require a sponsoring entity of a sponsored FFI to appoint a responsible officer to oversee the compliance of the sponsoring entity with respect to each sponsored FFI. Proposed § 1.1471–1(b)(116) defines the term *responsible officer* with respect to a sponsoring entity as an officer of the sponsoring entity with sufficient authority to fulfill the duties of a responsible officer described in § 1.1471–5(j) or § 1.1472–1(f) (as applicable). A comment requested that the definition of responsible officer be expanded to include an officer of an FFI in the sponsoring entity's expanded affiliated group that has responsibility for ensuring the compliance of the sponsoring entity. The comment noted that in some cases an investment manager that is a sponsoring entity is a member of an affiliated group in which one member of the group is designated to oversee the compliance of all members with their chapter 4 requirements.

The proposed regulations require the responsible officer of a sponsoring entity to be an individual who is an officer of the sponsoring entity because the certifications required under these regulations should be made by the individual in the best position to know and represent whether the sponsoring entity is complying with its obligations.

The Department of the Treasury (Treasury Department) and the IRS understand that in practice, the person in the best position to know and represent if the sponsoring entity is complying with its obligations under these regulations may be an individual other than an officer of the sponsoring entity given industry practices established by managers and administrators of investment funds and similar vehicles for both chapter 4 and operational purposes. Therefore, these final regulations define responsible officer with respect to a sponsoring entity to include an officer of an entity that establishes and maintains policies and procedures for, and has general oversight over, the sponsoring entity, provided such individual has sufficient authority to fulfill the duties of a responsible officer described in § 1.1471–5(j) or § 1.1472–1(f) (as applicable).

A comment noted that many investment entities do not appoint officers but may appoint directors for corporate governance purposes who would be able to fulfill the requirements of responsible officers. The comment further noted that in many cases in which investment entities are partnerships, the general partner or managing member has authority to act on behalf of the partnership, and the general partner or managing member may be an entity rather than an individual. The comment requested that the definition of a responsible officer of an investment entity be expanded to include these persons. In response to these comments, these final regulations revise the definition of a responsible officer of a financial institution or sponsoring entity that is an investment entity to include, in addition to an officer of such entity, an individual who is a director, managing member, or general partner of such entity, or, if the general partner or managing member of the investment entity is itself an entity, an individual who is an officer, director, managing member, or general partner of such other entity.

The comment also requested that the term responsible officer be expanded to include, with respect to a participating FFI, an officer of a U.S. financial institution (USFI) in the participating FFI's expanded affiliated group (in addition to an officer of a participating FFI or reporting Model 1 FFI in the participating FFI's expanded affiliated group). This comment is not adopted because § 1.1471–4(f) already permits a USFI to act as a compliance FI for purposes of establishing a consolidated compliance program and making a consolidated certification on behalf of one or more participating FFIs in an expanded affiliated group.

Coordination of Certification Requirements for Compliance FIs and Sponsoring Entities of Sponsored FFIs or Sponsored Direct Reporting NFFEs

A comment requested clarification that a certification of a compliance FI or sponsoring entity on behalf of an electing FFI, sponsored FFI, or sponsored direct reporting NFFE would satisfy the certification requirements of the electing FFI, sponsored FFI, or sponsored direct reporting NFFE. These final regulations clarify that to the extent a compliance FI or sponsoring entity satisfies the certification requirements in § 1.1471–4(f)(2)(ii), § 1.1471–5(j)(2) and (3), or § 1.1472–1(f)(2) on behalf of an electing FFI, sponsored FFI, or sponsored direct reporting NFFE, then the electing FFI, sponsored FFI, or sponsored direct reporting NFFE will not have a separate certification requirement under § 1.1471–4(f)(3), § 1.1471–5(f)(1)(ii)(B), or § 1.1472–1(c)(3)(vi). For example, if a participating FFI agrees to be a sponsored FFI, the FFI is not required to submit any certification with respect to its participating FFI status after it is registered as a sponsored FFI by its sponsoring entity provided its sponsoring entity certifies on behalf of the FFI to the extent required under § 1.1471–5(j)(3).

The comment also requested that the certification period of a participating FFI that is a member of the expanded affiliated group that includes a compliance FI but is not an electing FFI under such compliance FI be aligned with the certification period of the compliance FI. The comment stated that coordinating the certification due dates of all FFIs in the expanded affiliated group would provide administrative benefits to the group. However, the comment did not explain why all FFIs could not join the consolidated compliance program. The Treasury Department and the IRS have decided not to revise the regulations in response to this request because a participating FFI already has the option of joining the consolidated compliance program under the compliance FI in order to align its certification period with that of the compliance FI.

Requirement for a Written Sponsorship Agreement

The proposed regulations require a responsible officer of a sponsoring entity to certify that the sponsoring entity is compliant with the requirements of a sponsoring entity and maintains effective internal controls with respect to all sponsored FFIs for which it acts (or provide a qualified certification). One of the statements to which the responsible officer must certify is that the sponsoring entity has a written sponsorship agreement in effect with each sponsored FFI authorizing the sponsoring entity to fulfill the requirements of § 1.1471–5(f)(1)(i)(F) or (f)(2)(iii) or an applicable Model 2 IGA.

A comment requested the elimination of the requirement that the sponsoring entity have a written sponsorship agreement in effect with each sponsored FFI. The comment stated that this requirement would increase administrative burden for sponsored FFIs. Another comment requested clarification of whether the sponsorship agreement must be a separate agreement between a sponsoring entity and a sponsored FFI that specifically refers to the requirements of a sponsoring entity with respect to a sponsored FFI under § 1.1471–5(f)(1)(i)(F) or (f)(2)(iii) or an applicable Model 2 IGA. The comment stated that many sponsoring entities already have managerial agreements in place with sponsored FFIs that would allow the sponsoring entity to fulfill these requirements even without explicitly referring to them.

These final regulations retain the requirement that a sponsoring entity have a written sponsorship agreement in place with each sponsored FFI. A written sponsorship agreement memorializes the agreement between the parties, which helps to ensure compliance. However, in response to the comments and to reduce burden, the Treasury Department and the IRS have decided that it is not necessary for the sponsorship agreement to be a standalone agreement, and that a sponsorship agreement between a sponsoring entity and a sponsored FFI can refer generally to the obligations of the parties under FATCA. Accordingly, these final regulations provide that the written sponsorship agreement may be part of another agreement between the sponsoring entity and the sponsored FFI provided it refers to the requirements of a sponsored FFI under FATCA. For example, a provision in a fund manager agreement that states that the sponsoring entity agrees to satisfy the sponsored FFI's FATCA obligations would be sufficient. Additionally, the proposed regulations do not specify when a sponsorship agreement must be in place for purposes of a sponsoring entity's certification requirements. To allow sufficient time for a sponsoring entity to enter into sponsorship agreements (or revise existing agreements), these final regulations

provide that a sponsoring entity of a sponsored FFI must have the written sponsorship agreement in place with such sponsored FFI by the later of March 31, 2019, or the date when the sponsoring entity begins acting as a sponsoring entity for such sponsored FFI. See § 1.1471–5(j)(6). These final regulations include similar rules for a sponsoring entity of a sponsored direct reporting NFFE regarding the date by which the written sponsorship agreement must be in place and that it need not be a standalone agreement. See § 1.1472–1(f)(4).

Extension of Time for Certifications for the Certification Period Ending on December 31, 2017, for Sponsoring Entities of Sponsored FFIs or Sponsored Direct Reporting NFFEs and Trustees of Trustee-Documented Trusts

The proposed regulations provide that a sponsoring entity of a sponsored FFI or sponsored direct reporting NFFE and a trustee of a trustee-documented trust must make the certifications of compliance described in § 1.1471–5(j)(3), § 1.1471–5(l)(2), or § 1.1472–1(f)(2), as applicable, on or before July 1 of the calendar year following the end of the certification period. The proposed regulations also provide that a sponsoring entity of a sponsored FFI must submit the preexisting account certification described in § 1.1471–4(c)(7) by the due date of the sponsoring entity's certification of compliance for the certification period. The earliest certification period for a sponsoring entity or trustee of a trustee-documented trust ends on December 31, 2017, under the proposed regulations, making the earliest certification due date July 1, 2018. One comment requested that the certifications required of sponsoring entities be deferred to apply only for certification periods ending after 2018 in order to have sufficient time to prepare the certifications. The Treasury Department and the IRS understand that sponsoring entities need time to prepare for the certifications in light of the timing of the publication of these regulations. However, the Treasury Department and the IRS do not agree that sponsoring entities should not make certifications for the certification period ending December 31, 2017, because sponsoring entities have already had sufficient notice of their substantive requirements and because of the compliance value of certifications covering this period. These final regulations address the comment by providing additional time for sponsoring entities to make certifications that would otherwise be due on July 1, 2018. Under these final regulations, certifications by sponsoring entities and trustees of trustee-documented trusts for the certification period ending on December 31, 2017, must be submitted on or before March 31, 2019.

Registration by a Sponsored FFI or Sponsored Direct Reporting NFFE After Termination of the Sponsoring Entity by the IRS

The proposed regulations provide that if a sponsoring entity of a sponsored FFI is terminated by the IRS, the sponsored FFI of the terminated sponsoring entity may not register as a sponsored FFI of a sponsoring entity that has a relationship described in section 267(b) with the terminated sponsoring entity unless the sponsored FFI obtains written approval from the IRS. The proposed regulations provide a similar rule regarding a terminated sponsoring entity of a sponsored direct reporting NFFE, but do not permit the sponsored direct reporting NFFE to obtain written approval from the IRS to register as a sponsored direct reporting NFFE of a section 267(b)-related sponsoring entity.

Section 267(b) describes certain relationships among individuals, corporations, trusts, tax-exempt organizations, and S corporations. The rules described in this paragraph are intended to prevent a sponsored FFI or sponsored direct reporting NFFE from registering under an entity that is related to the terminated sponsoring entity, such as an entity under common control with the terminated sponsoring entity. However, the proposed regulations inadvertently omitted certain relationships between sponsoring entities that are partnerships. These final regulations correct this omission by providing that the rules described in this paragraph generally prohibit registration by a sponsored FFI or sponsored direct reporting NFFE under a sponsoring entity that has a relationship described in section 267(b) or 707(b) to the terminated sponsoring entity. Thus, for example, a sponsored FFI of a terminated sponsoring entity that is a partnership may not register under another sponsoring entity that is a partnership if the same person owns, directly or indirectly, more than 50 percent of capital interests or profits interests of both sponsoring entities. Additionally, these final regulations conform the rule for sponsored direct reporting NFFEs with the rule for sponsored FFIs by allowing a sponsored direct reporting NFFE to register under a sponsoring entity, notwithstanding that there is the impermissible relationship described in this paragraph, if the sponsored direct reporting NFFE obtains written approval from the IRS.

Sponsored Entities Located in a Model 1 IGA Jurisdiction

The preamble to the proposed regulations provides that a financial institution covered by a Model 1 IGA that chooses to qualify as a sponsored FFI under § 1.1471–5(f) instead of Annex II of the Model 1 IGA must satisfy all of the requirements of the regulations applicable to such an entity. 82 FR 1629 at 1631. Comments requested that a financial institution located in a jurisdiction with a Model 1 IGA that does not include a sponsored entity as a type of nonreporting financial institution in Annex II be allowed to comply with local guidance on sponsored entities or the Model 1 IGA Annex II rather than the regulations. The Treasury Department and the IRS are open to discussing the issue with the competent authorities of affected jurisdictions.

Nonsubstantive Changes

These final regulations include several minor nonsubstantive changes to the proposed regulations. Section 1.1471–4(f)(2)(ii)(B)(*1*) was reorganized for clarity. Minor clarifying edits were made in §§ 1.1471–4(f)(3)(i), 1.1471–5(f)(1)(i)(F)(*4*), (f)(1)(iv) introductory text, (f)(1)(iv)(A) and (B), (f)(2)(iii)(E), (j)(3)(ii) and (iii), (j)(4)(ii), (j)(5) and (6), (k)(4)(i), (ii), (iii), and (v), and (l)(2)(ii) and (iii), and 1.1472–1(f)(2)(ii) and (iii), (f)(3)(ii), (f)(4)(vii), and (g)(4)(i), (ii), and (iii).

Special Analyses

The Administrator of the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, has waived review of this rule in accordance with section 6(a)(3)(A) of Executive Order 12866. This rule is an E.O. 13771 regulatory action.

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2246. The collection of information in these final regulations is in §§ 1.1471–4, 1.1471–5 and 1.1472–1. The collection of information is on a certification filed with the IRS regarding the filer's compliance with its chapter 4 requirements. This information is required to enable the IRS to verify that a taxpayer is complying with its requirements under chapter 4. Certifications are required from compliance FIs, sponsoring entities, and

trustees of trustee-documented trusts. Information on the estimated number of compliance FIs, sponsoring entities, and trustees of trustee-documented trusts required to submit a certification under these final regulations is shown in table 1.

TABLE 1

	Number of respondents (estimated)
Compliance FIs	5,000–10,000
Sponsoring entities and trustees of trustee-documented trusts	10,000–15,000

Information on the number of compliance FIs, sponsoring entities, and trustees of trustee-documented trusts shown in table 1 is from the IRS's FATCA registration data. Comments are requested on the estimated number of respondents.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

It is hereby certified that the collection of information requirement in these final regulations will not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act (5 U.S.C. chapter 6). Although the Treasury Department and IRS acknowledge that a small entity could be a compliance FI that is affected by these regulations, the Treasury Department and IRS have concluded this possibility is too small and the potential effect is too minimal to have a significant impact. Additionally, acting as a compliance FI is not required under the chapter 4 regulations. Furthermore, these regulations do not increase the regulatory burden on small entities because they clarify existing chapter 4 regulations regarding a compliance FI's certification obligations. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Charles Rioux, Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.1471–0 is amended by:

■ 1. Adding entries for § 1.1471–4(f)(2)(ii)(B)(*1*), (f)(2)(ii)(B)(1)(i) and (ii), (f)(2)(ii)(B)(*2*), and (j)(1) and (2).

■ 2. Adding entries for § 1.1471–5(f)(1)(iv), (f)(1)(iv)(A) and (B), (j)(1), (2), and (3), (j)(3)(i), (j)(3)(i)(A) and (B), (j)(3)(ii) through (vi), (j)(3)(vi)(A) and (B), (j)(3)(vii), (j)(4), (j)(4)(i) through (iii), (j)(5) and (6), (k)(1) through (4), (k)(4)(i) through (v).

■ 3. Revising the entry for § 1.1471–5(l).

■ 4. Adding entries for § 1.1471–5(l)(1) and (2), (l)(2)(i), (l)(2)(i)(A) and (B), (l)(2)(ii) through (iv), (l)(3), (l)(3)(i) and (ii), and (m).

■ 5. Adding entries for § 1.1472–1(f)(1) and (2), (f)(2)(i), (f)(2)(i)(A) and (B), (f)(2)(ii) through (iv), (f)(3), (f)(3)(i) and (ii), (f)(4), (g)(1) through (g)(4), and (g)(4)(i) through (iv).

The additions and revisions read as follows:

§ 1.1471–0 Outline of regulation provisions for sections 1471 through 1474.

* * * * *

§ 1.1471–4 FFI agreement.

* * * * *

(f) * * *

(2) * * *

(ii) * * *

(B) * * *

(*1*) Periodic certification.

(*i*) In general.

(*ii*) Late-joining electing FFIs.

(*2*) Preexisting account certification.

* * * * *

(j) * * *

(1) In general.

(2) Special applicability date.

§ 1.1471–5 Definitions applicable to section 1471.

* * * * *

(f) * * *

(1) * * *

(iv) IRS review of compliance by registered deemed-compliant FFIs.

(A) General inquiries.

(B) Inquiries regarding substantial non-compliance.

* * * * *

(j) * * *

(1) In general.

(2) Compliance program.

(3) Certification of compliance.

(i) Certification requirement.

(A) In general.

(B) Extension of time for the certification period ending on December 31, 2017.

(ii) Late-joining sponsored FFIs.

(iii) Certification period.

(iv) Additional certifications or information.

(v) Certifications regarding sponsoring entity and sponsored FFI requirements.

(vi) Certifications regarding internal controls.

(A) Certification of effective internal controls.

(B) Qualified certification.

(vii) Material failures defined.

(4) IRS review of compliance.

(i) General inquiries.

(ii) Inquiries regarding substantial non-compliance.

(iii) Compliance procedures for a sponsored FFI subject to a Model 2 IGA.

(5) Preexisting account certification.

(6) Sponsorship agreement.

(k) * * *

(1) Defined.

(2) Notice of event of default.

(3) Remediation of event of default.

(4) Termination.

(i) In general.

(ii) Termination of sponsoring entity.

(iii) Termination of sponsored FFI.

(iv) Reconsideration of notice of default or notice of termination.

(v) Sponsoring entity of sponsored FFIs subject to a Model 2 IGA.

(l) Trustee-documented trust verification.

(1) Compliance program.

(2) Certification of compliance.

(i) Certification requirement.

(A) In general.

(B) Extension of time for the certification period ending on December 31, 2017.

(ii) Late-joining trustee-documented trusts.

(iii) Certification period.

(iv) Certifications.

(3) IRS review of compliance by trustees of trustee-documented trusts.

(i) General inquiries.

(ii) Inquiries regarding substantial non-compliance.

(m) Applicability date.

* * * * *

§ 1.1472–1 Withholding on NFFEs.

* * * * *

(f) * * *

(1) In general.

(2) Certification of compliance.

(i) Certification requirement.

(A) In general.

(B) Extension of time for the certification period ending on December 31, 2017.

(ii) Late-joining sponsored direct reporting NFFEs.
(iii) Certification period.
(iv) Certifications.
(3) IRS review of compliance.
(i) General inquiries.
(ii) Inquiries regarding substantial non-compliance.
(4) Sponsorship agreement.
(g) * * *
(1) Defined.
(2) Notice of event of default.
(3) Remediation of event of default.
(4) Termination.
(i) In general.
(ii) Termination of sponsoring entity.
(iii) Termination of sponsored direct reporting NFFE.
(iv) Reconsideration of notice of default or notice of termination.
* * * * *

■ **Par. 3.** Section 1.1471–1 is amended by revising paragraphs (b)(116) and (121) and (c) to read as follows:

§ 1.1471–1 Scope of chapter 4 and definitions.

* * * * *

(b) * * *

(116) *Responsible officer.* The term *responsible officer* means, with respect to a participating FFI, an officer of any participating FFI or reporting Model 1 FFI in the participating FFI's expanded affiliated group with sufficient authority to fulfill the duties of a responsible officer described in § 1.1471–4, which include the requirement to periodically certify to the IRS regarding the FFI's compliance with its FFI agreement. The term *responsible officer* means, in the case of a registered deemed-compliant FFI, an officer of any deemed-compliant FFI or participating FFI in the deemed-compliant FFI's expanded affiliated group with sufficient authority to ensure that the FFI meets the applicable requirements of § 1.1471–5(f). The term *responsible officer* means, with respect to a sponsoring entity, an officer of the sponsoring entity or an officer of an entity that establishes and maintains policies and procedures for, and has general oversight over, the sponsoring entity, provided such officer has sufficient authority to fulfill the duties of a responsible officer described in § 1.1471–5(j) or § 1.1472–1(f) (as applicable). If a participating FFI elects to be part of a consolidated compliance program, the term *responsible officer* means an officer of the compliance FI (as described in § 1.1471–4(f)) with sufficient authority to fulfill the duties of a responsible officer described in § 1.1471–4(f)(2) and (3) on behalf of each FFI in the compliance group. In the case of an FI or sponsoring entity that is an investment entity, for purposes of this paragraph (b)(116), the responsible officer may be, in lieu of an officer of the investment entity, an individual who is a director, managing member, or general partner of the investment entity or, if the general partner or managing member of the investment entity is itself an entity, an individual who is an officer, director, managing member, or general partner of such other entity.

* * * * *

(121) *Sponsored FFI.* The term *sponsored FFI* means any entity described in § 1.1471–5(f)(1)(i)(F) (describing sponsored investment entities and sponsored controlled foreign corporations) or § 1.1471–5(f)(2)(iii) (describing sponsored, closely held investment vehicles). The term *sponsored FFI* also means a sponsored investment entity, a sponsored controlled foreign corporation, or a sponsored, closely held investment vehicle treated as deemed-compliant under an applicable Model 2 IGA.

* * * * *

(c) *Applicability date.* This section generally applies beginning on January 6, 2017, except for paragraphs (b)(116) and (121) of this section, which apply beginning on March 25, 2019. However, taxpayers may apply these provisions as of January 28, 2013. (For the rules that otherwise apply beginning on January 6, 2017, and before March 25, 2019, see this section as in effect and contained in 26 CFR part 1 revised April 1, 2018. For rules that otherwise apply beginning on January 28, 2013, and before January 6, 2017, see this section as in effect and contained in 26 CFR part 1 revised April 1, 2016.)

■ **Par. 4.** Section 1.1471–4 is amended by:
■ 1. Revising paragraphs (f)(2)(ii)(A).
■ 2. Adding paragraphs (f)(2)(ii)(B)(*1*) and (*2*).
■ 3. Revising paragraphs (f)(3)(i), (g)(2), and (j)(1).

The revisions and additions read as follows:

§ 1.1471–4 FFI agreement.

* * * * *

(f) * * *

(2) * * *

(ii) * * * (A) *In general.* A participating FFI that is a member of an expanded affiliated group that includes one or more FFIs may elect to be part of a consolidated compliance program (and perform a consolidated periodic review) under the authority of a participating FFI, reporting Model 1 FFI, or U.S. financial institution (compliance FI) that is a member of the electing FFI's expanded affiliated group, regardless of whether all such members so elect. In addition, when an FFI elects to be part of a consolidated compliance program, each branch that it maintains (including a limited branch or a branch described in § 1.1471–5(f)(1)), other than a branch located in a Model 1 IGA jurisdiction, must be subject to periodic review as part of such program and included on the periodic certification (described in paragraph (f)(2)(ii)(B)(*1*) of this section). To the extent that a compliance FI satisfies the certification requirements of paragraph (f)(2)(ii)(B) of this section on behalf of an electing FFI, such electing FFI does not have a certification requirement under paragraph (f)(3) of this section. See § 1.1471–5(j) for the requirement of a sponsoring entity to establish and implement a compliance program for its sponsored FFIs.

(B) * * *

(*1*) *Periodic certification*—(*i*) *In general.* On or before July 1 of the calendar year following the end of the certification period, the responsible officer of the compliance FI must make the certification described in either paragraph (f)(3)(ii) or (iii) of this section with respect to all electing FFIs for which it acts during the certification period on the form and in the manner prescribed by the IRS. The certification must be made on behalf of all electing FFIs in the compliance group during the certification period, except as otherwise provided in paragraph (f)(2)(ii)(B)(*1*)(*ii*) of this section. The first certification period for a compliance group begins on the later of the date the compliance FI is issued a GIIN or June 30, 2014, and ends at the close of the third full calendar year following such date. Each subsequent certification period is the three-calendar-year period following the previous certification period.

(*ii*) *Late-joining electing FFIs.* In general, with respect to a certification period, a compliance FI is not required to make a certification for an electing FFI that first elects to be part of the consolidated compliance program of the compliance FI during the six-month period before the end of the certification period, provided that the compliance FI makes certifications for such electing FFI for subsequent certification periods, and the first such certification covers both the subsequent certification period and the portion of the prior certification period of the compliance group during which such FFI was an electing FFI in the consolidated compliance program of the compliance FI. However, the preceding sentence does not apply to an electing FFI that, immediately before the electing FFI elects to be part of the consolidated compliance program, was a participating FFI or registered deemed-compliant FFI. The compliance FI may certify for an electing FFI described in the preceding sentence for

the portion of the certification period of the compliance group before the date that the electing FFI elects to be part of the consolidated compliance program if the compliance FI obtains from the FFI (or the FFI's former compliance FI, if applicable) a written certification that the FFI has complied with its applicable chapter 4 requirements during such portion of the certification period, provided that: The compliance FI does not know that such certification is unreliable or incorrect; and the certification for the electing FFI for the subsequent certification period covers both the subsequent certification period and the portion of the prior certification period during which such FFI was an electing FFI in the consolidated compliance program of the compliance FI.

(*2*) *Preexisting account certification.* The responsible officer of a compliance FI must make the certification described in paragraph (c)(7) of this section (preexisting account certification of a participating FFI) with respect to each electing FFI that elects to be part of the consolidated compliance program under the compliance FI during the certification period. However, a preexisting account certification is not required for an electing FFI if immediately before electing to be part of the consolidated compliance program under the compliance FI the FFI was a participating FFI or a registered deemed-compliant FFI that is a local FFI or restricted fund, and the FFI (or the FFI's former compliance FI, if applicable) provides a written certification to the compliance FI that the FFI has made the preexisting account certification required under paragraph (c)(7) of this section or § 1.1471–5(f)(1)(i)(A)(*7*) or (f)(1)(i)(D)(*6*) (as applicable), unless the compliance FI knows that such written certification is unreliable or incorrect. In addition, a preexisting account certification is not required for an electing FFI that elects to be part of the consolidated compliance program under the compliance FI during the two year period before the end of the certification period, provided that the compliance FI makes the preexisting account certification for such FFI for the subsequent certification period. The certification required under this paragraph (f)(2)(ii)(B)(*2*) for the certification period must be submitted by the due date of the FFI's certification of compliance required under paragraph (f)(2)(ii)(B)(*1*)(*i*) of this section for the certification period, on the form and in the manner prescribed by the IRS.

(3) * * *

(i) *In general.* In addition to the certifications required under paragraph (c)(7) of this section, on or before July 1 of the calendar year following the end of each certification period, the responsible officer must make the certification described in either paragraph (f)(3)(ii) or (iii) of this section on the form and in the manner prescribed by the IRS. The first certification period begins on the effective date of the FFI agreement and ends at the close of the third full calendar year following the effective date of the FFI agreement. Each subsequent certification period is the three-calendar-year period following the previous certification period, unless the FFI agreement provides for a different period. The responsible officer must either certify that the participating FFI maintains effective internal controls or, if the participating FFI has identified an event of default (defined in paragraph (g) of this section) or a material failure (defined in paragraph (f)(3)(iv) of this section) that it has not corrected as of the date of the certification, must make the qualified certification described in paragraph (f)(3)(iii) of this section. The certification of compliance described in paragraph (f)(3)(ii) or (iii) of this section may be modified through an amendment to the FFI agreement to include any additional certifications or information (such as quantitative or factual information related to the FFI's compliance with the FFI agreement), provided that any additional information or certifications are published at least 90 days before being incorporated into the FFI agreement to allow for public comment.

* * * * *

(g) * * *

(2) *Notice of event of default.* Following an event of default known by or disclosed to the IRS, the IRS will deliver to the participating FFI a notice of default specifying the event of default. The IRS will request that the participating FFI remediate the event of default within 45 days (unless additional time is requested and agreed to by the IRS). The participating FFI must respond to the notice of default and provide information responsive to an IRS request for information or state the reasons why the participating FFI does not agree that an event of default has occurred. Taking into account the terms of any applicable Model 2 IGA, if the participating FFI does not provide a response within the specified time period, the IRS may, at its sole discretion, deliver a notice of termination that terminates the FFI's participating FFI status. If the FFI's participating FFI status is terminated, in addition to the requirements in § 1.1471–3(c)(6)(ii)(E)(*2*), the FFI must, within 30 days of the termination, send notice of the termination to each withholding agent from which it receives payments and each financial institution with which it holds an account for which a withholding certificate or other documentation was provided. An FFI that has had its participating FFI status terminated may not reregister on the FATCA registration website as a participating FFI or registered deemed-compliant FFI unless it receives written approval from the IRS to register. A participating FFI may request, within 90 days of a notice of default or notice of termination, reconsideration of a notice of default or notice of termination by written request to the IRS.

* * * * *

(j) * * * (1) *In general.* This section generally applies beginning on January 6, 2017, except for paragraphs (f)(2)(ii)(A), (f)(2)(ii)(B)(*1*) and (*2*), (f)(3)(i), and (g)(2) of this section, which apply March 26, 2019. However, taxpayers may apply these provisions as of January 28, 2013. (For the rules that otherwise apply beginning on January 6, 2017, and before March 26, 2019, see this section as in effect and contained in 26 CFR part 1 revised April 1, 2018. For rules that apply beginning on January 23, 2013 and before January 6, 2017, see this section as in effect and contained in 26 CFR part 1 revised April 1, 2016.)

* * * * *

■ **Par. 5.** Section 1.1471–5 is amended by:

■ 1. Revising paragraph (f)(1)(i)(F)(*3*)(*vi*).

■ 2. Removing paragraph (f)(1)(i)(F)(*3*)(*vii*).

■ 3. Redesignating paragraph (f)(1)(i)(F)(*3*)(*viii*) as paragraph (f)(1)(i)(F)(*3*)(*vii*).

■ 4. Revising paragraph (f)(1)(i)(F)(*4*).

■ 5. Adding paragraph (f)(1)(iv).

■ 6. Revising paragraph (f)(2)(iii)(D)(*4*).

■ 7. Removing paragraph (f)(2)(iii)(D)(*5*).

■ 8. Redesignating paragraph (f)(2)(iii)(D)(*6*) as paragraph (f)(2)(iii)(D)(*5*).

■ 9. Revising paragraph (f)(2)(iii)(E).

■ 10. Revising paragraphs (j) and (k).

■ 11. Redesignating paragraph (l) as paragraph (m).

■ 12. Adding new paragraph (l).

■ 13. Revising newly redesignated paragraph (m).

The revisions and additions read as follows:

§ 1.1471–5 Definitions applicable to section 1471.

* * * * *

(f) * * *
(1) * * *
(i) * * *
(F) * * *
(*3*) * * *

(*vi*) Complies with the verification procedures described in paragraph (j) of this section; and

* * * * *

(*4*) The IRS may revoke a sponsoring entity's status with respect to one or more sponsored FFIs based on the provisions of paragraphs (k)(2), (3), and (4) of this section (describing notice of event of default, remediation, and termination procedures) if there is an event of default as defined in paragraph (k)(1) of this section.

* * * * *

(iv) *IRS review of compliance by registered deemed-compliant FFIs*—(A) *General inquiries.* With respect to a registered deemed-compliant FFI described in paragraph (f)(1)(i)(A), (C), or (D) of this section, the IRS, based upon the information reporting forms described in § 1.1471–4(d)(3)(v), (d)(5)(vii), or (d)(6)(iv) filed with the IRS for each calendar year (if applicable), may request additional information with respect to the information reported (or required to be reported) on the forms, the account statements described in § 1.1471–4(d)(4)(v), or confirmation that the FFI has no reporting requirements for the calendar year. The IRS may request additional information from the FFI to determine the FFI's compliance with § 1.1471–4 (if applicable) and to assist the IRS with its review of account holder compliance with tax reporting requirements. For IRS review of compliance with respect to a registered deemed-compliant FFI described in paragraph (f)(1)(i)(F) of this section (describing sponsored investment entities and controlled foreign corporations), see paragraph (j)(4) of this section.

(B) *Inquiries regarding substantial non-compliance.* With respect to a registered deemed-compliant FFI described in paragraph (f)(1)(i)(A) through (E) of this section, the IRS may determine in its discretion that the FFI may not have substantially complied with the requirements of the deemed-compliant status claimed by the FFI. This determination is based on the information reporting forms described in § 1.1471–4(d)(3)(v), (d)(5)(vii), or (d)(6)(iv) filed with the IRS for each calendar year (if applicable), the certifications made by the responsible officer described in paragraph (f)(1)(ii)(B) of this section (or the absence of such certifications), or any other information related to the FFI's compliance with the requirements of the deemed-compliant status claimed by the FFI. In such a case, the IRS may request from the responsible officer (or designee) information necessary to verify the FFI's compliance with the requirements for the deemed-compliant status claimed by the FFI. For example, in the case of a local FFI under paragraph (f)(1)(i)(A) of this section, the IRS may request a description or copy of the FFI's policies and procedures for identifying accounts held by specified U.S. persons not resident in the jurisdiction in which the FFI is incorporated or organized, identifying entities controlled or beneficially owned by such persons, and identifying nonparticipating FFIs. The IRS may also request the performance of specified review procedures by a person (including an external auditor or third-party consultant) that the IRS identifies as competent to perform such procedures given the facts and circumstances surrounding the FFI's potential failure to comply with the requirements of the deemed-compliant category claimed by the FFI. If the IRS determines that the FFI has not complied with the requirements of the deemed-compliant status claimed by the FFI, the IRS may terminate the FFI's deemed-compliant status. If the FFI's deemed-compliant status is terminated, the FFI must send notice of the termination to each withholding agent from which it receives payments and each financial institution with which it holds an account for which a withholding certificate or other documentation was provided within 30 days after the termination. An FFI that has had its deemed-compliant status terminated may not reregister on the FATCA registration website as a registered deemed-compliant FFI or register on the FATCA registration website as a participating FFI unless it receives written approval from the IRS. A registered deemed-compliant FFI may request, within 90 days of a notice of termination, reconsideration of the notice of termination by written request to the IRS.

(2) * * *
(iii) * * *
(D) * * *

(*4*) Complies with the verification procedures described in paragraph (j) of this section; and

* * * * *

(E) The IRS may revoke a sponsoring entity's status as a sponsoring entity with respect to one or more sponsored FFIs based on the provisions of paragraphs (k)(2), (3), and (4) of this section (describing notice of event of default, remediation, and termination procedures) if there is an event of default as defined in paragraph (k)(1) of this section. A sponsoring entity is not liable for any failure to comply with the obligations contained in paragraph (f)(2)(iii)(D) of this section unless the sponsoring entity is a withholding agent that is separately liable for the failure to withhold on or report with respect to a payment made by the sponsoring entity on behalf of the sponsored FFI. A sponsored FFI will remain liable for any failure of its sponsoring entity to comply with the obligations contained in paragraph (f)(2)(iii)(D) of this section that the sponsoring entity has agreed to undertake on behalf of the FFI, even if the sponsoring entity is also a withholding agent and is itself separately liable for the failure to withhold on or report with respect to a payment made by the sponsoring entity on behalf of the sponsored FFI. The same tax, interest, or penalties, however, shall not be collected more than once.

* * * * *

(j) *Sponsoring entity verification*—(1) *In general.* This paragraph (j) describes the requirements for a sponsoring entity of a sponsored FFI to establish and implement a compliance program for satisfying its requirements as a sponsoring entity and to provide a certification of compliance with its requirements. This paragraph (j) also describes the procedures for the IRS to review the sponsoring entity's compliance with respect to each sponsored FFI for purposes of satisfying the requirements of paragraph (f)(1)(i)(F) or (f)(2)(iii) of this section or an applicable Model 2 IGA. For purposes of a sponsoring entity's certification of compliance under this paragraph (j), a sponsoring entity must have in place a written sponsorship agreement described in paragraph (j)(6) of this section with each sponsored FFI. See paragraph (j)(3)(v)(B) of this section for the certification regarding a sponsoring entity's sponsorship agreement with each sponsored FFI.

(2) *Compliance program.* The sponsoring entity must appoint a responsible officer to oversee the compliance of the sponsoring entity with respect to each sponsored FFI for purposes of satisfying the requirements of paragraph (f)(1)(i)(F) or (f)(2)(iii) of this section or an applicable Model 2 IGA. The responsible officer must (either personally or through designated persons) establish a compliance program that includes policies, procedures, and processes sufficient for the sponsoring entity to satisfy the

requirements described in the preceding sentence. The responsible officer (or designee) must periodically review the sufficiency of the sponsoring entity's compliance program, the sponsoring entity's compliance with respect to each sponsored FFI for purposes of satisfying the requirements of paragraph (f)(1)(i)(F) or (f)(2)(iii) of this section or an applicable Model 2 IGA, and the compliance of each sponsored FFI with the due diligence, withholding, and reporting requirements of § 1.1471–4 or an applicable Model 2 IGA during the certification period described in paragraph (j)(3)(iii) of this section. The results of the periodic review must be considered by the responsible officer in making the periodic certifications described in paragraph (j)(3) of this section.

(3) *Certification of compliance*—(i) *Certification requirement*—(A) *In general.* In addition to the certification required under paragraph (j)(5) of this section (preexisting account certification), and except as otherwise provided in paragraph (j)(3)(i)(B) or (j)(3)(ii) of this section, on or before July 1 of the calendar year following the certification period, the responsible officer of the sponsoring entity must make the certification described in paragraph (j)(3)(v) of this section and either the certification described in paragraph (j)(3)(vi)(A) of this section or the certification described in paragraph (j)(3)(vi)(B) of this section with respect to all sponsored FFIs for which the sponsoring entity acts during the certification period on the form and in the manner prescribed by the IRS. To the extent that a sponsoring entity satisfies the certification requirements of paragraph (j)(3) of this section on behalf of a sponsored FFI, the sponsored FFI does not have a certification requirement under paragraph (f)(1)(ii)(B) of this section.

(B) *Extension of time for the certification period ending on December 31, 2017.* The certifications required for a certification period ending on December 31, 2017, must be submitted on or before March 31, 2019.

(ii) *Late-joining sponsored FFIs.* In general, with respect to a certification period, a sponsoring entity is not required to make a certification for a sponsored FFI that first agrees to be sponsored by the sponsoring entity during the six-month period before the end of the sponsoring entity's certification period, provided that the sponsoring entity makes certifications for such sponsored FFI for subsequent certification periods and the first such certification covers both the subsequent certification period and the portion of the prior certification period of the sponsoring entity during which such FFI was sponsored by the sponsoring entity. However, the preceding sentence does not apply to a sponsored FFI that, immediately before the FFI agrees to be sponsored by the sponsoring entity, was a participating FFI, registered deemed-compliant FFI, or sponsored, closely held investment vehicle of another sponsoring entity. The sponsoring entity may certify for a sponsored FFI described in the preceding sentence for the portion of the certification period of the sponsoring entity before the date that the FFI first agrees to be sponsored by the sponsoring entity if the sponsoring entity obtains from the FFI (or the FFI's sponsoring entity, if applicable) a written certification that the FFI has complied with its applicable chapter 4 requirements during such portion of the certification period, provided that: the sponsoring entity does not know that such certification is unreliable or incorrect; and the certification for the sponsored FFI for the subsequent certification period covers both the subsequent certification period and the portion of the prior certification period during which such FFI was sponsored by the sponsoring entity.

(iii) *Certification period.* The first certification period of a sponsoring entity begins on the later of the date the sponsoring entity is issued a GIIN to act as a sponsoring entity or June 30, 2014, and ends at the close of the third full calendar year following such date. Each subsequent certification period is the three-calendar-year period following the previous certification period.

(iv) *Additional certifications or information.* The certification of compliance described in paragraph (j)(3) of this section may be modified to include additional certifications or information (such as quantitative or factual information related to the sponsoring entity's compliance with respect to each sponsored FFI for purposes of satisfying the requirements of paragraph (f)(1)(i)(F) or (f)(2)(iii) of this section or an applicable Model 2 IGA), provided that such additional information or certifications are published at least 90 days before being made effective in order to allow for public comment.

(v) *Certifications regarding sponsoring entity and sponsored FFI requirements.* The responsible officer of the sponsoring entity must certify to the following statements—

(A) The sponsoring entity meets all of the requirements of a sponsoring entity as described in paragraph (f)(1)(i)(F)(*3*) or (f)(2)(iii)(D) of this section or an applicable Model 2 IGA, including the chapter 4 status required of such entity;

(B) The sponsoring entity has a written sponsorship agreement in effect with each sponsored FFI authorizing the sponsoring entity to fulfill the requirements of paragraph (f)(1)(i)(F) or (f)(2)(iii) of this section or an applicable Model 2 IGA with respect to each sponsored FFI; and

(C) Each sponsored FFI treated as a sponsored investment entity, a sponsored controlled foreign corporation, or a sponsored, closely held investment vehicle by the sponsoring entity meets the requirements of its respective status.

(vi) *Certifications regarding internal controls*—(A) *Certification of effective internal controls.* The responsible officer of the sponsoring entity must certify to the following statements—

(*1*) The responsible officer of the sponsoring entity has established a compliance program that is in effect as of the date of the certification and that has been subject to the review as described in paragraph (j)(2) of this section;

(*2*) With respect to material failures (defined in paragraph (j)(3)(vii) of this section)—

(*i*) There are no material failures for the certification period; or

(*ii*) If there were any material failures, appropriate actions were taken to remediate such failures and to prevent such failures from reoccurring; and

(*3*) With respect to any failure to withhold, deposit, or report to the extent required under § 1.1471–4 or an applicable Model 2 IGA with respect to any sponsored FFI for any year during the certification period, the sponsored FFI has corrected such failure by paying (or directing the sponsoring entity to pay) any taxes due (including interest and penalties) and filing (or directing the sponsoring entity to file) the appropriate return (or amended return).

(B) *Qualified certification.* If the responsible officer of the sponsoring entity has identified an event of default (defined in paragraph (k)(1) of this section) or a material failure (defined in paragraph (j)(3)(vii) of this section) that the sponsoring entity has not corrected as of the date of the certification, the responsible officer must certify to the following statements—

(*1*) The responsible officer of the sponsoring entity has established a compliance program that is in effect as of the date of the certification and that has been subjected to the review as described in paragraph (j)(2) of this section;

(*2*) With respect to the event of default or material failure—

(*i*) The responsible officer (or designee) has identified an event of default; or

(*ii*) The responsible officer has determined that there are one or more material failures as defined in paragraph (j)(3)(vii) of this section and that appropriate actions will be taken to prevent such failures from reoccurring;

(*3*) With respect to any failure to withhold, deposit, or report to the extent required under § 1.1471–4 or an applicable Model 2 IGA with respect to any sponsored FFI for any year during the certification period, the sponsored FFI will correct such failure by paying (or directing the sponsoring entity to pay) any taxes due (including interest and penalties) and filing (or directing the sponsoring entity to file) the appropriate return (or amended return); and

(*4*) The responsible officer (or designee) will respond to any notice of default under paragraph (k)(2) of this section or will provide to the IRS a description of each material failure and a written plan to correct each such failure when requested under paragraph (j)(4) of this section.

(vii) *Material failures defined.* A material failure is a failure of the sponsoring entity with respect to each sponsored FFI to satisfy the requirements of paragraph (f)(1)(i)(F) or (f)(2)(iii) of this section or an applicable Model 2 IGA if the failure was the result of a deliberate action on the part of one or more employees of the sponsoring entity or was an error attributable to a failure of the sponsoring entity to implement internal controls sufficient for the sponsoring entity to meet its requirements. A material failure will not constitute an event of default unless such material failure occurs in more than limited circumstances when a sponsoring entity has not substantially complied with the requirements described in the preceding sentence. Material failures include the following—

(A) With respect to any sponsored FFI, the deliberate or systematic failure of the sponsoring entity to report accounts that such sponsored FFI was required to treat as U.S. accounts, withhold on passthru payments to the extent required, deposit taxes withheld to the extent required, accurately report recalcitrant account holders (or non-consenting U.S. accounts under an applicable Model 2 IGA), or accurately report with respect to nonparticipating FFIs as required under § 1.1471–4(d)(2)(ii)(F) or an applicable Model 2 IGA;

(B) A criminal or civil penalty or sanction imposed on the sponsoring entity or any sponsored FFI (or any branch or office of the sponsoring entity or any sponsored FFI) by a regulator or other governmental authority or agency with oversight over the sponsoring entity's or sponsored FFI's compliance with the AML due diligence procedures to which it (or any branch or office thereof) is subject and that is imposed based on a failure to properly identify account holders under the requirements of those procedures;

(C) A potential future tax liability of any sponsored FFI related to its compliance (or lack thereof) with the due diligence, withholding, and reporting requirements of § 1.1471–4 or an applicable Model 2 IGA for which such sponsored FFI has established, for financial statement purposes, a tax reserve or provision;

(D) A potential contractual liability under the agreement described in paragraph (j)(3)(v)(B) of this section of the sponsoring entity to any sponsored FFI related to such sponsoring entity's compliance (or lack thereof) with paragraph (f)(1)(i)(F) or (f)(2)(iii) of this section or an applicable Model 2 IGA for which the sponsoring entity has established, for financial statement purposes, a reserve or provision; and

(E) Failure to register with the IRS as a sponsoring entity or to register each sponsored FFI required to be registered under paragraph (f)(1)(i)(F)(*3*)(*iii*) of this section or an applicable Model 2 IGA.

(4) *IRS review of compliance*—(i) *General inquiries.* The IRS, based upon the information reporting forms described in § 1.1471–4(d)(3)(v), (d)(5)(vii), or (d)(6)(iv) filed with the IRS (or the absence of such reporting) by the sponsoring entity for each calendar year with respect to any sponsoring FFI, may request additional information with respect to the information reported (or required to be reported) on the forms, the account statements described in § 1.1471–4(d)(4)(v) with respect to one or more sponsored FFIs, or confirmation that the FFI has no reporting requirements. The IRS may also request any additional information from the sponsoring entity (including a copy of each sponsorship agreement the sponsoring entity has entered into with each sponsored FFI) necessary to determine the compliance with the due diligence, withholding, and reporting requirements of § 1.1471–4 or an applicable Model 2 IGA with respect to each sponsored FFI and to assist the IRS with its review of account holder compliance with tax reporting requirements.

(ii) *Inquiries regarding substantial non-compliance.* The IRS may determine in its discretion that a sponsoring entity may not have substantially complied with the requirements of paragraph (f)(1)(i)(F) or (f)(2)(iii) of this section or an applicable Model 2 IGA with respect to any sponsored FFI. This determination is based on the information reporting forms described in § 1.1471–4(d)(3)(v), (d)(5)(vii), or (d)(6)(iv) filed with the IRS by the sponsoring entity for each calendar year with respect to any sponsored FFI (or the absence of reporting), the certifications made by the responsible officer described in paragraphs (j)(3) and (5) of this section (or the absence of such certifications), or any other information related to the sponsoring entity's compliance with respect to any sponsored FFI for purposes of satisfying the requirements of paragraph (f)(1)(i)(F) or (f)(2)(iii) of this section or an applicable Model 2 IGA. In such a case, the IRS may request from the responsible officer (or designee) information necessary to verify the sponsoring entity's compliance with such requirements. The IRS may request, for example, a description or copy of the sponsoring entity's policies and procedures for fulfilling the requirements of paragraph (f)(1)(i)(F) or (f)(2)(iii) of this section or an applicable Model 2 IGA, a description or copy of the sponsoring entity's procedures for conducting its periodic review, or a copy of any written reports documenting the findings of such review. The IRS may also request the performance of specified review procedures by a person (including an external auditor or third-party consultant) that the IRS identifies as competent to perform such procedures given the facts and circumstances surrounding the sponsoring entity's potential failure to comply with respect to each sponsored FFI with the requirements of paragraph (f)(1)(i)(F) or (f)(2)(iii) of this section or an applicable Model 2 IGA.

(iii) *Compliance procedures for a sponsored FFI subject to a Model 2 IGA.* In the case of a sponsored FFI subject to the requirements of an applicable Model 2 IGA, the procedures described in paragraph (j)(4) of this section apply, except as otherwise provided in the applicable Model 2 IGA.

(5) *Preexisting account certification.* The responsible officer of a sponsoring entity must make the certification described in § 1.1471–4(c)(7) (preexisting account certification of a participating FFI) with respect to each sponsored FFI that enters into the sponsorship agreement with the sponsoring entity during the certification period (as defined in paragraph (j)(3)(iii) of this section).

However, the preexisting account certification is not required for a sponsored FFI that, immediately before the FFI first agrees to be sponsored by the sponsoring entity, was a participating FFI, a sponsored FFI of another sponsoring entity, or a registered deemed-compliant FFI that is a local FFI or a restricted fund, if the FFI (or the FFI's former sponsoring entity, if applicable) provides a written certification to the sponsoring entity that the FFI has made the preexisting account certification required under § 1.1471–4(c)(7) or paragraph (f)(1)(i)(A)(*7*) or (f)(1)(i)(D)(*6*) of this section (as applicable), unless the sponsoring entity knows that such written certification is unreliable or incorrect. In addition, the preexisting account certification is not required for a sponsored FFI that enters into the sponsorship agreement with the sponsoring entity during the two year period before the end of the sponsoring entity's certification period, provided that the sponsoring entity makes the preexisting account certification for such FFI for the subsequent certification period. The certification described in this paragraph (j)(5) for the certification period must be submitted by the due date of the sponsoring entity's certification of compliance required under paragraph (j)(3)(i) of this section for the certification period (or the extended due date described in paragraph (j)(3)(i)(B) of this section for the certification period ending on December 31, 2017), on the form and in the manner prescribed by the IRS. With respect to a sponsored FFI for which the sponsoring entity makes a preexisting account certification, a preexisting obligation means any account, instrument, or contract (including any debt or equity interest) maintained, executed, or issued by the sponsored FFI that is outstanding on the earlier of the date the FFI is issued a GIIN as a sponsored FFI or the date the FFI first agrees to be sponsored by the sponsoring entity.

(6) *Sponsorship agreement.* A sponsoring entity must have a written sponsorship agreement (which may be part of another agreement between the sponsoring entity and the sponsored FFI) that refers to the requirements of a sponsored FFI under FATCA and that must be in place with each sponsored FFI for which the sponsoring entity acts by the later of March 31, 2019, or the date that the sponsoring entity begins acting as a sponsoring entity for the applicable sponsored FFI.

(k) *Sponsoring entity event of default*—(1) *Defined.* An event of default with regard to a sponsoring entity occurs if the sponsoring entity fails to perform material obligations required with respect to the due diligence, withholding, and reporting requirements of § 1.1471–4 or an applicable Model 2 IGA with respect to any sponsored FFI, to establish or maintain a compliance program as described in paragraph (j)(2) of this section, or to perform a periodic review described in paragraph (j)(2) of this section. An event of default also includes the occurrence of any of the following—

(i) With respect to any sponsored FFI, failure to obtain, in any case in which foreign law would (but for a waiver) prevent the reporting of U.S. accounts required under § 1.1471–4(d), valid and effective waivers from holders of U.S. accounts or failure to otherwise close or transfer such U.S. accounts as required under § 1.1471–4(i);

(ii) With respect to any sponsored FFI, failure to significantly reduce, over a period of time, the number of account holders or payees that such sponsored FFI is required to treat as recalcitrant account holders or nonparticipating FFIs, as a result of the sponsoring entity failing to comply with the due diligence procedures set forth in § 1.1471–4(c);

(iii) With respect to any sponsored FFI, failure to fulfill the requirements of § 1.1471–4(i) in any case in which foreign law prevents or otherwise limits withholding under § 1.1471–4(b);

(iv) Failure to take timely corrective actions to remedy a material failure described in paragraph (j)(3)(vii) of this section after making a qualified certification described in paragraph (j)(3)(vi)(B) of this section;

(v) Failure to make the preexisting account certification required under paragraph (j)(5) of this section or the periodic certification required under paragraph (j)(3) of this section with respect to any sponsored FFI within the specified time period;

(vi) Making incorrect claims for refund on behalf of any sponsored FFI;

(vii) Failure to cooperate with an IRS request for additional information under paragraph (j)(4) of this section;

(viii) Making any fraudulent statement or misrepresentation of material fact to the IRS or representing to a withholding agent or the IRS its status as a sponsoring entity for an entity other than an entity for which it acts as a sponsoring entity;

(ix) The sponsoring entity is no longer authorized to perform the requirements of a sponsoring entity with respect to one or more sponsored FFIs; or

(x) Failure to have the written sponsorship agreement described in paragraph (j)(3)(v)(B) of this section in effect with each sponsored FFI.

(2) *Notice of event of default.* Following an event of default known by or disclosed by the sponsoring entity to the IRS, the IRS will deliver to the sponsoring entity a notice of default specifying the event of default and, if applicable, identifying each sponsored FFI to which the notice relates. The IRS will request that the sponsoring entity remediate the event of default within 45 days (unless additional time is requested and agreed to by the IRS). The sponsoring entity must respond to the notice of default and provide information responsive to an IRS request for information or state the reasons why the sponsoring entity does not agree that an event of default has occurred.

(3) *Remediation of event of default.* A sponsoring entity will be permitted to remediate an event of default to the extent that it agrees with the IRS on a remediation plan. Such a plan may, for example, allow a sponsoring entity to remediate an event of default described in paragraph (k)(1) of this section with respect to a sponsored FFI by providing specific information regarding the U.S. accounts maintained by such sponsored FFI when the sponsoring entity has been unable to report all of the information with respect to such accounts as required under § 1.1471–4(d) and has been unable to close or transfer such accounts. The IRS may, as part of a remediation plan, require additional information from the sponsoring entity or the performance of the specified review procedures described in paragraph (j)(4)(ii) of this section.

(4) *Termination*—(i) *In general.* If the sponsoring entity does not provide a response to a notice of default within the period specified in paragraph (k)(2) of this section or does not remediate the event of default as described in paragraph (k)(3) of this section, the IRS may deliver a notice of termination that terminates the sponsoring entity's status, the status of one or more sponsored FFIs as deemed-compliant FFIs, or the status of both the sponsoring entity and one or more sponsored FFIs.

(ii) *Termination of sponsoring entity.* If the IRS terminates the status of the sponsoring entity, the sponsoring entity must send notice of the termination within 30 days after the date of termination to each sponsored FFI for which it acts, as well as to each withholding agent from which each sponsored FFI receives payments and each financial institution with which each sponsored FFI holds an account for which a withholding certificate or other

documentation was provided. A sponsoring entity that has had its status terminated cannot register on the FATCA registration website to act as a sponsoring entity for any sponsored FFI or for any entity that is a sponsored entity under a Model 1 IGA unless it receives written approval from the IRS to register. Unless the status of a sponsored FFI has been terminated, the sponsored FFI may register on the FATCA registration website as a participating FFI or registered deemed-compliant FFI (as applicable). However, a sponsored FFI whose sponsoring entity has been terminated may not register or represent its status as a sponsored FFI of a sponsoring entity that has a relationship described in section 267(b) or 707(b) with the sponsoring entity that was terminated without receiving written approval from the IRS.

(iii) *Termination of sponsored FFI.* If the IRS notifies the sponsoring entity that the status of a sponsored FFI is terminated (but not the sponsoring entity's status), the sponsoring entity must remove the sponsored FFI from the sponsoring entity's registration account on the FATCA registration website and send notice of the termination within 30 days after the date of termination to each withholding agent from which the sponsored FFI receives payments and each financial institution with which it holds an account for which a withholding certificate or other documentation was provided with respect to such sponsored FFI. A sponsored FFI that has had its status as a sponsored FFI terminated (independent from a termination of status of its sponsoring entity) may not register on the FATCA registration website as a participating FFI or registered deemed-compliant FFI unless it receives written approval from the IRS.

(iv) *Reconsideration of notice of default or notice of termination.* A sponsoring entity or sponsored FFI may request, within 90 days of a notice of default or notice of termination, reconsideration of the notice of default or notice of termination by written request to the IRS.

(v) *Sponsoring entity of sponsored FFIs subject to a Model 2 IGA.* Subject to the provisions of an applicable Model 2 IGA, the IRS may revoke the status of a sponsoring entity with respect to one or more sponsored FFIs subject to a Model 2 IGA based on the provisions of paragraphs (k)(2), (3), and (4) of this section (describing notice of event of default and termination procedures) if there is an event of default as defined in paragraph (k)(1) of this section.

(l) *Trustee-documented trust verification*—(1) *Compliance program.* A trustee of a trust treated as a trustee-documented trust under an applicable Model 2 IGA must establish and implement a compliance program for purposes of satisfying the requirements of an applicable Model 2 IGA with respect to each such trust. The trustee must appoint a responsible officer who must (either personally or through designated persons) establish policies, procedures, and processes sufficient for the trustee to implement the compliance program. The responsible officer (or designee) must periodically review the sufficiency of the trustee's compliance program and the trustee's compliance with respect to each trust for purposes of satisfying the requirements of an applicable Model 2 IGA for each certification period described in paragraph (l)(2) of this section. The results of the periodic review must be considered by the responsible officer in making the certification described in paragraph (l)(2) of this section.

(2) *Certification of compliance*—(i) *Certification requirement*—(A) *In general.* Except as otherwise provided in paragraph (l)(2)(i)(B) or (l)(2)(ii) of this section, on or before July 1 of the calendar year following the end of the certification period, the responsible officer of the trustee must make a certification for the certification period with respect to all trustee-documented trusts described in paragraph (l)(1) of this section on the form and in the manner prescribed by the IRS.

(B) *Extension of time for the certification period ending on December 31, 2017.* The certifications required for a certification period ending on December 31, 2017, must be submitted on or before March 31, 2019.

(ii) *Late-joining trustee-documented trusts.* In general, with respect to a certification period, the responsible officer of a trustee is not required to make a certification for a trustee-documented trust for which the trustee first agreed to act as the trustee under Annex II of an applicable IGA during the six-month period before the end of the trustee's certification period, provided that the responsible officer of the trustee makes certifications for such trustee-documented trust for subsequent certification periods and the first such certification covers both the subsequent certification period and the portion of the prior certification period of the trustee during which the trustee acted as the trustee of the trustee-documented trust. However, the preceding sentence does not apply to a trustee-documented trust that, immediately before the trustee first agrees to act as the trustee under Annex II of an applicable IGA, was a trustee-documented trust of another trustee. The trustee of a trustee-documented trust may certify for a trustee-documented trust described in the preceding sentence for the portion of the certification period of the trustee before the date that the trustee first agrees to act as the trustee under Annex II of an applicable IGA if the trustee obtains from the trustee-documented trust (or the trust's former trustee, if applicable) a written certification that the trust has complied with its applicable chapter 4 requirements during such portion of the certification period, provided that: The trustee does not know that such certification is unreliable or incorrect; and the certification for the trustee-documented trust for the subsequent certification period covers both the subsequent certification period and the portion of the prior certification period during which the trustee acts as the trustee under Annex II of an applicable IGA.

(iii) *Certification period.* The first certification period of the trustee begins on the later of the date the trustee is issued a GIIN to act as a trustee of a trustee-documented trust or June 30, 2014, and ends at the close of the third full calendar year following such date. Each subsequent certification period is the three-calendar-year period following the previous certification period.

(iv) *Certifications.* The responsible officer of the trustee must certify to the following statements—

(A) The responsible officer of the trustee has established a compliance program that is in effect as of the date of the certification and has performed a periodic review described in paragraph (l)(1) of this section for the certification period; and

(B) The trustee has reported to the IRS on Form 8966, ''FATCA Report'' (or such other form as the IRS may prescribe), all of the information required to be reported pursuant to the applicable Model 2 IGA with respect to all U.S. accounts of each trustee-documented trust for which the trustee acts during the certification period by the due date of Form 8966 (including extensions) for each year.

(3) *IRS review of compliance by trustees of trustee-documented trusts*—(i) *General inquiries.* Based upon the information reporting forms filed with the IRS (or the absence of such reporting) by a trustee with respect to any trustee-documented trust subject to a Model 2 IGA for each calendar year, and subject to the requirements of an applicable Model 2 IGA, the IRS may request from the trustee additional information with respect to the

information reported on the forms with respect to any trustee-documented trust or a confirmation that the trustee has no reporting requirements with respect to any trustee-documented trust. The IRS may also request any additional information to determine the trustee's compliance for purposes of satisfying the trust's requirements as a trustee-documented trust under an applicable Model 2 IGA or to assist the IRS with its review of account holder compliance with tax reporting requirements.

(ii) *Inquiries regarding substantial non-compliance.* The IRS may determine in its discretion that the trustee may not have substantially complied with the requirements applicable to a trustee of a trustee-documented trust. This determination is based on the information reporting forms filed with the IRS by a trustee with respect to any trustee-documented trust subject to a Model 2 IGA for each calendar year (or the absence of such reporting), the certification described in paragraph (l)(2) of this section (or the absence of such certification), or any other information related to the trustee's compliance with respect to any trustee-documented trust for purposes of satisfying the trust's applicable Model 2 IGA requirements. In such a case, the IRS may request from the responsible officer information necessary to verify the trustee's compliance with such requirements. The IRS may also request the performance of specified review procedures by a person (including an external auditor or third-party consultant) that the IRS identifies as competent to perform such procedures given the circumstances surrounding the trustee's potential failure to comply with the requirements of an applicable Model 2 IGA with respect to one or more trustee-documented trusts. The IRS may notify the applicable Model 2 IGA jurisdiction that the trustee has not complied with its requirements as a trustee of one or more trustee-documented trusts.

(m) *Applicability date.* This section generally applies beginning on January 6, 2017, except for paragraphs (f)(1)(i)(F)(*3*)(*vi*), (f)(1)(i)(F)(*4*), (f)(1)(iv), (f)(2)(iii)(D)(*4*), (f)(2)(iii)(E), (j), (k), and (l) of this section, which apply March 26, 2019. However, taxpayers may apply these provisions as of January 28, 2013. (For the rules that otherwise apply beginning on January 6, 2017, and before March 26, 2019, see this section as in effect and contained in 26 CFR part 1 revised April 1, 2018. For the rules that otherwise apply beginning on January 28, 2013, and before January 6, 2017, see this section as in effect and contained in 26 CFR part 1 revised April 1, 2016.)

■ **Par. 6.** Section 1.1472–1 is amended by revising paragraphs (c)(5)(iii), (f), (g), and (h) to read as follows:

§ 1.1472–1 Withholding on NFFEs.

* * * * *

(c) * * *

(5) * * *

(iii) *Revocation of status as sponsoring entity.* The IRS may revoke a sponsoring entity's status as a sponsoring entity with respect to all sponsored direct reporting NFFEs if there is an event of default as defined in paragraph (g) of this section with respect to any sponsored direct reporting NFFE.

* * * * *

(f) *Sponsoring entity verification*—(1) *In general.* This paragraph (f) describes the requirements for a sponsoring entity to provide a certification of compliance with respect to each sponsored direct reporting NFFE for purposes of satisfying the requirements of paragraph (c)(5) of this section and defines the certification period for such certifications. This paragraph (f) also describes the procedures for the IRS to review the sponsoring entity's compliance with such requirements during the certification period. Finally, this paragraph (f) describes the requirement that a sponsoring entity have in place a written sponsorship agreement with each sponsored direct reporting NFFE for which it acts and specifies the terms of such agreement. See paragraph (g)(1)(i) of this section, describing an event of default for a sponsoring entity that does not have a sponsorship agreement with each sponsored direct reporting NFFE for which it acts as a sponsoring entity. References in this paragraph (f) or paragraph (g) of this section to a sponsored direct reporting NFFE mean a sponsored direct reporting NFFE for which the sponsoring entity acts as a sponsoring entity under paragraph (c)(5)(ii) of this section.

(2) *Certification of compliance*—(i) *Certification requirement*—(A) *In general.* The sponsoring entity must appoint a responsible officer to oversee the sponsoring entity's compliance with respect to each sponsored direct reporting NFFE for purposes of satisfying the requirements of paragraph (c)(5) of this section. Except as otherwise provided in paragraph (f)(2)(i)(B) or (f)(2)(ii) of this section, on or before July 1 of the calendar year following the certification period, the responsible officer of the sponsoring entity must make a certification for the certification period with respect to all sponsored direct reporting NFFEs for which the sponsoring entity acts during the certification period on the form and in the manner prescribed by the IRS. To the extent that a sponsoring entity satisfies the certification requirements of paragraph (f)(2) of this section on behalf of a sponsored direct reporting NFFE, the NFFE does not have a certification requirement under paragraph (c)(3)(vi) of this section.

(B) *Extension of time for the certification period ending on December 31, 2017.* The certifications required for a certification period ending on December 31, 2017, must be submitted on or before March 31, 2019.

(ii) *Late-joining sponsored direct reporting NFFEs.* In general, with respect to a certification period, a sponsoring entity is not required to make a certification for a sponsored direct reporting NFFE that first agrees to be sponsored by the sponsoring entity during the six-month period before the end of the sponsoring entity's certification period, provided that the sponsoring entity makes certifications for such sponsored direct reporting NFFE for subsequent certification periods, and the first such certification covers both the subsequent certification period and the portion of the prior certification period of the sponsoring entity during which the sponsored direct reporting NFFE was sponsored by the sponsoring entity. However, the preceding sentence does not apply to a sponsored direct reporting NFFE that, immediately before the NFFE agrees to be sponsored by the sponsoring entity, was a direct reporting NFFE or sponsored direct reporting NFFE of another sponsoring entity. The sponsoring entity may certify for a sponsored direct reporting NFFE described in the preceding sentence for the portion of the certification period of the sponsoring entity before the date that the NFFE first agrees to be sponsored by the sponsoring entity if the sponsoring entity obtains from the NFFE (or the NFFE's sponsoring entity, if applicable) a written certification that the NFFE has complied with its applicable chapter 4 requirements during such portion of the certification period, provided that: The sponsoring entity does not know that such certification is unreliable or incorrect; and the certification for the sponsored direct reporting NFFE for the subsequent certification period covers both the subsequent certification period and the portion of the prior certification period during which such NFFE was sponsored by the sponsoring entity.

(iii) *Certification period.* The first certification period of a sponsoring entity begins on the later of the date the sponsoring entity is issued a GIIN to act as a sponsoring entity or June 30, 2014, and ends at the close of the third full calendar year after such date. Each subsequent certification period is the three-calendar-year period following the close of the previous certification period.

(iv) *Certifications.* The certification will require the responsible officer of the sponsoring entity to certify to the following statements—

(A) The sponsoring entity meets all of the requirements of a sponsoring entity described in paragraph (c)(5)(ii) of this section;

(B) The sponsoring entity has the written sponsorship agreement described in paragraph (f)(4) of this section in effect with each sponsored direct reporting NFFE;

(C) There were no events of default (as defined in paragraph (g) of this section) with respect to the sponsoring entity, or, to the extent there were any such events of default, appropriate measures were taken by the sponsoring entity to remediate and prevent such events from reoccurring; and

(D) With respect to any failure to report to the extent required under paragraph (c)(3)(ii) of this section with respect to one or more sponsored direct reporting NFFEs, the sponsoring entity has corrected such failure by filing the appropriate information returns.

(3) *IRS review of compliance*—(i) *General inquiries.* The IRS, based upon the information reporting forms described in paragraph (c)(3)(ii) of this section filed with the IRS (or the absence of such reporting) by the sponsoring entity for each calendar year with respect to any sponsored direct reporting NFFE, may request additional information with respect to the information reported (or required to be reported) on the forms about any substantial U.S. owner reported on the form or the records for each direct reporting NFFE described in paragraph (c)(3)(iv) of this section. The IRS may also request any additional information from the sponsoring entity (including a copy of each sponsorship agreement the sponsoring entity has entered into with each sponsored FFI) to determine its compliance with paragraph (f) of this section with respect to each sponsored direct reporting NFFE and to assist the IRS with its review of any substantial U.S. owners' compliance with tax reporting requirements.

(ii) *Inquiries regarding substantial non-compliance.* The IRS may determine in its discretion that a sponsoring entity may not have substantially complied with the requirements of a sponsoring entity with respect to each sponsored direct reporting NFFE for purposes of satisfying the requirements of paragraph (c)(5) of this section. This determination is based on the information reporting forms referenced in paragraph (c)(3)(ii) of this section filed with the IRS by the sponsoring entity for each calendar year with respect to any sponsored direct reporting NFFE (or the absence of such reporting), the certification made by the responsible officer described in paragraph (f)(2) of this section (or the absence of such certification), or any other information related to the sponsoring entity's compliance with the requirements of a sponsoring entity with respect to each sponsored direct reporting NFFE for purposes of satisfying the requirements of paragraph (c)(5) of this section. In such a case, the IRS may request from the responsible officer information necessary to verify the sponsoring entity's compliance with such requirements. The IRS may also request the performance of specified review procedures by a person (including an external auditor or third-party consultant) that the IRS identifies as competent to perform such procedures given the circumstances surrounding the sponsoring entity's potential failure to comply with the requirements of a sponsoring entity.

(4) *Sponsorship agreement.* The sponsoring entity must have a written sponsorship agreement (which may be part of another agreement between the sponsoring entity and the sponsored direct reporting NFFE) in place with each sponsored direct reporting NFFE for which it acts by the later of March 31, 2019, or the date that the sponsoring entity begins acting as a sponsoring entity for the applicable sponsored direct reporting NFFE, under which—

(i) The sponsored direct reporting NFFE agrees to provide the sponsoring entity access to the sponsored direct reporting NFFE's books and records regarding each of its owners (including AML/KYC documentation regarding the sponsored direct reporting NFFE's owners provided by the sponsored direct reporting NFFE with respect to each financial account it holds) and such other information sufficient for the sponsoring entity to determine the direct and indirect substantial U.S. owners of the sponsored direct reporting NFFE, including the information about such owners required under paragraph (c)(3)(ii) of this section to be reported on Form 8966, ''FATCA Report'' (or such other form as the IRS may prescribe);

(ii) The sponsored direct reporting NFFE obtains a valid and effective waiver of any legal prohibitions on reporting the information about its direct and indirect substantial U.S. owners required under paragraph (c)(3)(ii) of this section to be reported on Form 8966 (or such other form as the IRS may prescribe);

(iii) The sponsored direct reporting NFFE authorizes the sponsoring entity to act on the sponsored direct reporting NFFE's behalf with respect to the sponsored direct reporting NFFE's obligations as a sponsored direct reporting NFFE (for example, authorizing the sponsoring entity to file Form 8966 on the sponsored direct reporting NFFE's behalf, responding to the IRS inquiries described in paragraph (f)(3) of this section, and providing the certification described in paragraph (f)(2) of this section);

(iv) The sponsored direct reporting NFFE agrees to identify to the sponsoring entity on request each withholding agent and financial institution to which the sponsored direct reporting NFFE reports its status as a sponsored direct reporting NFFE and agrees to provide to the sponsoring entity a copy of the withholding certificate or written statement prescribed in § 1.1471–3(d)(11)(x)(B) (as applicable) that the sponsored direct reporting NFFE provides to each such withholding agent or financial institution;

(v) The sponsored direct reporting NFFE represents that it does not have any formal or informal practices or procedures to assist its substantial U.S. owners with the avoidance of the requirements of chapter 4;

(vi) The sponsored direct reporting NFFE agrees to cooperate with the sponsoring entity in responding to any IRS inquiries under paragraph (f)(3) of this section with respect to the sponsored direct reporting NFFE; and

(vii) The sponsoring entity retains the records described in paragraphs (c)(3)(iii) and (iv) of this section for the longer of six years or the retention period under the sponsoring entity's normal business procedures. A sponsoring entity may be required to extend the retention period if the IRS requests such an extension before the expiration of the period.

(g) *Sponsoring entity event of default*—(1) *Defined.* An event of default by the sponsoring entity means the occurrence of any of the following—

(i) Failure to have the written sponsorship agreement described in paragraph (f)(4) of this section in effect with each sponsored direct reporting NFFE;

(ii) Failure to satisfy the requirements of paragraph (c)(3)(iii) of this section with respect to each sponsored direct reporting NFFE that the NFFE would have been required to satisfy as a direct reporting NFFE;

(iii) Failure to report to the IRS on Form 8966, ''FATCA Report,'' (or such other form as the IRS may prescribe) all of the information required under paragraph (c)(3)(ii) of this section with respect to each sponsored direct reporting NFFE and each of its substantial U.S. owners (or report to the IRS on Form 8966 that the sponsored direct reporting NFFE had no substantial U.S. owners) by the due date of the form (including any extensions);

(iv) Failure to make the certification required under paragraph (f)(2) of this section;

(v) Failure to cooperate with an IRS request for additional information described in paragraph (f)(3) of this section, including requests for the records described in paragraph (c)(3)(iv) of this section and requests to extend the retention period for these records as described in (f)(4)(vii) of this section;

(vi) Making any fraudulent statement or misrepresentation of material fact to the IRS or representing to a withholding agent or the IRS its status as a sponsoring entity under paragraph (c)(5) of this section for an entity other than an entity for which it acts as a sponsoring entity; or

(vii) Failure to obtain from each sponsored direct reporting NFFE the information required to report on Form 8966.

(2) *Notice of event of default.* Following an event of default known by or disclosed to the IRS, the IRS will deliver to the sponsoring entity a notice of default specifying the event of default and, if applicable, identifying each sponsored direct reporting NFFE to which the notice relates. The IRS will request that the sponsoring entity remediate the event of default within 45 days (unless additional time is requested and agreed to by the IRS). The sponsoring entity must respond to the notice of default and provide information responsive to an IRS request for information or state the reasons why the sponsoring entity does not agree that an event of default has occurred.

(3) *Remediation of event of default.* A sponsoring entity will be permitted to remediate an event of default to the extent that it agrees with the IRS on a remediation plan. The IRS may, as part of a remediation plan, require additional information from the sponsoring entity, remedial actions, or the performance of the specified review procedures described in paragraph (f)(3)(ii) of this section.

(4) *Termination*—(i) *In general.* If the sponsoring entity does not provide a response to a notice of default within the period specified in paragraph (g)(2) of this section, or if the sponsoring entity does not satisfy the conditions of the remediation plan within the time period specified by the IRS, the IRS may deliver a notice of termination that terminates the sponsoring entity's status, the status of one or more sponsored direct reporting NFFEs as a direct reporting NFFE, or the status of both the sponsoring entity and one or more sponsored direct reporting NFFEs.

(ii) *Termination of sponsoring entity.* If the IRS notifies the sponsoring entity that its status is terminated, the sponsoring entity must send notice of the termination within 30 days after the date of termination to each withholding agent from which each sponsored direct reporting NFFE receives payments and each financial institution with which each sponsored direct reporting NFFE holds an account for which a withholding certificate or written statement prescribed in § 1.1471–3(d)(11)(x)(B) (as applicable) was provided. A sponsoring entity that has had its status terminated cannot reregister on the FATCA registration website to act as a sponsoring entity for any sponsored direct reporting NFFE unless it receives written approval from the IRS. Unless the status of the sponsored direct reporting NFFEs has been terminated, the sponsored direct reporting NFFEs may register on the FATCA registration website as direct reporting NFFEs or as sponsored direct reporting NFFEs of another sponsoring entity, other than a sponsoring entity that is related to the sponsoring entity that was terminated (absent written approval from the IRS allowing the registration). An entity is related to the terminated sponsoring entity if they have a relationship with each other that is described in section 267(b) or 707(b).

(iii) *Termination of sponsored direct reporting NFFE.* If the IRS notifies the sponsoring entity that the status of a sponsored direct reporting NFFE is terminated (but not the sponsoring entity's status), the sponsoring entity must remove the sponsored direct reporting NFFE from the sponsoring entity's registration account on the FATCA registration website and send notice of the termination within 30 days after the date of termination to each withholding agent from which the sponsored direct reporting NFFE receives payments and each financial institution with which it holds an account for which a withholding certificate or written statement prescribed in § 1.1471–3(d)(11)(x)(B) (as applicable) was provided with respect to such sponsored direct reporting NFFE. A sponsored direct reporting NFFE that has had its status as a sponsored direct reporting NFFE terminated (independent from a termination of status of its sponsoring entity) may not register on the FATCA registration website as a direct reporting NFFE or as a sponsored direct reporting NFFE of another sponsoring entity unless it receives written approval from the IRS.

(iv) *Reconsideration of notice of default or notice of termination.* A sponsoring entity or sponsored direct reporting NFFE may request, within 90 days of a notice of default or notice of termination, reconsideration of the notice of default or notice of termination by written request to the IRS.

(h) *Applicability date.* This section generally applies beginning on January 6, 2017, except for paragraphs (c)(5)(iii), (f), and (g) of this section, which apply March 26, 2019. However, taxpayers may apply these provisions as of January 28, 2013. (For the rules that otherwise apply beginning on January 6, 2017, and before March 26, 2019, see this section as in effect and contained in 26 CFR part 1 revised April 1, 2018. For rules that otherwise apply beginning on January 28, 2013, and before January 6, 2017, see this section as in effect and contained in 26 CFR part 1 revised April 1, 2016.)

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: February 27, 2019.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2019–05527 Filed 3–21–19; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

30 CFR Part 250

[Docket ID: BSEE–2019–0001; 190E1700D2 ETISF0000.EAQ000 EEEE500000]

RIN 1014–AA42

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

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Final rule.

SUMMARY: This final rule adjusts the level of the maximum daily civil monetary penalty contained in the Bureau of Safety and Environmental Enforcement (BSEE) regulations for violations of the Outer Continental Shelf Lands Act (OCSLA), in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget (OMB) guidance. The civil penalty inflation adjustment, using a 1.02522 multiplier, accounts for one year of inflation spanning from October 2017 to October 2018.

DATES: This rule is effective on March 25, 2019.

FOR FURTHER INFORMATION CONTACT: Stacey Noem, Safety and Enforcement Division, Bureau of Safety and Environmental Enforcement, (202) 208–4005 or by email: *regs@bsee.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Legal Authority

The OCSLA, at 43 U.S.C. 1350(b)(1), directs the Secretary of the Interior (Secretary) to adjust the OCSLA maximum daily civil penalty amount at least once every three years to reflect any increase in the Consumer Price Index (CPI) to account for inflation. On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74) (FCPIA of 2015). The FCPIA of 2015 required Federal agencies to adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through rulemaking, if warranted, and then to make subsequent annual adjustments for inflation. The purpose of these adjustments is to maintain the deterrent effect of civil penalties and to further the policy goals of the underlying statutes. Agencies were required to publish the first annual inflation adjustments in the **Federal Register** by no later than January 15, 2017, and must publish recurring annual inflation adjustments by no later than January 15 of each subsequent year. For this year's annual inflation adjustment, BSEE is publishing this rule after the statutory January 15 deadline because of a lapse in government funding that began on December 22, 2018, and ended on January 25, 2019.

BSEE last updated the maximum daily civil penalty amounts in BSEE's regulations for OCSLA violations by a final rule published and effective on January 18, 2018. (*See* 83 FR 2538). Consistent with OMB guidance, BSEE's final rule implemented the inflation adjustments required by the FCPIA of 2015 through October 2017.

The OMB Memorandum M–19–04 (*Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015*; available at *https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf*) explains agency responsibilities for: Identifying applicable penalties and performing the annual adjustment; publishing revisions to regulations to implement the adjustment in the **Federal Register**; applying adjusted penalty levels; and performing agency oversight of inflation adjustments.

BSEE is promulgating this 2019 inflation adjustment for the OCSLA maximum daily civil penalties as a final rule pursuant to the provisions of the FCPIA of 2015 and OMB's guidance. A proposed rule is not required because the FCPIA of 2015 expressly exempted the annual inflation adjustments implemented pursuant to the FCPIA of 2015 from the pre-promulgation notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553 *et seq.* (the APA), allowing those adjustments to be published directly as final rules. Specifically, the FCPIA of 2015 states that agencies shall adjust civil monetary penalties ''notwithstanding Section 553 of the Administrative Procedure Act.'' (FCPIA of 2015 at section 4(b)(2)). This interpretation of the FCPIA of 2015 is confirmed by OMB Memorandum M–19–04 at 4 (''This means that the public procedure the APA generally requires (*i.e.,* notice, an opportunity for comment, and a delay in effective date) is not required for agencies to issue regulations implementing the annual adjustment.'').

II. Calculation of Adjustments

In accordance with the FCPIA of 2015 and the guidance provided in OMB Memorandum M–19–04, BSEE has calculated the necessary inflation adjustment for the maximum daily civil monetary penalty amount in 30 CFR 250.1403 for violations of OCSLA. The previous OCSLA civil penalty inflation adjustment accounted for inflation through October 2017. The required annual civil penalty inflation adjustment promulgated through this rule accounts for inflation through October 2018.

Annual inflation adjustments are based on the percent change between the Consumer Price Index for all Urban Consumers (CPI–U) for the October preceding the date of the adjustment, and the prior year's October CPI–U. Consistent with the guidance in OMB Memorandum M–19–04, BSEE divided the October 2018 CPI–U by the October 2017 CPI–U to calculate the multiplying factor. In this case, the October 2018 CPI–U (252.885) divided by the October 2017 CPI–U (246.663) is 1.02522. OMB Memorandum M–19–04 confirms that this is the proper multiplier. (OMB Memorandum M–19–04 at 1, n.4).

The FCPIA of 2015 requires that BSEE adjust the OCSLA maximum daily civil penalty amount for inflation using the applicable 2019 multiplier (1.02522). Accordingly, BSEE multiplied the existing OCSLA maximum daily civil penalty amount ($43,576) by 1.02522 to arrive at the new maximum daily civil penalty amount ($44,674.99). The FCPIA of 2015 requires that the resulting amount be rounded to the nearest $1.00 at the end of the calculation process. Accordingly, the adjusted OCSLA maximum daily civil penalty for 2019 is $44,675.

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

CFR citation	Description of the penalty	Current maximum penalty	Multiplier	Adjusted maximum penalty
30 CFR 250.1403	Failure to comply per-day, per-violation.	$43,576	1.02522	$44,675

III. Procedural Requirements

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

Executive Order (E.O.) 12866 provides that the OMB Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant. (*See* OMB Memorandum M–19–04 at 3).

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

E.O. 13771 of January 30, 2017, directs Federal agencies to reduce the regulatory burden on regulated entities and control regulatory costs. E.O. 13771, however, applies only to significant regulatory actions, as defined in Section 3(f) of E.O. 12866. OIRA has determined that agency regulations implementing the annual adjustment required by the FCPIA of 2015 are not significant regulatory actions under E.O. 12866, provided they are consistent with OMB Memorandum M–19–04. (*See* OMB Memorandum M–19–04 at 3). Thus, E.O. 13771 does not apply to this rulemaking.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. (*See* 5 U.S.C. 603(a) and 604(a)). The FCPIA of 2015 expressly exempts these annual inflation adjustments from the requirement to publish a proposed rule for notice and comment. (*See* FCPIA of 2015 at § 4(b)(2); OMB Memorandum M–19–04 at 4). Thus, the RFA does not apply to this rulemaking.

C. Small Business Regulatory Enforcement Fairness Act

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

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

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

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

D. Unfunded Mandates Reform Act

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

E. Takings (E.O. 12630)

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

F. Federalism (E.O. 13132)

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

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

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

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

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

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

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

I. Paperwork Reduction Act

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

J. National Environmental Policy Act

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

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

This rule is not a significant energy action under the definition in E.O. 13211. Therefore, a Statement of Energy Effects is not required.

List of Subjects in 30 CFR Part 250

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

Joseph R. Balash,

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

For the reasons given in the preamble, the BSEE amends title 30, chapter II, subchapter B, part 250 of the Code of Federal Regulations as follows.

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

■ 1. The authority citation for part 250 continues to read as follows:

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

■ 2. Revise § 250.1403 to read as follows:

§ 250.1403 What is the maximum civil penalty?

The maximum civil penalty is $44,675 per day per violation.

[FR Doc. 2019–05671 Filed 3–22–19; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100, 117, 147, and 165

[USCG–2019–0037]

2018 Quarterly Listings; Safety Zones, Security Zones, Special Local Regulations, Drawbridge Operation Regulations and Regulated Navigation Areas

AGENCY: Coast Guard, DHS.

ACTION: Notification of expired temporary rules issued.

SUMMARY: This document provides notification of substantive rules issued by the Coast Guard that were made temporarily effective but expired before they could be published in the **Federal Register**. This document lists temporary safety zones, security zones, special local regulations, drawbridge operation regulations and regulated navigation areas, all of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This document lists temporary Coast Guard rules that became effective, primarily between September 2018 and December 2018, unless otherwise indicated, and were terminated before they could be published in the **Federal Register**.

ADDRESSES: Temporary rules listed in this document may be viewed online, under their respective docket numbers, using the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this document contact Deborah Thomas, Office of Regulations and Administrative Law, telephone (202) 372–3864.

SUPPLEMENTARY INFORMATION: Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. *Safety zones* may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. *Security zones* limit access to prevent injury or damage to vessels, ports, or waterfront facilities. *Special local regulations* are issued to enhance the safety of participants and spectators at regattas and other marine events. *Drawbridge operation regulations* authorize changes to drawbridge schedules to accommodate bridge repairs, seasonal vessel traffic, and local public events. *Regulated Navigation Areas* are water areas within a defined boundary for which regulations for vessels navigating within the area have been established by the regional Coast Guard District Commander.

Timely publication of these rules in the **Federal Register** may be precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, often informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the end of the effective period, mariners were personally notified of the contents of these safety zones, security zones, special local regulations, regulated navigation areas or drawbridge operation regulations by Coast Guard officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary safety zones, security zones, special local regulations, regulated navigation areas and drawbridge operation regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

The following unpublished rules were placed in effect temporarily during the period between September 2018 and December 2018 unless otherwise indicated. To view copies of these rules, visit *www.regulations.gov* and search by the docket number indicated in the following table.

Docket No.	Type	Location	Effective date
USCG–2018–0926	Security Zones (Part 165)	Wheeling, WV	9/29/2018
USCG–2018–0804	Safety Zones (Parts 147 and 165)	Bayville, NY	9/29/2018
USCG–2018–0954	Safety Zones (Parts 147 and 165)	Key West, FL	10/2/2018
USCG–2018–0911	Safety Zones (Parts 147 and 165)	Sister Bay, WI	10/5/2018
USCG–2018–0904	Safety Zones (Parts 147 and 165)	Osage Beach, MO	10/5/2018
USCG–2018–0797	Safety Zones (Parts 147 and 165)	San Francisco, CA	10/6/2018
USCG–2018–0809	Special Local Regulations (Part 100)	Pittsburgh, PA	10/6/2018
USCG–2018–0927	Safety Zones (Parts 147 and 165)	Wilmington DE	10/7/2018
USGC–2018–0896	Safety Zones (Parts 147 and 165)	Capitola, CA	10/7/2018
USCG–2018–0943	Safety Zones (Parts 147 and 165)	San Francisco, CA	10/13/2018
USCG–2018–0887	Safety Zones (Parts 147 and 165)	Moundsville, WV	10/14/2018
USCG–2018–0969	Security Zones (Part 165)	Beaufort, SC	10/19/2018
USCG–2018–0938	Security Zones (Part 165)	New York Harbor	10/19/2018
USCG–2018–0867	Safety Zones (Parts 147 and 165)	Pittsburgh, PA	10/20/2018
USCG–2018–0978	Safety Zones (Parts 147 and 165)	Florence, AL	10/20/2018
USCG–2018–0883	Safety Zones (Parts 147 and 165)	Manasquan, NJ	10/20/2018
USCG–2018–0837	Safety Zones (Parts 147 and 165)	San Diego, CA	10/27/2018
USCG–2018–1000	Security Zones (Part 165)	Pittsburgh, PA	10/30/2018

Docket No.	Type	Location	Effective date
USCG–2018–1031	Safety Zones (Parts 147 and 165)	Madeira Beach, FL	11/9/2018
USCG–2018–0994	Safety Zones (Parts 147 and 165)	San Francisco, CA	11/10/2018
USCG–2018–0993	Safety Zones (Parts 147 and 165)	Monongahela, PA	11/16/2018
USCG–2018–0582	Security Zones (Part 165)	North Shore, Guam	11/18/2018
USCG–2018–0966	Drawbridge	Allemands, LA	11/20/2018
USCG–2018–0979	Safety Zones (Parts 147 and 165)	Tinicum Township, PA	11/25/2018
USCG–2018–1069	Security Zones (Part 165)	Hollywood Beach, FL	11/30/2018
USCG–2018–0999	Safety Zones (Parts 147 and 165)	Washington, DC	12/1/2018
USCG–2018–1037	Safety Zones (Parts 147 and 165)	San Francisco, CA	12/5/2018
USCG–2018–0982	Safety Zones (Parts 147 and 165)	Cincinnati, OH	12/6/2018
USCG–2018–0976	Special Local Regulations (Part 100)	San Diego, CA	12/9/2018
USCG–2018–1092	Safety Zones (Parts 147 and 165)	Bayou, LA	12/11/2018
USCG–2018–0767	Safety Zones (Parts 147 and 165)	Sinclair Inlet, WA	12/13/2018
USCG–2018–1090	Security Zones (Part 165)	Corpus Christi, TX	12/15/2018
USCG–2018–1004	Safety Zones (Parts 147 and 165)	Decatur Island, WA	12/18/2018
USCG–2018–1122	Safety Zones (Parts 147 and 165)	New Orleans, LA	12/28/2018
USCG–2018–1121	Safety Zones (Parts 147 and 165)	Wilmington DE	12/29/2018
USCG–2018–1078	Safety Zones (Parts 147 and 165)	Marina Del Rey, CA	12/31/2018

Dated: March 20, 2019.

Katia Kroutil,

Chief, Office of Regulations and Administrative Law, U.S. Coast Guard.

[FR Doc. 2019–05626 Filed 3–22–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0149]

RIN 1625–AA87

Security Zone; Corpus Christi Ship Channel, Corpus Christi, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing fixed and moving security zones around the Motor Vessel (M/V) ARC ENDURANCE. The security zone encompasses all navigable waters within a 500-yard radius around the M/V ARC ENDURANCE. The zone is needed to protect the vessel while transiting the Corpus Christi Ship Channel in Corpus Christi, TX with military cargo onboard. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative.

DATES: This rule is effective without actual notice from 9 a.m. until midnight on March 25, 2019. For the purposes of enforcement, actual notice will be used from March 18, 2019 until 9 a.m. on March 25, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2019–0149 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Kevin Kyles, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361–939–5125, email *Kevin.L.Kyles@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Corpus Christi
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this security zone by March 18, 2019 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to provide for the security of the vessel.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector Corpus Christi (COTP) has determined that potential hazards associated with the transit and of the Motor Vessel (M/V) ARC ENDURANCE when loaded with military cargo between the dates of March 18, 2019 through March 25, 2019, will be a security concern within a 500-yard radius of the vessel. This rule is needed to protect the vessel while the vessel is transiting within Corpus Christi, TX.

IV. Discussion of the Rule

This rule establishes a temporary fixed and moving security zone from time of first arrival and last departure of M/V ARC ENDURANCE while transiting within the Corpus Christi Ship Channel between the dates of March 18, 2019 through March 25, 2019. The fixed and moving security zone will cover all navigable waters within a 500-yard radius of the M/V ARC ENDURANCE while transiting while loaded with military cargo through the Corpus Christi Ship Channel. The duration of the zone is intended to protect military cargo while the vessel is in transit. No vessel or person will be permitted to enter the security zone without

obtaining permission from the COTP or a designated representative.

Entry into this fixed and moving security zone is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Corpus Christi. Persons or vessels desiring to enter or pass through the zone must request permission from the COTP or a designated representative on VHF–FM channel 16 or by telephone at 361–939–0450. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative. The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate of the enforcement times and dates for this security zone.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, duration, and location of the security zone. This rule will impact a small designated area of the Corpus Christi Ship Channel during the vessel's transit while loaded with cargo over an eight-day period. Moreover, the Coast Guard will issue BNMs via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a fixed and moving security zone lasting for the duration of time that any of the vessels are within the Corpus Christi Ship Channel that will prohibit entry within 500 yard radius of M/V ARC ENDURANCE while transiting within Corpus Christi whilst loaded with military cargo. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0149 to read as follows:

§ 165.T08–0149 Security Zone; Corpus Christi Ship Channel. Corpus Christi, TX.

(a) *Location.* The following area is a security zone: all navigable waters encompassing a 500-yard radius around M/V ARC ENDURANCE while transiting loaded with cargo in the Corpus Christi Ship Channel.

(b) *Effective period.* This section is effective from March 18, 2019 through March 25, 2019.

(c) *Regulations.* (1) The general regulations in § 165.33 of this part apply. Entry into this zone is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Corpus Christi.

(2) Persons or vessels desiring to enter or pass through the zone must request permission from the COTP Sector Corpus Christi on VHF–FM channel 16 or by telephone at 361–939–0450.

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

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs) of the enforcement times and date for this security zone.

Dated: March 15, 2019.

E.J. Gaynor,

Captain, U.S. Coast Guard, Captain of the Port Sector Corpus Christi.

[FR Doc. 2019–05562 Filed 3–22–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Part 825

RIN 2900–AQ18

VA Acquisition Regulation: Construction and Architect-Engineer Contracts; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: On March 19, 2019, the Department of Veterans Affairs (VA) published a rule updating its VA Acquisition Regulation (VAAR) in phased increments. The changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. An error occurred in one amendatory instruction. This document corrects that error.

DATES: This correction is effective April 18, 2019.

FOR FURTHER INFORMATION CONTACT: Mr. Rafael N. Taylor, Senior Procurement Analyst, Procurement Policy and Warrant Management Services, 003A2A, 425 I Street NW, Washington, DC 20001, (202) 382–2787. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 19, 2019, VA published a rule in the **Federal Register** (84 FR 9968) which contained an error in the description of the contents of subpart 825.2.

Correction

In FR Rule Doc. No. 2019–04900, appearing on page 9968 in the **Federal Register** of March 19, 2019, make the following correction:

Subpart 825.2—[Corrected]

■ 1. On page 9971, in the third column, correct instruction number 4 to read as follows:

''5. Subpart 825.2, consisting of sections 825.202 and 825.205, is removed and reserved.''

Approved: March 19, 2019.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2019–05576 Filed 3–22–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 171017999–8262–01]

RIN 0648–XG871

Reef Fish Fishery of the Gulf of Mexico; 2019 Recreational Accountability Measure and Closure for Gulf of Mexico Greater Amberjack

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the greater amberjack recreational sector in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) for the 2018–2019 fishing year through this temporary rule. NMFS has determined that for the 2018–2019 fishing year, the recreational annual catch target (ACT) for Gulf greater amberjack has been met; therefore, the greater amberjack recreational season in the Gulf EEZ will not re-open on May 1, 2019, and will remain closed for the remainder of the current fishing year. This closure is necessary to protect the Gulf greater amberjack resource.

DATES: This rule is effective from 12:01 a.m., local time, May 1, 2019, until 12:01 a.m., local time, on August 1, 2019.

FOR FURTHER INFORMATION CONTACT: Lauren Waters, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *lauren.waters@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS manages the Gulf reef fish fishery, which includes greater amberjack, under the Fishery Management Plan for the Reef Fish Resources of the Gulf (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622. All greater amberjack weights discussed in this temporary rule are in round weight.

The recreational fishing year for Gulf greater amberjack is August 1 through July 31 each year. The 2018–2019 recreational ACL for Gulf greater amberjack specified in 50 CFR 622.41(a)(2)(iii) is 1,086,970 lb (493,041 kg), and the recreational ACT specified

in 50 CFR 622.39(a)(2)(ii)(B) is 902,185 lb (409,224 kg).

Regulations at 50 CFR 622.34(c) designate a seasonal closure for Gulf greater amberjack from November 1 to April 30 each fishing year before allowing recreational harvest during the month of May. However, under 50 CFR 622.41(a)(2)(i), NMFS is required to close the recreational sector for greater amberjack when the recreational ACT is reached or is projected to be reached by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that for the 2018–2019 fishing year, the recreational ACT has been met. Accordingly, the recreational sector for Gulf greater amberjack will not re-open on May 1, 2019, and the recreational season will remain closed for the rest of the 2018–2019 fishing year, which ends on July 31, 2019.

During the recreational closure, the bag and possession limits for greater amberjack in or from the Gulf EEZ are zero. The prohibition on possession in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued applies regardless of whether greater amberjack were harvested in state or Federal waters.

The recreational sector for greater amberjack will reopen on August 1, 2019, the beginning of the 2019–2020 recreational fishing year.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Gulf greater amberjack and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(a)(2)(i) and is exempt from review under Executive Order 12866.

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

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action to close the recreational sector for greater amberjack constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule establishing the closure provisions was subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect greater amberjack. Prior notice and opportunity for public comment would require time and would potentially allow the recreational sector to exceed the recreational ACL.

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

Dated: March 19, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–05517 Filed 3–20–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 121004518–3398–01]

RIN 0648–XG870

Reef Fish Fishery of the Gulf of Mexico; 2019 Recreational Accountability Measure and Closure for Gulf of Mexico Gray Triggerfish

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the gray triggerfish recreational sector in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) for the 2019 fishing year through this temporary rule. NMFS has projected that the 2019 recreational annual catch target (ACT) for Gulf gray triggerfish will be met by May 11, 2019. Therefore, NMFS closes the recreational sector for Gulf gray triggerfish on May 11, 2019, and it will remain closed through the end of the fishing year on December 31, 2019. This closure is necessary to protect the Gulf gray triggerfish resource.

DATES: This temporary rule is effective from 12:01 a.m., local time, on May 11, 2019, until 12:01 a.m., local time, on January 1, 2020.

FOR FURTHER INFORMATION CONTACT: Lauren Waters, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *lauren.waters@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS manages the Gulf reef fish fishery, which includes gray triggerfish, under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622. All gray triggerfish weights discussed in this temporary rule are in round weight.

The recreational annual catch limit (ACL) for Gulf gray triggerfish is 241,200 lb (109,406 kg), and the recreational ACT is 217,100 lb (98,475 kg) (50 CFR 622.41(b)(2)(iii)).

As specified in 50 CFR 622.41(b)(2)(i), NMFS is required to close the recreational sector for gray triggerfish when the recreational ACT is reached or is projected to be reached by filing a notification to that effect with the Office of the Federal Register. NMFS has determined the 2019 recreational ACT for Gulf gray triggerfish will be reached by May 11, 2019. Accordingly, this temporary rule closes the recreational sector for Gulf gray triggerfish effective at 12:01 a.m., local time, on May 11, 2019, and it will remain closed through the end of the fishing year on December 31, 2019.

During the recreational closure, the bag and possession limits for gray triggerfish in or from the Gulf EEZ are zero. The prohibition on possession of Gulf gray triggerfish also applies in Gulf state waters for a vessel issued a valid Federal charter vessel/headboat permit for Gulf reef fish.

As specified in 50 CFR 622.34(f), there is a seasonal closure for Gulf gray triggerfish at the beginning of each fishing year from January 1 through the end of February; therefore, after the closure implemented by this temporary rule is effective on May 11, 2019, the recreational harvest or possession of Gulf gray triggerfish will not again be allowed until March 1, 2020.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of Gulf gray triggerfish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(b)(2)(i) and is exempt from review under Executive Order 12866.

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

This action responds to the best scientific information available. The

Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action to close the recreational sector for gray triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule establishing the closure provisions was subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect gray triggerfish and to provide advance notice to the recreational sector of the closure. Prior notice and opportunity for public comment would require time and would potentially allow the recreational sector to exceed the recreational ACL.

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

Dated: March 19, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–05509 Filed 3–20–19; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 57
Monday, March 25, 2019

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 54, 56, and 70

[Doc. #AMS–LP–18–0095]

Proposed Amendments to Regulations Governing Voluntary Grading of Meats, Prepared Meats, Meat Products, Shell Eggs, Poultry Products, and Rabbit Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) proposes to amend its regulations governing the voluntary grading and certification relating to meats, prepared meats, meat products, shell eggs, poultry products, and rabbit products. Proposed amendments include: Changing terminology to scheduled and non-scheduled, billing of holidays, billing excessive hours over and above agreement hours, and removing the administrative volume charge. The proposed amendments would standardize and align billing practices for services provided by the Livestock and Poultry Program.

DATES: Comments must be received by May 24, 2019.

ADDRESSES: Comments should be submitted electronically at *www.regulations.gov.* Comments may also be submitted to: Julie Hartley, Chief, Business Operations Branch, Quality Assessment Division (QAD); Livestock and Poultry Program, AMS, USDA, 1400 Independence Avenue SW; Room 3932–S, STOP 0258, Washington, DC 20250–0258. Comments will be made available for public inspection at Room 3932–S of the above address during regular business hours or electronically at *www.regulations.gov.* Comments received will be posted without change, including any personal information provided. All comments should reference the docket number AMS–LP–18–0095, the date of submission, and the page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Julie Hartley, Chief, Business Operations Branch, Quality Assessment Division; Livestock and Poultry Program, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3932–S, STOP 0258, 1400 Independence Avenue SW, Washington, DC 20250–0258; telephone (202) 720–7316; or email to *Julie.Hartley@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 13771

This proposed rule would not meet the definition of a significant regulatory action contained in section 3(f) of Executive Order 12866 and is not subject to review by the Office of Management and Budget (OMB). Additionally, because this rule would not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], AMS has considered the economic effect of this action on small entities and has determined that this proposed rule would not have a significant economic impact on a substantial number of small business entities. The purpose of RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly burdened.

AMS has determined that this rule would not have a significant impact on a substantial number of small entities, as defined by RFA, because the services are voluntary and provided on a fee-for-service basis and are not subject to scalability based on the business size.

Approximately 728 applicants subscribe to AMS's voluntary, fee-for-service activities that are subject to these regulations. The U.S. Small Business Administration's Table of Small Business Size Standards Matched to North American Industry Classification System Codes (NAICS) identifies small business size by average annual receipts or by the average number of employees at a firm. This information can be found in the Code of Federal Regulations (CFR) at 13 CFR parts 121.104, 121.106, and 121.201.

AMS requires that all applicants for service provide information about their company for the purpose of processing bills. Information collected from an applicant includes company name, address, billing address, and similar information. AMS started collecting information about the size of the business in May 2017, but it received the majority of applications prior to May 2017. However, based on working knowledge of these operations, AMS estimates that roughly 25 percent of current applicants may be classified as small entities because they meet the small business requirements of having average annual receipts of $750,000 for beef and poultry producers and $15,000,000 for chicken egg producers as set forth in 13 CFR 121's Small Business Size Standards by NAICS Industry table (sectors 31–33, subsector 311—food manufacturing). The effects of this rule are not expected to be disproportionately greater or lesser for small applicants than for larger applicants. As described above, these are voluntary, fee-for-service activities.

AMS is committed to complying with the E-Government Act of 2002 to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

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

Executive Order 13175

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

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect.

The Act prohibits states or political subdivisions of a state to impose any requirement that is in addition to, or inconsistent with, any requirement of the Act. There are no civil justice implications associated with this rule.

Civil Rights Review

AMS has considered the potential civil rights implications of this rule on minorities, women, or persons with disabilities to ensure that no person or group shall be discriminated against on the basis of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status, or protected genetic information. This proposed rule would not require affected entities to relocate or alter their operations in ways that could adversely affect such persons or groups. Further, this proposed rule would not deny any persons or groups the benefits of the program or subject any persons or groups to discrimination.

Executive Order 13132

This proposed rule has been reviewed under Executive Order 13132, Federalism. This Order directs agencies to construe, in regulations and otherwise, a Federal statute to preempt state law only when the statute contains an express preemption provision. There are no federalism implications associated with this proposed rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this proposed rule would not change the information collection and recordkeeping requirements previously approved and will not impose additional reporting or recordkeeping burdens on users of these voluntary services.

The information collection and recordkeeping requirements of these parts have been approved by OMB under 44 U.S.C. chapter 35 and have been assigned OMB Control Number 0581–0128.

In September 2014, three separate OMB collections—OMB 0581–0127, OMB 0581–0124, and OMB 0581–0128—were merged, such that the current OMB 0581–0128 pertains to Regulations for Voluntary Grading, Certification, and Standards and includes 7 CFR parts 54, 56, and 70.

Background and Revisions

The Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), hereinafter referred to as the ''Act,'' directs and authorizes the Secretary of Agriculture to facilitate the competitive and efficient marketing of agricultural products. AMS programs support a strategic marketing perspective that adapts product and marketing decisions to consumer demands, ensures quality, promotes a competitive and efficient domestic and international marketplace, and incorporates new technology. These services include AMS's grading program, which verifies that product meets USDA grade standards. At the request of the buyer or seller, products are officially graded by USDA allowing product application of the grademark or USDA shield. The grademark or USDA shield indicates that USDA has officially graded the product and it has met all the requirements of the designated quality standard. In addition, AMS provides direct certification of products, that meet end-user specifications, in the facilities that manufacture them. Specifications can be for commodities purchased by USDA for nutrition assistance programs, or to a third-party requirement. Product characteristics such as manner of cut, color, and other attributes can be directly examined by an AMS employee to determine if a specification has been met, and the product can be stamped and marketed as ''USDA Certified'' or ''USDA Accepted as Specified.'' This service ensures purchasers receive products that comply with their unique specification requirements. Grading and certification services are voluntary, with users paying for the cost of the requested service.

In 2013, AMS merged the Livestock and Seed Program and Poultry Programs to create the Livestock, Poultry, and Seed (LPS) Program. Prior to the merger, both Programs administered parallel grading and certification services to their respective industries with services provided on a fee-for-service bases. Following the merger, the LPS Program created the Quality Assessment Division (QAD) to oversee grading and certification services carried out by the Grading and Verification Division of the former Livestock and Seed Program and the Grading Branch of the former Poultry Programs. The QAD continues to bill customers with the billing rules specified in the regulations governing the grading of various commodities: 7 CFR 54—Meats, Prepared Meats and Meat Products (Grading, Certification, and Standards); 7 CFR 56—Voluntary Grading of Shell Eggs; and 7 CFR 70—Voluntary Grading of Poultry Products and Rabbit Products.

To improve efficiency and reduce costs, QAD graders are cross-utilized between the commodities. Cross-utilization continues to increase as more customers request services for more than one commodity. Billing according to two sets of rules (one set of rules for part 54 and one set of rules for parts 56 and 70) is inefficient and causes customer confusion. The proposed amendments would standardize the billing rules, remove customer confusion, and increase efficiency in billing administration by allowing QAD to bill a customer for multiple services and products with one set of rules.

Standardize Language

Proposed amendments would standardize language for providing service under an agreement or on an as-needed basis. Services provided under part 54 currently use the terms ''commitment'' for services provided under an agreement and ''non-commitment'' for services provided on an as-needed basis. Services provided under parts 56 and 70 currently use the terms ''resident'' for services provided under an agreement and ''non-resident'' for services provided on an as-needed basis. The proposed language for all parts would be ''scheduled'' for services provided under an agreement and ''unscheduled'' for services provided on an as-needed basis.

AMS proposes to amend §§ 56.21 and 70.30 (proposed to be redesignated § 70.31) to standardize the application for service language with that found in § 54.6. In addition to language currently in § 54.6, AMS published a proposed rule in the **Federal Register** on February 5, 2019 to amend 7 CFR part 54, AMS–LP–16–0080. The proposed amendments in AMS–LP–16–0080 would add items 5 and 6 to § 54.6 (a). In this proposed rule, AMS proposes to further amend § 54.6(a) by adding a subparagraph after item 6 stating that the applicant agrees to comply with the terms and conditions of the regulations. Proposed standardized language includes the application requirements, items that must be included in the application, and the applicant's agreement to comply with the terms and conditions of the regulations.

AMS proposes to redesignate §§ 70.30 through 70.37 as §§ 70.29 through 70.36, respectively, and add § 70.37 Types of service. The proposed addition of § 70.37 would clarify and align the services AMS provides with § 56.28.

The proposed amendments would revise §§ 54.28, 56.45, and 70.70 by updating the sections with current language and instructions for payment of services.

Billing of Holidays

Proposed amendments would align holiday billing rules for all services with established policies for employee

premium pay under authority of 5 U.S.C. chapter 55 and 5 CFR part 550. Proposed amendments would revise §§ 54.1, 56.1, and 70.1 by adding the definition of Observed Legal Holidays. The proposed addition of Observed Legal Holidays would establish the ''in lieu of holiday'' for a holiday that falls on a Saturday or Sunday. Proposed amendments would also charge the holiday rate for hours worked on observed legal holidays.

Currently, services covered under part 54 are billed the holiday rate only on the actual holiday when worked, and if the actual holiday is not worked, no charge is applied. Additionally, holidays that fall on Saturday or Sunday but are observed on a Friday or Monday are billed at the commitment rate, not the holiday rate.

The proposed amendments would revise § 54.27(c) for scheduled and non-scheduled bases to state the holiday hourly rate would be charged for hours worked on observed legal holidays. The impact analysis for services provided under this part would be less than a $50,000 increase in costs to the meat industry.

The following scenarios demonstrate how billing for hours worked on observed legal holidays would change under the proposed amendments:

Scenario #1

A facility has a commitment agreement for 8 hours of service. Service is provided for 4 hours on a Friday, which is the observed legal holiday for an actual holiday that falls on Saturday.

○ *Currently:* The facility is charged the commitment rate for 8 hours on the agreement.

○ *Proposed:* The facility is charged the holiday rate for the 4 hours worked.

Scenario #2

A facility requests 8 hours of service (non-commitment) on a Friday, which is the observed legal holiday for an actual holiday that falls on Saturday.

○ *Currently:* The facility is charged the non-commitment rate for 8 hours.

○ *Proposed:* The facility is charged the non-commitment holiday rate for 8 hours.

Currently, services covered under parts 56 and 70 are billed the regular rate on the holiday even if the holiday is not worked, the holiday rate when service is provided on the grader's scheduled holiday,[1] and the overtime rate when service is provided on a holiday in excess of the hours stated on the agreement.

The proposed amendments would revise §§ 56.46, 56.52, 70.71, and 70.77 to state that the holiday hourly rate would be charged for hours worked on observed legal holidays. The impact for services provided under these parts would be minimal and to the benefit of the applicant in most cases. Impact analysis shows an average cost savings of $2,200 annually per applicant.

The following scenarios demonstrate how billing for hours worked on observed legal holidays would change under the proposed amendments:

Scenario #1

—A facility has a resident agreement for providing service Monday–Friday, 8 hours each day. The actual holiday is a Monday and no service provided.

○ *Currently:* The facility is charged the resident regular rate for 8 hours on the agreement.

○ *Proposed:* The facility will not be charged.

Scenario #2

—A facility has a resident agreement for providing service Monday–Friday, 8 hours each day. Service is provided on Monday, which is the observed legal holiday for an actual holiday that falls on Sunday.

○ *Currently:* The facility is charged the resident regular rate for 8 hours on the agreement. The facility is charged the holiday rate if the grader claims it is his/her actual or in lieu of holiday worked.

○ *Proposed:* The facility will only be charged the holiday rate.

Scenario #3

—A facility has a resident agreement for providing service Monday–Friday, 8 hours each day. Service is provided for 10 hours on Monday, which is the observed legal holiday for an actual holiday that falls on Sunday.

○ *Currently:* The facility is charged the resident regular rate for 8 hours on the agreement. The facility is charged the holiday rate if the grader claims it is his/her actual or in lieu of holiday worked, plus the overtime rate for 2 hours.

○ *Proposed:* The facility will be charged the holiday rate for 10 hours.

AMS proposes to further clarify and align rates charged for services. Proposed amendments would update §§ 54.27, 56.46, 56.52, 70.71, and 70.77 and include the specific rates charged to plants for scheduled and unscheduled services.

Billing Excessive Hours Over and Above Agreement Hours

AMS proposes to align billing rates for services provided over and above agreement hours and following a reasonable amount of billed overtime. Currently services under part 54 are charged the non-commitment rate while services provided under parts 56 and 70 are charged the resident overtime rate for hours in excess of their agreement. AMS proposes to align all services and use the unscheduled rate (the current non-commitment or fee rate) when services are provided over and above their agreement and following a reasonable amount of billed overtime. This amendment would affect only services provided under parts 56 and 70 and cause a higher rate to be charged to applicants who request additional staffing outside of the scheduled shifts for which AMS agreed to provide service. Impact analysis shows an average cost increase of $3,700 annually for applicants that request additional graders.

The following scenarios demonstrate how billing for additional staffing outside the agreed-upon scheduled shifts would change under the proposed amendments:

Scenario #1

—A facility has an agreement for providing service Monday–Friday, 8 hours each day. The facility uses service for 10 hours on Monday, Wednesday, and Friday and requests service to be provided for 6 hours on Saturday.

○ *Currently:* The facility is charged the overtime rate for 12 hours (service provided Monday, Wednesday, and Friday for 2 hours each day above the agreement, plus 6 hours on Saturday).

○ *Proposed:* The facility will be charged the overtime rate for 6 hours (service provided Monday, Wednesday, and Friday for 2 hours each day above the agreement) and the unscheduled rate for 6 hours of service provided on Saturday.

Scenario #2

—A facility has an agreement for providing service Monday–Friday, 8 hours each day, 1st shift. The facility requests additional service to be provided for Monday–Friday, 8 hours each day on 2nd shift for four weeks.

○ *Currently:* The facility is charged the overtime rate for all additional hours of service provided.

○ *Proposed:* The facility will be charged the unscheduled rate for all hours of service provided on the 2nd shift.

[1] If the grader's scheduled day off falls on a legal holiday, the grader's holiday moves to the preceding or following day (thus becoming his or her scheduled holiday).

Scenario #3

—A facility has an agreement for providing service Monday–Friday, 8 hours each day. Through the holidays, the facility requests an additional grader to provide service for Monday–Friday, 8 hours each day.

○ *Currently:* The facility is charged the overtime rate for all hours of service provided by the additional grader.

○ *Proposed:* The facility will be charged the unscheduled rate for all hours of service provided by the additional grader.

Remove Administrative Volume Charge

Poultry and shell egg services provided under parts 56 and 70 are billed an administrative volume charge in addition to the hourly rates assessed for providing service. This charge was established to cover overhead costs associated with grading and certification services. In 2014, AMS incorporated new formulas for establishing yearly fee rates into all grading regulations; these new formulas do not include the administrative volume charge, nor do they allow for an increase to the administrative rate. The administrative volume charge was last increased in 2009, and it does not adequately cover overhead costs associated with these voluntary services. The proposed amendments would remove the administrative volume charge altogether from §§ 56.52(a)(4) and 70.77(a)(4) and (5) and would allow QAD to charge hourly rates that encompass all costs for providing service. This amendment would affect only services provided under parts 56 and 70. QAD estimates that plants with a single or double shift scheduled (40 or 80 hours) would see a minor cost savings of $7,500 annually from the removal of the administrative charge and the creation of the new hourly rates, while plants with four shifts scheduled (160 hours) will see an increase of $32,000 annually.

List of Subjects

7 CFR Part 54

Voluntary standards, Meat, Meat products, Meat grading.

7 CFR Part 56

Voluntary standards, Eggs, Egg products, Shell egg grading, Shell egg inspections.

7 CFR Part 70

Voluntary standards, Poultry, Poultry products, Rabbit, Poultry grading, Rabbit grading.

For the reasons set forth in the preamble, AMS proposes to amend 7 CFR parts 54, 56, and 70 as follows:

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

■ 1. The authority citation for 7 CFR part 54 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

■ 2. Amend § 54.1 by revising the section heading and adding in alphabetical order a definition for ''observed legal holiday'' to read as follows:

§ 54.1 Meaning of words and terms defined.

* * * * *

Observed legal holiday. When a holiday falls on a weekend—Saturday or Sunday—the holiday usually is observed on Monday (if the holiday falls on Sunday) or Friday (if the holiday falls on Saturday).

* * * * *

■ 3. Revise § 54.6 to read as follows:

§ 54.6 How to obtain service.

(a) *Application.* (1) Any person may apply for service with respect to products in which he or she has a financial interest by completing the required application for service. In any case in which the service is intended to be furnished at an establishment not operated by the applicant, the application must be approved by the operator of such establishment and such approval shall constitute an authorization for any employee of the Department to enter the establishment for the purpose of performing his or her functions under the regulations. The application must include:

(i) Name and address of the establishment at which service is desired;

(ii) Name and mailing address of the applicant;

(iii) Financial interest of the applicant in the products, except where application is made by a representative of a Government agency in the representative's official capacity;

(iv) Signature of the applicant (or the signature and title of the applicant's representative);

(v) Indication of the legal status of the applicant as an individual, partnership, corporation, or other form of legal entity; and

(vi) The legal designation of the applicant's business as a small or large business, as defined by the U.S. Small Business Administration's North American Industry Classification System (NAICS) Codes.

(2) In making application, the applicant agrees to comply with the terms and conditions of the regulations (including, but not being limited to, such instructions governing grading of products as may be issued from time to time by the Administrator). No member of or Delegate to Congress or Resident Commissioner shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit. Any change in such status, at any time while service is being received, shall be promptly reported by the person receiving the service to the grading office designated by the Director or Chief to process such requests.

(b) *Notice of eligibility for service.* The applicant will be notified whether the application is approved or denied.

■ 4. Amend § 54.27 by revising paragraph (c) to read as follows:

§ 54.27 Fees and other charges for service.

* * * * *

(c) *Fees for service*—(1) *On a scheduled basis.* Minimum fees for service performed under a scheduled agreement or an agreement by memorandum will be based on 8 hours per day, Monday through Friday, excluding observed Federal legal holidays occurring Monday through Friday on which no grading and certification services are performed. The Agency reserves the right to use any grader assigned to the plant under a scheduled agreement to perform service for other applicants and no charge will be assessed to the scheduled applicant for the number of hours charged to the other applicant. Charges to plants are as follows:

(i) The regular hourly rate will be charged for hours worked in accordance with the approved tour of duty on the application for service between the hours of 6 a.m. and 6 p.m.

(ii) The overtime rate will be charged for hours worked in excess of the approved tour of duty on the application for service.

(iii) The holiday hourly rate will be charged for hours worked on observed legal holidays.

(iv) The night differential rate (for regular or overtime hours) will be charged for hours worked between 6 p.m. and 6 a.m.

(v) The Sunday differential rate (for regular or overtime hours) will be charged for hours worked on a Sunday.

(2) *On an unscheduled basis.* Minimum fees for service performed under an unscheduled basis agreement will be based on the time required to render the service, calculated to the nearest 15-minute period, including official grader's travel and certificate,

memorandum, and/or report preparation time performed in connection with the performance of service. A minimum charge of one-half hour shall be made for service pursuant to each request notwithstanding that the time required to perform service may be less than 30 minutes. Charges to plants are as follows:

(i) The regular hourly rate will be charged for the first 8 hours worked per grader per day for all days except observed legal holidays.

(ii) The overtime rate will be charged for hours worked in excess of 8 hours per grader per day for all days except observed legal holidays.

(iii) The holiday hourly rate will be charged for hours worked on observed legal holidays.

* * * * *

■ 5. Revise § 54.28 to read as follows:

§ 54.28 Payment of fees and other charges.

Fees and other charges for service must be paid in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the service is furnished. Upon receipt of billing for fees and other charges for service, the applicant will remit by check, electronic funds transfer, draft, or money order made payable to the National Finance Center. Payment for the service must be made in accordance with directions on the billing statement, and such fees and charges must be paid in advance if required by the official grader or other authorized official.

PART 56—VOLUNTARY GRADING OF SHELL EGGS

■ 6. The authority citation for 7 CFR part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

■ 7. Amend § 56.1 by adding in alphabetical order a definition for ''observed legal holiday'' to read as follows:

§ 56.1 Meaning of words and terms defined.

* * * * *

Observed legal holiday. When a holiday falls on a weekend—Saturday or Sunday—the holiday usually is observed on Monday (if the holiday falls on Sunday) or Friday (if the holiday falls on Saturday).

* * * * *

■ 8. Revise § 56.21 to read as follows:

§ 56.21 How application for service may be made; conditions of service.

(a) *Application.* (1) Any person may apply for service with respect to products in which he or she has a financial interest by completing the required application for service. In any case in which the service is intended to be furnished at an establishment not operated by the applicant, the application must be approved by the operator of such establishment and such approval shall constitute an authorization for any employee of the Department to enter the establishment for the purpose of performing his or her functions under the regulations. The application must include:

(i) Name and address of the establishment at which service is desired;

(ii) Name and mailing address of the applicant;

(iii) Financial interest of the applicant in the products, except where application is made by a representative of a Government agency in the representative's official capacity;

(iv) Signature of the applicant (or the signature and title of the applicant's representative);

(v) Indication of the legal status of the applicant as an individual, partnership, corporation, or other form of legal entity; and

(vi) The legal designation of the applicant's business as a small or large business, as defined by the U.S. Small Business Administration's North American Industry Classification System (NAICS) Codes.

(2) In making application, the applicant agrees to comply with the terms and conditions of the regulations (including, but not being limited to, such instructions governing grading of products as may be issued from time to time by the Administrator). No member of or Delegate to Congress or Resident Commissioner shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit. Any change in such status, at any time while service is being received, shall be promptly reported by the person receiving the service to the grading office designated by the Director or Chief to process such requests.

(b) *Notice of eligibility for service.* The applicant will be notified whether the application is approved or denied.

■ 9. Revise § 56.28 to read as follows:

§ 56.28 Types of service.

(a) *Noncontinuous grading service.* Service is performed on an unscheduled basis, with no scheduled tour of duty, and when an applicant requests grading of a particular lot of shell eggs. Charges or fees are based on the time, travel, and expenses needed to perform the work. This service may be referred to as unscheduled grading service. Shell eggs graded under unscheduled grading service are not eligible to be identified with the official grademarks shown in § 56.36.

(b) *Continuous grading service on a scheduled basis.* Service on a scheduled basis has a scheduled tour of duty and is performed when an applicant requests that a USDA licensed grader be stationed in the applicant's processing plant and grade shell eggs in accordance with U.S. Standards. The applicant agrees to comply with the facility, operating, and sanitary requirements of scheduled service. Minimum fees for service performed under a scheduled agreement will be based on the hours of the regular tour of duty. Shell eggs graded under scheduled grading service are eligible to be identified with the official grademarks shown in § 56.36 only when processed and graded under the supervision of a grader or quality assurance inspector as provided in § 56.39.

(c) *Temporary grading service.* Service is performed when an applicant requests an official plant number with service provided on an unscheduled basis. The applicant must meet all facility, operating, and sanitary requirements of continuous service. Charges or fees are based on the time and expenses needed to perform the work. Shell eggs graded under temporary grading service are eligible to be identified with the official grademarks only when they are processed and graded under the supervision of a grader or quality assurance inspector as provided in § 56.39.

■ 10. Amend § 56.45 by revising paragraphs (a) and (b) to read as follows:

§ 56.45 Payment of fees and charges.

(a) Fees and charges for any grading service must be paid by the interested party making the application for such grading service, in accordance with the applicable provisions of this section and §§ 56.46 to 56.53, inclusive.

(b) Fees and charges for any grading service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, electronic funds transfer, draft, or money order made payable to the National Finance Center. Payment for the service must be made in accordance with directions on the billing statement, and such fees and charges must be paid in advance if required by the official grader or other authorized official.

* * * * *

■ 11. Amend § 56.46 by revising the section heading, and paragraphs (a)

introductory text and (c) to read as follows:

§ 56.46 Charges for service on an unscheduled basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on an unscheduled basis shall be based on the applicable formulas specified in this section. For each calendar year or crop year, AMS will calculate the rate for grading services, per hour per program employee using the following formulas:

* * * * *

(c) Fees for unscheduled grading services will be based on the time required to perform the services. The hourly charges shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate. Charges to plants are as follows:

(1) The regular hourly rate shall be charged for the first 8 hours worked per grader per day for all days except observed legal holidays.

(2) The overtime rate shall be charged for hours worked in excess of 8 hours per grader per day for all days except observed legal holidays.

(3) The holiday hourly rate will be charged for hours worked on observed legal holidays.

* * * * *

■ 12. Revise § 56.47 to read as follows:

§ 56.47 Fees for appeal grading or review of a grader's decision.

The costs of an appeal grading or review of a grader's decision shall be borne by the appellant on an unscheduled basis at rates set forth in § 56.46, plus any travel and additional expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

■ 13. Amend § 56.52 by revising the section heading, introductory text, and paragraph (a) to read as follows:

§ 56.52 Charges for services on a scheduled basis.

Fees to be charged and collected for any grading service, other than for an appeal grading, on a scheduled grading basis, will be determined based on the formulas in this part. The fees to be charged for any appeal grading shall be as provided in § 56.47.

(a) *Charges.* The charges for the grading of shell eggs shall be paid by the applicant for the service and shall include items listed in this section as are applicable. Payment for the full cost of the grading service rendered to the applicant shall be made by the applicant to the National Finance Center. Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading service was rendered. Bills are payable upon receipt.

(1) When a signed application for service has been received, the State supervisor or his designee will complete a plant survey pursuant to § 56.30. The costs for completing the plant survey will be charged to the applicant on an unscheduled basis as described in § 56.46. No charges will be assessed when the application is required because of a change in name or ownership. If service is not installed within 6 months from the date the application is filed, or if service is inactive due to an approved request for removal of a grader or graders(s) for a period of 6 months, the application will be considered terminated. A new application may be filed at any time. In addition, there will be a charge of $300 if the application is terminated at the request of the applicant for reasons other than for a change in location within 12 months from the date of the inauguration of service.

(2) Charges for the cost of each grader assigned to a plant will be calculated as described in § 56.46. Minimum fees for service performed under a scheduled agreement shall be based on the hours of the regular tour of duty. The Agency reserves the right to use any grader assigned to the plant under a scheduled agreement to perform service for other applicants except that no charge will be assessed to the scheduled applicant for the number of hours charged to the other applicant. Charges to plants are as follows:

(i) The regular hourly rate shall be charged for hours worked in accordance with the approved tour of duty on the application for service between the hours of 6 a.m. and 6 p.m.

(ii) The overtime rate shall be charged for hours worked in excess of the approved tour of duty on the application for service.

(iii) The holiday hourly rate will be charged for hours worked on observed legal holidays.

(iv) The night differential rate (for regular or overtime hours) will be charged for hours worked between 6 p.m. and 6 a.m.

(v) The Sunday differential rate (for regular or overtime hours) will be charged for hours worked on a Sunday.

(vi) For all hours of work performed in a plant without an approved tour of duty, the charge will be one of the applicable hourly rates in § 56.46, plus actual travel expenses incurred by AMS.

(3) A charge at the hourly rates specified in § 56.46, plus actual travel expenses incurred by AMS for intermediate surveys to firms without grading service in effect.

* * * * *

§ 56.54 [Removed and Reserved]

■ 14. Remove and reserve § 56.54.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

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

Authority: 7 U.S.C. 1621–1627.

■ 16. Amend § 70.1 by adding in alphabetical order a definition for ''observed legal holiday'' to read as follows:

§ 70.1 Definitions.

* * * * *

Observed legal holiday. When a holiday falls on a weekend—Saturday or Sunday—the holiday usually is observed on Monday (if the holiday falls on Sunday) or Friday (if the holiday falls on Saturday).

* * * * *

§ 70.30 [Redesignated as § 70.29]

■ 17. Redesignate § 70.30 as § 70.29.

§ 70.31 [Redesignated as § 70.30]

■ 18. Redesignate § 70.31 as § 70.30 and revise it to read as follows:

§ 70.30 How application for service may be made; conditions of service.

(a) *Application.* (1) Any person may apply for service with respect to products in which he or she has a financial interest by completing the required application for service. In any case in which the service is intended to be furnished at an establishment not operated by the applicant, the application must be approved by the operator of such establishment and such approval constitutes an authorization for any employee of the Department to enter the establishment for the purpose of performing his or her functions under the regulations. The application shall include:

(i) Name and address of the establishment at which service is desired;

(ii) Name and mailing address of the applicant;

(iii) Financial interest of the applicant in the products, except where application is made by a representative of a Government agency in the representative's official capacity;

(iv) Signature of the applicant (or the signature and title of the applicant's representative);

(v) Indication of the legal status of the applicant as an individual, partnership, corporation, or other form of legal entity; and

(vi) The legal designation of the applicant's business as a small or large business, as defined by the U.S. Small Business Administration's North American Industry Classification System (NAICS) Codes.

(2) In making application, the applicant agrees to comply with the terms and conditions of the regulations (including, but not being limited to, such instructions governing grading of products as may be issued from time to time by the Administrator). No member of or Delegate to Congress or Resident Commissioner shall be admitted to any benefit that may arise from such service unless derived through service rendered a corporation for its general benefit. Any change in such status, at any time while service is being received, shall be promptly reported by the person receiving the service to the grading office designated by the Director or Chief to process such requests.

(b) *Notice of eligibility for service.* The applicant will be notified whether the application is approved or denied.

§§ 70.32 through 70. 37 [Redesignated as §§ 70.31 through 70.36]

■ 19. Redesignate §§ 70.32 through 70.37 as §§ 70.31 through 70.36, respectively.

■ 20. Add new § 70.37 to read as follows:

§ 70.37 Types of Service.

(a) *Noncontinuous grading service.* Service is performed on an unscheduled basis, with no scheduled tour of duty, and when an applicant requests grading of a particular lot of poultry or rabbit product. Charges or fees are based on the time, travel, and expenses needed to perform the work. This service may be referred to as unscheduled grading service. Poultry and rabbit products graded under unscheduled grading service are not eligible to be identified with the official grademarks shown in § 70.51.

(b) *Continuous grading service on a scheduled basis.* Service on a scheduled basis has a scheduled tour of duty and is performed when an applicant requests that a USDA licensed grader be stationed in the applicant's plant or warehouse and grade poultry and rabbit products in accordance with U.S. Standards. The applicant agrees to comply with the facility, operating, and sanitary requirements of scheduled service. Minimum fees for service performed under a scheduled agreement shall be based on the hours of the regular tour of duty. Poultry and rabbit products graded under scheduled grading service are eligible to be identified with the official grademarks shown in § 70.51 only when processed and graded under the supervision of a grader.

(c) *Temporary grading service.* Service is performed when an applicant requests an official plant number with service provided on an unscheduled basis. The applicant must meet facility, operating, and sanitary requirements of continuous service. Charges or fees are based on the time and expenses needed to perform the work. Poultry and rabbit products graded under temporary grading service are eligible to be identified with the official grademarks only when they are processed and graded under the supervision of a grader.

■ 21. Amend § 70.70 by revising paragraphs (a) and (b) to read as follows:

§ 70.70 Payment of fees and charges.

(a) Fees and charges for any grading service shall be paid by the interested party making the application for such grading service, in accordance with the applicable provisions of this section and §§ 70.71 to 70.78, inclusive.

(b) Fees and charges for any grading service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by check, electronic funds transfer, draft, or money order made payable to the National Finance Center. Payment for the service must be made in accordance with directions on the billing statement, and such fees and charges must be paid in advance if required by the official grader or other authorized official.

* * * * *

■ 22. Amend § 70.71 by revising the section heading, introductory text; and paragraph (c) to read as follows:

§ 70.71 Charges for services on an unscheduled basis.

Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on an unscheduled basis shall be based on the applicable formulas specified in this section.

* * * * *

(c) Fees for unscheduled grading services will be based on the time required to perform the services. The hourly charges will include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate. Charges to plants are as follows:

(1) The regular hourly rate will be charged for the first 8 hours worked per grader per day for all days except observed legal holidays.

(2) The overtime rate will be charged for hours worked in excess of 8 hours per grader per day for all days except observed legal holidays.

(3) The holiday hourly rate will be charged for hours worked on observed legal holidays.

■ 23. Revise § 70.72 to read as follows:

§ 70.72 Fees for appeal grading or review of a grader's decision.

The costs of an appeal grading or review of a grader's decision, shall be borne by the appellant on an unscheduled basis at rates set forth in § 70.71, plus any travel and additional expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

§ 70.76 [Removed and Reserved]

■ 24. Remove and reserve § 70.76.

■ 25. Amend § 70.77 by revising the section heading, introductory text; and paragraph (a) to read as follows:

§ 70.77 Charges for services on a scheduled basis.

Fees to be charged and collected for any grading service, other than for an appeal grading, on a scheduled grading basis, will be determined based on the formulas in this part. The fees to be charged for any appeal grading will be as provided in § 70.71.

(a) *Charges.* The charges for the grading of poultry and rabbits and edible products thereof must be paid by the applicant for the service and will include items listed in this section as are applicable. Payment for the full cost of the grading service rendered to the applicant shall be made by the applicant to the National Finance Center. Such full costs shall comprise such of the items listed in this section as are due and included in the bill or bills covering the period or periods during which the grading service was rendered. Bills are payable upon receipt.

(1) When a signed application for service has been received, the State supervisor or his designee will complete a plant survey pursuant to § 70.34. The costs for completing the plant survey will be borne by the applicant on an unscheduled basis as described in § 70.71. No charges will be assessed when the application is required because of a change in name or ownership. If service is not installed

within 6 months from the date the application is filed, or if service is inactive due to an approved request for removal of a grader or graders for a period of 6 months, the application will be considered terminated. A new application may be filed at any time. In addition, there will be a charge of $300 if the application is terminated at the request of the applicant for reasons other than for a change in location within 12 months from the date of the inauguration of service.

(2) Charges for the cost of each grader assigned to a plant will be calculated as described in § 70.71. Minimum fees for service performed under a scheduled agreement will be based on the hours of the regular tour of duty. The Agency reserves the right to use any grader assigned to the plant under a scheduled agreement to perform service for other applicants and no charge will be assessed to the scheduled applicant for the number of hours charged to the other applicant. Charges to plants are as follows:

(i) The regular hourly rate will be charged for hours worked in accordance with the approved tour of duty on the application for service between the hours of 6 a.m. and 6 p.m.

(ii) The overtime rate will be charged for hours worked in excess of the approved tour of duty on the application for service.

(iii) The holiday hourly rate will be charged for hours worked on observed legal holidays.

(iv) The night differential rate (for regular or overtime hours) will be charged for hours worked between 6 p.m. and 6 a.m.

(v) The Sunday differential rate (for regular or overtime hours) will be charged for hours worked on a Sunday.

(vi) For all hours of work performed in a plant without an approved tour of duty, the charge will be one of the applicable hourly rates in § 70.71 plus actual travel expenses incurred by AMS.

(3) A charge at the hourly rates specified in § 70.71, plus actual travel expenses incurred by AMS for intermediate surveys to firms without grading service in effect.

* * * * *

Dated: March 8, 2019,

Bruce Summers,

Administrator.

[FR Doc. 2019–04600 Filed 3–22–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–135671–17]

RIN 1545–BO44

Partnership Transactions Involving Equity Interests of a Partner

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations to amend final regulations that prevent a corporate partner from avoiding corporate-level gain through transactions with a partnership involving equity interests of the partner or certain related entities. These regulations affect partnerships and their partners.

DATES: Comments and requests for a public hearing must be received by June 24, 2019.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–135671–17), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–135671–17), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, or sent electronically, via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–135671–17).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Kevin I. Babitz, (202) 317–6852, or Mary Brewer, (202) 317–6975; concerning submission of comments or to request a public hearing, Regina L. Johnson at (202) 317–6901.

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This notice of proposed rulemaking contains amendments to the Income Tax Regulations (26 CFR part 1) under section 337(d) of the Internal Revenue Code (Code) set forth in § 1.337(d)–3 (final regulations) that prevent a corporate partner from using a partnership to avoid recognition of corporate-level gain. The final regulations largely adopted proposed regulations (REG–149518–03) published in the **Federal Register** (80 FR 33451) on June 12, 2015 (2015 regulations) with minor, nonsubstantive clarifying changes in response to requests for further certainty in the single comment letter received on the proposed regulations. See the Explanation of Provisions section of the preamble to TD 9833 (83 FR 26580 (June 8, 2018)) for a detailed discussion of each of the specific points raised in the comment letter received on the 2015 regulations.

The rules set forth in this notice of proposed rulemaking contain substantive modifications to the final regulations relating to the definition of Stock of the Corporate Partner. Accordingly, the Treasury Department and the IRS determined it appropriate to publish these modifications in the form of new proposed regulations to afford the public the opportunity to submit additional comments.

1. Stock of the Corporate Partner: Attribution

The final regulations apply to certain partnerships that hold stock of a Corporate Partner. For this purpose, a *Corporate Partner* is defined as a person that holds or acquires an interest in a partnership and that is classified as a corporation for federal income tax purposes. The final regulations define *Stock of the Corporate Partner* expansively to include stock and other equity interests, including warrants, other options, and similar interests, either in the Corporate Partner or in a corporation (referred to in this Background and Explanation of Provisions section as a Controlling Corporation) that controls the Corporate Partner within the meaning of section 304(c), except that section 318(a)(1) and (3) would not apply. Stock of the Corporate Partner also includes an interest in any entity to the extent that the value of the interest is attributable to Stock of the Corporate Partner.

The final regulations adopted a definition of Stock of the Corporate Partner that was modified as compared to the definition in the regulations that the Treasury Department and the IRS proposed on December 15, 1992 (PS–91–90, REG–208989–90, 1993–1 CB 919) (1992 proposed regulations). The final regulations broadened the definition of Stock of the Corporate Partner with respect to the relationship needed for a Controlling Corporation to be treated as controlling the Corporate Partner (using a modified section 304(c) standard instead of section 1504(a)) but also narrowed the definition, generally excluding sister corporations and subsidiary corporations of the Corporate Partner from being treated as Controlling Corporations.

More specifically, the final regulations define Stock of a Corporate Partner by including stock and other

equity interests of any corporation that controls the Corporate Partner within the meaning of section 304(c), except that section 318(a)(1) and (3) shall not apply (section 304(c) control). In contrast, the 1992 proposed regulation's definition was limited to stock or other equity interests issued by the Corporate Partner and its ''section 337(d) affiliates''—that is any corporation that is a member of an affiliated group as defined in section 1504(a) of the Code without regard to section 1504(b).

Section 304(c) control generally exists when there is ownership of stock of a corporation possessing at least 50 percent of the total combined voting power of all classes of the corporation's stock entitled to vote or at least 50 percent of the value of the shares of all classes of stock of the corporation, while control of a corporation under section 1504(a)(2) requires ownership of stock of the corporation possessing at least 80 percent of the total voting power of the stock of the corporation and at least 80 percent of the total value of the stock of the corporation. The Treasury Department and the IRS adopted this lower ownership threshold for determining control in the final regulations as a more appropriate standard for this purpose because General Utilities repeal could more easily be avoided by acquiring stock of a corporation that owns less than 80 percent of the vote and value of the Corporate Partner's stock. See *General Utilities & Operating Co.* v. *Helvering,* 296 U.S. 200 (1935).

While section 304(c) incorporates the constructive ownership rules of section 318(a) with some modifications, the 2015 regulations excluded the application of section 318(a)(1) and (3) from their definition of control.

The commenter that submitted the only comment on the 2015 regulations demonstrated that families could use the exclusion of section 318(a)(1) attribution from the determination of section 304(c) control to structure transactions using partnerships to eliminate gain on appreciated assets or contravene the purposes of section 337(d) in other ways. For example—

Husband owns 90 percent of corporation A, which owns 49 percent of Corporate Partner (CP). Wife owns 90 percent of corporation B, which also owns 49 percent of CP. CP owns an interest in partnership PRS. Under these facts, because the 2015 regulations determined section 304(c) control without applying the section 318(a)(1) family attribution rule, neither A nor B control CP. Accordingly, other partners in Partnership could contribute stock of A and B to PRS in exchange for an interest in PRS without triggering gain to A or B.

The Treasury Department and the IRS agree with the commenter that excluding section 318(a)(1) attribution from the determination of section 304(c) control could produce unintended results. In addition, the Treasury Department and the IRS have determined that taxpayers can structure transactions to take advantage of the exclusion of section 318(a)(3) attribution from the determination of section 304(c) control. For example, in the preceding fact pattern, if the interests held by Husband and Wife were instead held by a single corporation, X, neither A nor B would control CP without the application of section 318(a)(3) attribution.

As a result, the Treasury Department and the IRS propose to modify the definition of Stock of the Corporate Partner to eliminate the exclusion of section 318(a)(1) and (3) attribution from the determination of section 304(c) control. However, as explained below, the Treasury Department and the IRS propose to limit this expanded definition of Stock of the Corporate Partner to entities that own a direct or indirect interest in the Corporate Partner.

The exclusion of attribution under sections 318(a)(1) and 318(a)(3) in the 2015 regulations and the final regulations was intended to limit section 304(c) control to entities that own a direct or indirect interest in the Corporate Partner, while excluding entities that do not own a direct or indirect interest in the Corporate Partner. To implement this intent more precisely, the Treasury Department and the IRS propose to limit the proposed scope of section 304(c) control to ownership, direct or indirect, of an interest in the Corporate Partner. For the purpose of testing direct or indirect ownership of an interest in the Corporate Partner, ownership of Stock of the Corporate Partner would be attributed to an entity under section 318(a)(2) (except that the 50-percent ownership limitation in section 318(a)(2)(C) would not apply) and under section 318(a)(4), but otherwise without regard to section 318. Thus, sections 318(a)(1), 318(a)(3), and 318(a)(5) would not apply for determining whether an entity directly or indirectly owns an interest in Stock of the Corporate Partner, but once an entity is found to directly or indirectly own an interest in such stock, then the section 304(c) control definition would apply in its entirety to determine whether the tested entity is a Controlling Corporation. The Treasury Department and the IRS continue to study the appropriate scope of the definition of Stock of the Corporate Partner, and request comments regarding these provisions.

2. Definition of Stock of the Corporate Partner: Affiliated Groups

These proposed regulations, if finalized, would make a second change to the definition of Stock of the Corporate Partner. The final regulations provide that the term Stock of the Corporate Partner does not include any stock or other equity interests held or acquired by a partnership if all interests in the partnership's capital and profits are held by members of an affiliated group as defined in section 1504(a) that includes the Corporate Partner (Affiliated Group Exception). The 1992 proposed regulations included affiliate stock within its definition of the Stock of a Corporate Partner, but the 2015 proposed regulations instead set forth this Affiliated Group Exception, which the final regulations adopted. Thus, the final regulations do not apply if a domestic corporation and its wholly owned domestic subsidiaries (each of which is an includible corporation under section 1504(b)) are the only partners in a partnership and any of these corporations contributes stock of another affiliate to a partnership. The preamble to T.D. 9722 (80 FR 33402 (June 12, 2015)), which contained temporary regulations that accompanied the 2015 regulations, stated that the Treasury Department and the IRS had determined that the Affiliated Group Exception is appropriate because ''the purpose of these regulations is not implicated if a partnership is owned entirely by affiliated corporations.''

After further study, the Treasury Department and the IRS have determined that the Affiliated Group Exception may result in abuse and therefore is not appropriate. Specifically, the Treasury Department and the IRS believe that a partnership held entirely by members of an affiliated group could enter into transactions that permanently eliminate the built-in gain on an appreciated asset that one partner contributes to the partnership. For example—

Assume that P, a corporation, owns all of the stock of S1, and S1 owns all of the stock of CP. P, S1, and CP are members of an affiliated group. P and CP form a 50–50 partnership; CP contributes an appreciated asset to the partnership; and P contributes S1 stock with basis equal to fair market value. After seven years, the partnership liquidates and distributes the S1 stock to CP and the appreciated asset to P. At that time, the asset may be sold outside of the group with an artificially increased basis. The built-in gain that was in the asset is now preserved in the S1 stock held by CP. The group may permanently eliminate the gain without tax

by liquidating CP under section 332. CP would receive nonrecognition treatment on distribution of the S1 stock to S1 under section 332, and S1 would receive nonrecognition treatment on the receipt of its own stock under section 1032. Thus, the liquidation of CP permanently eliminates the built-in gain on the appreciated asset that attached to the hook stock CP held in S1 after the liquidation of the partnership.

This ability to increase the basis of an appreciated asset artificially and to eliminate the built-in gain permanently contravenes the purposes of section 337(d) and these regulations. The Treasury Department and the IRS are also aware that practitioners have observed that the Affiliated Group Exception runs counter to the general rule that related-party transactions are subject to greater scrutiny. In light of these concerns, these proposed regulations would remove the Affiliated Group Exception contained in the final regulations.

However, because there may be specific circumstances under which the elimination of the Affiliated Group Exception could adversely impact ordinary business transactions between affiliated group members and group-owned partnerships, the Treasury Department and the IRS request comments describing situations in which a more tailored version of the Affiliated Group Exception would be warranted.

3. Definition of Stock of the Corporate Partner: Value of an Interest Attributable to Stock of the Corporate Partner

These proposed regulations would modify the scope of the rule in the final regulations that Stock of the Corporate Partner includes interests in any entity to the extent that the value of the interest is attributable to Stock of the Corporate Partner (Value Rule). Under the final regulations, the Value Rule applies to all interests in an entity regardless of whether the entity is controlled by the Corporate Partner. The sole commenter responding to the 2015 regulations agreed that the scope of the Value Rule was appropriate if the entity was controlled by the Corporate Partner. However, for entities that are not controlled by the Corporate Partner, the commenter asked that the scope of the Value Rule be narrowed to apply only if 20 percent or more of the assets of an entity were Stock of the Corporate Partner.

The Treasury Department and the IRS agree that the Value Rule in the 2015 regulations and the final regulations could be overbroad in certain circumstances. For example—

Assume X, a publicly traded corporation, owns a portfolio investment in P, a publicly traded corporation. P controls CP, a Corporate Partner under the final regulations, within the meaning of section 304(c); thus, P's stock is Stock of the Corporate Partner under the final regulations. Under the Value Rule, X's stock would be Stock of the Corporate Partner to the extent that the value of X is attributable to Stock of the Corporate Partner. If CP contributed appreciated property to a partnership, and another party contributed X stock to the partnership, CP would be unable to determine whether it had engaged in a Section 337(d) Transaction (within the meaning of § 1.337(d)–3(c)(3)) or otherwise apply the rules of the final regulations because CP (through P) might have no way to determine that the X stock used in the transaction could be Stock of the Corporate Partner. Alternatively, if CP were aware that X owned a portfolio investment in P, it would have no ability to determine the amount of X stock that is Stock of the Corporate Partner under the Value Rule. This is because, absent actual or constructive knowledge (for example through required disclosures such as filings with the Securities and Exchange Commission), a widely held corporation might not know or have the ability to know who owns its stock.

For this reason, the Treasury Department and the IRS have determined that narrowing the scope of the Value Rule is appropriate. However, the Treasury Department and the IRS decline to adopt the commenter's specific suggestion that interests in an entity not be subject to the Value Rule unless 20 percent or more of the assets of the entity consisted of Stock of the Corporate Partner. Such a rule would cause the Value Rule to be overly narrow and could permit taxpayers to structure transactions that would contravene the purpose of section 337(d) and these regulations. Instead, the Treasury Department and the IRS propose to narrow the scope of the Value Rule through an alternate measure. Under the proposed regulations, if an entity is not controlled by the Corporate Partner and is not a Controlling Corporation, the Value Rule would apply to treat interests in the entity as Stock of the Corporate Partner only if the entity owns, directly or indirectly, 5 percent or more of the stock, by vote or value, of the Corporate Partner. For this purpose, direct or indirect ownership would mean ownership of stock that would be attributed to a person under section 318(a)(2) (except that the 50-percent ownership limitation in section 318(a)(2)(C) would not apply) and under section 318(a)(4), but otherwise without regard to section 318. The Treasury Department and the IRS believe that using a 5-percent ownership threshold is appropriate because entities have the ability to determine whether they have 5-percent or greater owners, and corporations may track their 5-percent shareholders for other reasons (such as for section 382 purposes). Further, the Treasury Department and the IRS propose to apply this 5-percent threshold to direct or indirect stock ownership, rather than all equity interests, in the Corporate Partner in order to make the Value Rule more readily administrable.

The proposed regulations also would clarify how taxpayers should apply the Value Rule to determine the extent to which the value of an equity interest is attributable to Stock of the Corporate Partner. The proposed regulations would provide that taxpayers would multiply the value of the equity interest in an entity by a ratio, the numerator of which is the fair market value of the Stock of the Corporate Partner owned directly or indirectly by the entity and the denominator of which is the fair market value of all of the equity interests in the entity. For this purpose, direct or indirect ownership would mean ownership of stock that would be attributed to a person under section 318(a)(2) (except that the 50-percent ownership limitation in section 318(a)(2)(C) would not apply) and under section 318(a)(4), but otherwise without regard to section 318. The proposed regulations would also provide that the ratio may not exceed one. The Treasury Department and the IRS determined that the fair market value of all of the equity interests in the entity is the most appropriate measure to determine the value of the entity because the Value Rule seeks to determine what portion of the value of an equity interest in an entity reflects the value of Stock of the Corporate Partner owned by that entity.

Additionally, the proposed regulations would clarify that, if an equity interest is Stock of the Corporate Partner because it is an interest in the Corporate Partner or in an entity with a direct or indirect ownership interest that controls the Corporate Partner within the meaning of section 304(c), then the Value Rule will not apply. The Treasury Department and the IRS request comments on all aspects of the proposed changes to the scope of the Value Rule, including the appropriate measure of the value of the entity.

4. Exception for Certain Dispositions of Stock

Finally, these proposed regulations would make a modification to the exception for certain dispositions of stock in § 1.337(d)–3(f)(2) to make its language consistent with the modified definition of Stock of the Corporate

Partner. Under this exception, the final regulations do not apply to Stock of the Corporate Partner that (i) is disposed of (by sale or distribution) by the partnership before the due date (including extensions) of its federal income tax return for the taxable year of the relevant transaction; and (ii) is not distributed to the Corporate Partner or a corporation that controls the Corporate Partner. With respect to the second requirement, the final regulations refer to a corporation that controls the Corporate Partner within the meaning of section 304(c), except that section 318(a)(1) and (3) shall not apply. For the same reasons that these proposed regulations modify the definition of Stock of the Corporate Partner, these proposed regulations also modify the second requirement of this exception to refer to a corporation that controls the Corporate Partner within the meaning of section 304(c), but only if the controlling corporation owns directly or indirectly stock or another equity interest in the Corporate Partner, in order to conform the second requirement with the modified definition of Stock of the Corporate Partner.

Proposed Effective Date

These regulations are proposed to be effective as of the date of their publication as final regulations in the **Federal Register**. Taxpayers may rely on these proposed regulations for transactions occurring on or after June 12, 2015 and prior to the date that these regulations are published as final regulations in the **Federal Register**, provided that the taxpayer consistently applies all of the proposed regulations to such transactions.

Special Analyses

These proposed regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

These proposed regulations do not impose a collection of information on small entities. Further, pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these proposed regulations would not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these proposed regulations would primarily affect sophisticated ownership structures with interlocking ownership of corporations, partnerships and corporate stock. Accordingly, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at *http://www.regulations.gov* or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written or electronic comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these regulations are Kevin I. Babitz, Office of the Associate Chief Counsel (Passthroughs and Special Industries) and Mary Brewer, Office of the Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART I—INCOME TAXES

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

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

■ **Par. 2.** Section 1.337(d)–3 is amended by revising paragraphs (c)(2), (f)(2)(ii) and (i) to read as follows:

§ 1.337(d)–3 Gain recognition upon certain partnership transactions involving a partner's stock.

* * * * *

(c) * * *

(2) *Stock of the Corporate Partner*—(i) *In general.* With respect to a Corporate Partner, Stock of the Corporate Partner includes stock, warrants and other options to acquire stock, and similar interests (each an equity interest) in the Corporate Partner. Stock of the Corporate Partner also includes equity interests in a corporation that controls the Corporate Partner within the meaning of section 304(c), and which also has a direct or indirect equity interest in the Corporate Partner. Solely for purposes of determining whether a corporation that controls the Corporate Partner also has a direct or indirect equity interest in the Corporate Partner under this paragraph (c)(2), a direct or indirect ownership of an equity interest in the Corporate Partner includes ownership of Stock of the Corporate Partner that would be attributed to a person under section 318(a)(2) (except that the 50-percent ownership limitation in section 318(a)(2)(C) does not apply) and under section 318(a)(4) (but otherwise without regard to section 318).

(ii) *Equity Interests with value attributable to Stock of the Corporate Partner.* If an equity interest in an entity is not Stock of the Corporate Partner within the meaning of paragraph (c)(2)(i) of this section, then the equity interest will be treated as Stock of the Corporate Partner to the extent that the value of that equity interest is attributable to Stock of the Corporate Partner. The preceding sentence will apply only if either—

(A) The Corporate Partner is in control (within the meaning of section 304(c)) of that entity; or

(B) That entity owns directly or indirectly 5 percent or more, by vote or value, of the stock in the Corporate Partner.

(iii) *Determination of value attributable to Stock of the Corporate Partner.* The value of an equity interest in an entity that is attributable to Stock of the Corporate Partner under paragraph (c)(2)(ii) of this section is equal to the product of—

(A) The fair market value of the equity interest; and

(B) The lesser of—

(*1*) The ratio of the fair market value of the Stock of the Corporate Partner owned (directly or indirectly (as defined in paragraph (c)(2)(i) of this section), by the entity to the fair market value of all the equity interests in the entity; or

(*2*) One.

* * * * *

(f) * * *

(2) * * *

(ii) Is not distributed to the Corporate Partner or a corporation that controls the Corporate Partner within the meaning of section 304(c) and owns directly or indirectly stock or other equity interests in the Corporate Partner. For purposes of this paragraph (f)(2), a

direct or indirect ownership of an equity interest in the Corporate Partner means ownership of Stock of the Corporate Partner that would be attributed to a person under section 318(a)(2) (except that the 50-percent ownership limitation in section 318(a)(2)(C) does not apply) and under section 318(a)(4) (but otherwise without regard to section 318).

* * * * *

(i) *Effective/applicability date.* The regulations in this section are effective as of the date of their publication as final regulations in the **Federal Register**.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2019–05545 Filed 3–22–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–103083–18]

RIN 1545–BO49

Information Reporting for Certain Life Insurance Contract Transactions and Modifications to the Transfer for Valuable Consideration Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking; notification of public hearing.

SUMMARY: This document contains proposed regulations providing guidance on new information reporting obligations under section 6050Y related to reportable policy sales of life insurance contracts and payments of reportable death benefits. The proposed regulations also provide guidance on the amount of death benefits excluded from gross income under section 101 following a reportable policy sale. The proposed regulations affect parties involved in certain life insurance contract transactions, including reportable policy sales, transfers of life insurance contracts to foreign persons, and payments of reportable death benefits. This document invites comments and provides a notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by May 9, 2019. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for June 5, 2019, at 10 a.m. must be received by May 9, 2019.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–103083–18), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–103083–18), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–103083–18).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Kathryn M. Sneade, (202) 317–6995; concerning submissions of comments and requests to speak at the public hearing, Regina Johnson, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review under OMB Control Numbers 1545–0119, 1545–1621, and 1545–2281 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). In general, the collection of information in the proposed regulations is required under section 6050Y of the Internal Revenue Code (Code): (1) The requirement under § 1.6050Y–2 of the proposed regulations for an acquirer to report certain information about payments made in reportable policy sales is required under section 6050Y(a); (2) the requirement under § 1.6050Y–3 of the proposed regulations for an issuer to report certain information about transferors of life insurance contracts is required under section 6050Y(b); and (3) the requirement under § 1.6050Y–4 of the proposed regulations for a payor to report certain information about payments of reportable death benefits is required under section 6050Y(c). Section 1.6050Y–3(a)(3) of the proposed regulations would require the issuer to report to the seller and the IRS the amount the seller would have received if the seller had surrendered the life insurance contract on the date of the reportable policy sale. This information is necessary to allow the seller and the IRS to determine the character of all or a portion of the seller's taxable income from the sale of the life insurance contract (capital or ordinary). Sections 1.6050Y–3(f)(1) and 1.6050Y–4(e)(1) of the proposed regulations contain reporting exceptions for certain foreign beneficial owners. To determine qualification for these reporting exceptions, §§ 1.6050Y–3(f)(1) and 1.6050Y–4(e)(1) would require that certain foreign beneficial owners provide a Form W–8ECI, ''Certificate of Foreign Person's Claim that Income is Effectively Connected with the Conduct of a Trade or Business in the United States,'' to certain persons. This information is necessary to document whether the reporting exception in either § 1.6050Y–3(f)(1) or § 1.6050Y–4(e)(1) applies in a particular situation.

The likely respondents to the collection of information are (1) Entities acquiring life insurance contracts in reportable policy sales; (2) life insurance companies; (3) life insurance companies and other entities making payments of reportable death benefits; and (4) entities receiving payments of reportable death benefits.

The burden for the collection of information contained in § 1.6050Y–2 of the proposed regulations will be reflected in the burden on the form that the IRS created to request the information in section 6050Y(a) and § 1.6050Y–2 of the proposed regulations (Form 1099–LS, ''Reportable Life Insurance Sale''). The burden for the collection of information contained in § 1.6050Y–3 of the proposed regulations will be reflected in the burden on the form that the IRS created to request the information in section 6050Y(b) and § 1.6050Y–3 of the proposed regulations (Form 1099–SB, ''Seller's Investment in Life Insurance Contract''). The OMB Control Number for both of these forms is 1545–2281. The burden for the collection of information contained in § 1.6050Y–4 of the proposed regulations will be reflected in the burden on the Form 1099–R, ''Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.'' (OMB Control Number 1545–0119). The burden for the collection of information contained in §§ 1.6050Y–3(f)(1) and 1.6050Y–4(e)(1) of the proposed regulations will be reflected in the burden on the Form W–8ECI (OMB Control Number 1545–1621), when the burden is revised to reflect the additional collection of information in §§ 1.6050Y–3(f)(1) and 1.6050Y–4(e)(1) of the proposed regulations.

Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:CAR:MP:T:T:SP, Washington, DC 20224. Comments on

the collection of information should be received by May 24, 2019.

Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Background

This document contains proposed amendments to 26 CFR part 1 under sections 101 and 6050Y of the Code (proposed regulations). The proposed regulations implement recent legislative changes to sections 101 and 6050Y by sections 13520 and 13522 of ''[a]n Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018,'' Public Law 115–97, 131 Stat. 2054, 2149 (Act). The proposed regulations under section 101 amend final regulations under section 101 published in the **Federal Register** on November 26, 1960 (25 FR 11402), as subsequently amended on December 24, 1964 (29 FR 18356), September 27, 1982 (47 FR 42337), and July 26, 2007 (72 FR 41159) (existing regulations).

Section 13520 of the Act added section 6050Y to chapter 61 (Information and Returns) of subtitle A of the Code (chapter 61). Section 6050Y imposes information reporting obligations related to certain life insurance contract transactions, including reportable policy sales and payments of reportable death benefits. Section 6050Y provides that each of the returns required by section 6050Y is to be made ''at such time and in such manner as the Secretary shall prescribe.'' The proposed regulations under section 6050Y implement section 6050Y. The proposed regulations specify the manner in which and time at which the information reporting obligations must be satisfied. The proposed regulations also provide definitions and rules that govern the application of the information reporting obligations.

Section 13522 of the Act amended section 101. New section 101(a)(3) defines the term ''reportable policy sale'' and provides rules for determining the amount of death benefits excluded from gross income following a reportable policy sale. The proposed regulations under section 101 provide definitions applicable under sections 101 and 6050Y and guidance for determining the amount of death benefits excluded from gross income following a reportable policy sale.

Notice 2018–41, 2018–20 I.R.B. 584, described sections 13520 and 13522 of the Act and the regulations the Department of the Treasury (Treasury Department) and the IRS expected to propose under sections 101 and 6050Y. The Treasury Department and the IRS received comments in response to the notice and considered these comments in developing these proposed regulations.

Explanation of Provisions

Section 6050Y imposes information reporting obligations related to reportable policy sales of life insurance contracts and payments of reportable death benefits. Section 1.6050Y–1 of the proposed regulations contains definitional provisions. Sections 1.6050Y–2, 1.6050Y–3, and 1.6050Y–4 of the proposed regulations provide guidance on the reporting obligations imposed by section 6050Y(a), (b), and (c), respectively.

1. Section 1.6050Y–1: Definitions

The definitions set forth in § 1.6050Y–1 of the proposed regulations apply for purposes of §§ 1.6050Y–1 through –4 of the proposed regulations.

Under the proposed regulations, ''life insurance contract,'' also referred to as a life insurance policy, is defined by reference to section 7702(a). *See* § 1.6050Y–1(a)(9) of the proposed regulations. ''Interest in a life insurance contract,'' ''transfer of an interest in a life insurance contract,'' ''direct acquisition of an interest in a life insurance contract,'' ''indirect acquisition of an interest in a life insurance contract,'' and ''reportable policy sale'' are defined by reference to the proposed regulations under section 101. *See* § 1.6050Y–1(a)(3), (5), (6), (14), and (19) of the proposed regulations. ''Foreign person'' means a person that is not a ''United States person,'' as defined in section 7701(a)(30). *See* § 1.6050Y–1(a)(4) of the proposed regulations.

Section 6050Y(a) requires any person that acquires a life insurance contract or any interest in a life insurance contract in a reportable policy sale during any taxable year to report certain information regarding the transaction, including information about each recipient of payment in the reportable policy sale. Under the proposed regulations, ''acquirer'' means any person that, directly or indirectly, acquires an interest in a life insurance contract in a reportable policy sale. *See* § 1.6050Y–1(a)(1) of the proposed regulations.

Section 6050Y(d)(1) defines ''payment,'' with respect to any reportable policy sale, to mean the amount of cash and the fair market value of any other consideration transferred in the sale. Under the proposed regulations, ''reportable policy sale payment'' means the total amount of cash and the fair market value of any other consideration transferred, or to be transferred, in a reportable policy sale, including any amount of a reportable policy sale payment recipient's debt assumed by the acquirer in a reportable policy sale. *See* § 1.6050Y–1(a)(15) of the proposed regulations. An interest in a life insurance contract may be acquired directly, from the direct holder of the interest, or indirectly, through the acquisition of an ownership interest in an entity that holds an interest in a life insurance contract. *See* §§ 1.101–1(e)(3)(i) and (ii) and 1.6050Y–1(a)(3) and (5) of the proposed regulations. In the case of an indirect acquisition of an interest in a life insurance contract that is a reportable policy sale, the reportable policy sale payment is the amount of cash and the fair market value of any other consideration transferred for the ownership interest in the entity that is appropriately allocable to the interest in the life insurance contract held by the entity. *See* § 1.6050Y–1(a)(15) of the proposed regulations. The proposed regulations require the acquirer to report the aggregate amount of reportable policy sale payments made, or to be made, with respect to a reportable policy sale. *See* § 1.6050Y–2(a)(5) of the proposed regulations. Accordingly, when an acquirer makes payments in installments in more than one year, the acquirer reports the total amount of all payments in the year of the policy sale.

''Reportable policy sale payment recipient'' means any person that receives a reportable policy sale payment in a reportable policy sale. *See* § 1.6050Y–1(a)(16) of the proposed regulations. The seller in a reportable policy sale is a reportable policy sale

payment recipient if the seller receives a reportable policy sale payment. A broker or other intermediary that retains a portion of the cash or other consideration transferred in a reportable policy sale is also a reportable policy sale payment recipient. Id. The aggregate amount of all reportable policy sale payments made with respect to a reportable policy sale must be reported under section 6050Y(a). The objective of the proposed regulations is for the acquirer to report the net payment, if any, made to each person involved in a reportable policy sale. Accordingly, if the acquirer transfers cash or other consideration to a broker in a reportable policy sale, the broker is a reportable policy sale payment recipient, and the reportable policy sale payment made to the broker is the amount of cash and the fair market value of any other consideration retained by the broker. The reportable policy sale payment made to the seller would be the amount of cash and fair market value of any other consideration transferred to the seller, including any amount of the seller's debt assumed by the acquirer in a reportable policy sale, and it would not include the amount of the reportable policy sale payment made to the broker.

Comments received on Notice 2018–41 suggested that the amount of the payment to a seller in a reportable policy sale that should be reported under section 6050Y(a) should be the amount actually paid to the seller. These comments were taken into consideration in developing the definition of ''reportable policy sale payment recipient'' in the proposed regulations, as well as the reporting requirements in the proposed regulations, which require the acquirer in a reportable policy sale to report, with respect to each reportable policy sale payment recipient, the aggregate amount of reportable policy sale payments made to that person. *See* § 1.6050Y–2(a)(5) of the proposed regulations.

Comments received on Notice 2018–41 suggested that no reporting should be required for payments of ancillary costs and expenses in a reportable policy sale, including broker fees, securities intermediary fees, and other fees and expenses. Comments noted that the person paying these expenses is normally paying them in connection with the conduct of a trade or business, and is therefore required to report these amounts to payees in accordance with applicable rules. The proposed regulations require the acquirer in a reportable policy sale to report all reportable policy sale payments made with respect to the reportable policy sale, meaning all amounts of cash and the fair market value of any other consideration transferred in the reportable policy sale, including any amount of a reportable policy sale payment recipient's debt assumed by the acquirer in a reportable policy sale. The Treasury Department and the IRS are considering whether reportable policy sale payments should be defined to exclude payments of any ancillary costs and expenses and request comments regarding the types of payments made by acquirers in reportable policy sales, the recipients of those payments, and existing reporting requirements applicable to those payments.

Section 6050Y(b) requires issuers of life insurance contracts receiving a written statement furnished by an acquirer under section 6050Y(a) and § 1.6050Y–2 of the proposed regulations (a ''reportable policy sale statement'' or ''RPSS,'' under § 1.6050Y–1(a)(17) of the proposed regulations) or notice of a transfer to a foreign person to report certain information regarding sellers. Under the proposed regulations, ''seller'' means any person that holds an interest in a life insurance contract and transfers that interest, or any part of that interest, to an acquirer in a reportable policy sale or any person that owns a life insurance contract and transfers title to, possession of, or legal ownership of that life insurance contract to a foreign person. *See* § 1.6050Y–1(a)(18) of the proposed regulations. ''Notice of a transfer to a foreign person'' means any notice of a transfer of a life insurance contract (*i.e.,* a transfer of title to, possession of, or legal ownership of the life insurance contract) received by a 6050Y(b) issuer (as that term is defined in § 1.6050Y–1(a)(8)(iii)(B) of the proposed regulations). *See* § 1.6050Y–1(a)(10) of the proposed regulations. Notice of a transfer to a foreign person includes information provided for nontax purposes such as a change of address notice for purposes of sending statements or for other purposes, and information relating to loans, premiums, or death benefits with respect to the contract, unless the 6050Y(b) issuer knows that no transfer of the life insurance contract has occurred or knows the transferee is a United States person. Id. For this purpose, a 6050Y(b) issuer may rely on a Form W–9, Request for Taxpayer Identification Number and Certification, or a valid substitute form, that meets the requirements of § 1.1441–1(d)(2) (substituting ''6050Y(b) issuer'' for ''withholding agent''), that indicates the transferee is a United States person.

The definition of ''issuer'' under the proposed regulations depends on the context in which the term is used. In general, the term ''issuer'' means, on any date, with respect to any interest in a life insurance contract, any person that bears any part of the risk with respect to the life insurance contract on that date and any person responsible on that date for administering the contract, including collecting premiums and paying death benefits. *See* § 1.6050Y–1(a)(8)(i) of the proposed regulations. For instance, if a reinsurer reinsures on an indemnity basis all or a portion of the risks that the original issuer (and continuing contract administrator) might otherwise have incurred with respect to a life insurance contract, both the reinsurer and the original issuer of the contract are issuers of the life insurance contract. Id.

Additionally, any designee of an issuer for purposes of section 6050Y reporting purposes is generally also considered an issuer. *See* § 1.6050Y–1(a)(8)(i) of the proposed regulations. Under § 1.6050Y–1(a)(8)(iv) of the proposed regulations, a person is the designee of an issuer for purposes of section 6050Y reporting under § 1.6050Y–1(a)(8) only if so designated in writing, including electronically. The designation must be signed and acknowledged, in writing or electronically, by the person named as designee, or that person's representative, and by the issuer making the designation, or a representative of that issuer.

For purposes of information reporting by the acquirer under section 6050Y(a) and § 1.6050Y–2 of the proposed regulations, the ''6050Y(a) issuer'' is the issuer that is responsible for administering the life insurance contract, including collecting premiums and paying death benefits under the contract, on the date of the reportable policy sale. *See* § 1.6050Y–1(a)(8)(ii) of the proposed regulations.

For purposes of information reporting by the issuer under section 6050Y(b) and § 1.6050Y–3 of the proposed regulations, the definition of ''6050Y(b) issuer'' depends on whether the reporting obligation results from a reportable policy sale and the receipt of a RPSS, or by a transfer to a foreign person and the receipt of notice of a transfer to a foreign person. *See* § 1.6050Y–1(a)(8)(iii)(A) of the proposed regulations (applicable to reportable policy sales) and § 1.6050Y–1(a)(8)(iii)(B) of the proposed regulations (applicable to transfers to foreign persons).

With respect to a life insurance contract, or an interest therein, that is

transferred in a reportable policy sale, the 6050Y(b) issuer is any person that (1) Receives a RPSS with respect to the life insurance contract or interest therein (or, in the case of a designee, receives notice that the issuer for whom it serves as designee received a RPSS), and (2) is or was, on or before the date of receipt of the RPSS, an issuer (as defined in § 1.6050Y–1(a)(8)(i) of the proposed regulations) with respect to the life insurance contract. *See* § 1.6050Y–1(a)(8)(iii)(A) of the proposed regulations. More than one person may meet this definition, but a 6050Y(b) issuer's reporting obligation is deemed satisfied if the information required by section 6050Y(b) and § 1.6050Y–3 is timely reported by any other 6050Y(b) issuer. *See* § 1.6050Y–3(b) of the proposed regulations.

With respect to a life insurance contract transferred to a foreign person, the 6050Y(b) issuer generally is any person that (1) Receives notice of the transfer of the life insurance contract to a foreign person, and (2) is or was, on the date of transfer or on the date of receipt of the notice, an issuer (as defined in § 1.6050Y–1(a)(8)(i) of the proposed regulations), with respect to the life insurance contract. *See* § 1.6050Y–1(a)(8)(iii)(B) of the proposed regulations. However, a person is not a 6050Y(b) issuer under § 1.6050Y–1(a)(8)(iii)(B) of the proposed regulations if (1) That person (or, in the case of a designee, the issuer for whom it serves as designee) is not responsible for administering the life insurance contract, including collecting premiums and paying death benefits under the contract, on the date the notice of a transfer to a foreign person of a life insurance contract is received, and (2) that person, or its designee, provides the 6050Y(b) issuer that is responsible for administering the life insurance contract, including collecting premiums and paying death benefits under the contract, on that date with such notice and any available information necessary to accomplish reporting under section 6050Y(b) and § 1.6050Y–3 of the proposed regulations. *See* § 1.6050Y–1(a)(8)(iii)(B) of the proposed regulations.

Section 6050Y(c) imposes reporting requirements on any person that makes a payment of reportable death benefits during any taxable year. Section 6050Y(d)(4) defines the term ''reportable death benefits'' to mean amounts paid by reason of the death of the insured under a life insurance contract that has been transferred in a reportable policy sale. The proposed regulations clarify that the amounts must be attributable to an interest in the life insurance contract that was transferred in a reportable policy sale. *See* § 1.6050Y–1(a)(12) of the proposed regulations. For instance, if the original policyholder of a life insurance contract transfers a 50 percent interest in the life insurance contract in a reportable policy sale, amounts paid by reason of the death of the insured that are attributable to the 50 percent interest retained by the original policyholder are not reportable death benefits.

The proposed regulations define ''payor'' to mean any person making a payment of reportable death benefits and ''reportable death benefits payment recipient'' to mean any person that receives reportable death benefits as a beneficiary under the life insurance contract or as the holder of an interest in the life insurance contract. *See* § 1.6050Y–1(a)(11) and (13) of the proposed regulations. Comments received on Notice 2018–41 suggested that ''payor'' be defined the same as ''issuer'' for purposes of section 6050Y. The proposed regulations do not adopt this suggestion, but comments are requested as to whether payor should be so narrowly defined, or should also include any holder of an interest in a life insurance contract that receives reportable death benefits attributable to that interest and is contractually obligated to pay part or all of the proceeds to the beneficial owner of the interest. Comments are also requested as to whether, for purposes of reporting under section 6050Y(c), reportable death benefits payment recipients should include, in addition to any person that receives reportable death benefits as a beneficiary under the life insurance contract, any person that receives reportable death benefits as the holder of an interest in the life insurance contract.

Section 6050Y(b) and § 1.6050Y–3 of the proposed regulations require issuers to report the seller's investment in the contract to the seller, and section 6050Y(c) and § 1.6050Y–4 of the proposed regulations require payors to report the payor's estimate of the buyer's investment in the contract to the reportable death benefits payment recipient. The ''buyer,'' with respect to any interest in a life insurance contract that has been transferred in a reportable policy sale, is the person that was the most recent acquirer of that interest in a reportable policy sale as of the date reportable death benefits are paid under the contract. *See* § 1.6050Y–1(a)(2) of the proposed regulations.

Under the proposed regulations, the meaning of ''investment in the contract'' depends on whose investment in the contract is being determined. With respect to the original policyholder of a life insurance contract, § 1.6050Y–1(a)(7)(i) of the proposed regulations provides that ''investment in the contract'' has the same meaning as under section 72(e)(6). With respect to the original policyholder, the issuer will have all of the information required to determine that amount.

With respect to anyone other than the original policyholder, the issuer or payor may lack information required to determine the seller's or buyer's investment in the contract as defined in section 72(e)(6), such as the aggregate amount of consideration paid for the contract and the extent to which amounts received under the contract were excludable from gross income. In this context, § 1.6050Y–1(a)(7)(i) of the proposed regulations provides that ''investment in the contract'' has the same meaning as ''estimate of investment in the contract.'' Section 1.6050Y–1(a)(7)(ii) of the proposed regulations defines ''estimate of investment in the contract'' with respect to any person other than the original policyholder to mean, on any date, the aggregate amount of premiums paid for the contract by that person before that date, less the aggregate amount received under the contract by that person before that date to the extent such information is known to or can reasonably be estimated by the issuer or payor.

2. Section 1.6050Y–2: Reporting of Payments by Acquirer in a Reportable Policy Sale

Section 6050Y(a) requires reporting of payments made by an acquirer in a reportable policy sale. Section 1.6050Y–2(a) of the proposed regulations sets forth the requirement of information reporting applicable to acquirers in reportable policy sales under section 6050Y(a)(1) and describes the information that must be reported.

The proposed regulations allow for unified reporting by the acquirers in a series of prearranged transfers of any interest in a life insurance contract. *See* § 1.6050Y–2(b) and (d)(3) of the proposed regulations. A series of prearranged transfers of an interest in a life insurance contract may include transfers in which one or more persons serve as intermediaries. Such intermediaries may acquire title or possession of an interest in a life insurance contract for state law purposes as nominee on behalf of another person or persons. Comments received on Notice 2018–41 suggested that a rule allowing unified reporting be adopted with respect to acquirers in a series of prearranged transfers, and these comments were taken into

consideration in developing the rules in the proposed regulations.

Section 1.6050Y–2(c) of the proposed regulations sets forth the time and place for filing returns required under section 6050Y(a)(1).

Section 1.6050Y–2(d) of the proposed regulations sets forth the requirement under section 6050Y(a)(2) for the acquirer in a reportable policy sale to furnish a written statement to certain persons with respect to whom information is required on the return required by section 6050Y(a)(1). These persons are the recipients of payments in reportable policy sales (reportable policy sale payment recipients) and the 6050Y(a) issuers.

A written statement provided to a reportable policy sale payment recipient is not required to include information with respect to any other reportable policy sale payment recipient in the reportable policy sale. *See* § 1.6050Y–2(d)(1)(i) of the proposed regulations. For instance, the statement is not required to provide information about reportable policy sale payments to any other reportable policy sale payment recipient. Id. The contact information of the person furnishing the written statement must provide direct access to a person that can answer questions about the statement. Id. Reportable policy sale payment recipients may use the information in the written statements furnished by acquirers to determine their taxable income. To facilitate proper tax reporting, the proposed regulations provide that an acquirer must furnish any written statement required to be provided to a reportable policy sale payment recipient no later than February 15 of the year following the calendar year in which the reportable policy sale occurs. *See* § 1.6050Y–2(d)(1)(ii) of the proposed regulations. The proposed regulations adopt this deadline because a person may be both a reportable policy sale payment recipient and a seller with respect to a reportable policy sale, and this deadline for an acquirer to furnish a written statement to a reportable policy sale payment recipient coordinates with the deadline in § 1.6050Y–3(d)(2) of the proposed regulations for a 6050Y(b) issuer that receives a RPSS to furnish a written statement to a seller.

Generally, a 6050Y(a) issuer that receives a RPSS from an acquirer becomes a 6050Y(b) issuer subject to reporting obligations under section 6050Y(b), including the obligation under section 6050Y(b)(2) to furnish a written statement to the seller in a reportable policy sale. Because 6050Y(b) issuers' reporting obligation is with respect to sellers, the proposed regulations provide that acquirers must furnish the 6050Y(a) issuer with a RPSS with respect to each reportable policy sale payment recipient that is also a seller. *See* § 1.6050Y–2(d)(2)(i)(A) of the proposed regulations. However, an acquirer acquiring an interest in a life insurance contract in an indirect acquisition is not required to furnish a RPSS to the 6050Y(a) issuer. *See* § 1.6050Y–2(d)(2)(i)(B) of the proposed regulations. As provided in section 6050Y(a)(2)(B), the proposed regulations provide that acquirers are not required to set forth the amount of any reportable policy sale payment in a RPSS furnished to a 6050Y(a) issuer. *See* § 1.6050Y–2(d)(2)(i)(A) of the proposed regulations. Sellers may need the information in the written statements furnished by 6050Y(b) issuers that have received a RPSS to determine their taxable income. To facilitate proper tax reporting, the proposed regulations therefore provide that an acquirer must furnish a RPSS to the 6050Y(a) issuer by the later of (1) 20 days after the reportable policy sale, or (2) 5 days after the end of the applicable state law rescission period. *See* § 1.6050Y–2(d)(2)(ii) of the proposed regulations. However, if the later date is after January 15 of the year following the calendar year in which the reportable policy sale occurred, the RPSS must be furnished by January 15 of the year following the calendar year in which the reportable policy sale occurred. Id. Section 1.6050Y–3(d)(2) of the proposed regulations generally requires that the 6050Y(b) issuer furnish any written statement required by section 6050Y(b)(2) to the seller no later than February 15 of the year following the calendar year in which the reportable policy sale occurs.

Section 1.6050Y–2(e) of the proposed regulations requires the acquirer to correct returns filed under section 6050Y(a)(1) and written statements furnished under section 6050Y(a)(2) within 15 days of the acquirer's receipt of notice of the rescission of the related reportable policy sale.

Section 1.6050Y–2(f) of the proposed regulations sets forth exceptions to reporting under section 6050Y(a) that may apply to an acquirer that is a foreign person. These exceptions are described in section 5 of this Explanation of Provisions.

Section 1.6050Y–2(g) of the proposed regulations describes the penalty provisions applicable when a person is required under section 6050Y(a) to file an information return, or furnish a written statement, but fails to do so on or before the prescribed date, fails to include all of the information required to be shown, or includes incorrect information.

3. Section 1.6050Y–3: Reporting of Transferor's Investment in the Contract by 6050Y(b) Issuer (Reportable Policy Sale or Transfer to a Foreign Person)

Section 6050Y(b) requires the issuer to report certain information to the seller, including the seller's investment in the contract. Section 1.6050Y–3(a) of the proposed regulations sets forth the information reporting requirement applicable to 6050Y(b) issuers under section 6050Y(b)(1). In addition to the specific information required to be reported under section 6050Y(b)(1), Notice 2018–41 indicated that the proposed regulations would require the issuer to report the amount that would have been received by the policyholder upon surrender of the contract. A comment received on Notice 2018–41 suggested that an issuer should not be required to report this amount because the information may be provided directly by the issuer to the seller upon request.

A purpose of section 6050Y is to provide the seller in a reportable policy sale and the IRS with the information needed to determine the seller's taxable income from the sale. In the case of a sale of a cash value life insurance contract, the gain is ordinary income to the extent of the amount that would be recognized as ordinary income if the contract were surrendered, and any excess is capital gain. *See* Rev. Rul. 2009–13, 2009–21 I.R.B. 1029. To ensure that the seller and the IRS have the relevant information needed to calculate the seller's gain from the sale, including the amount of any capital or ordinary gain, the proposed regulations do not adopt the suggestion and would require the 6050Y(b) issuer to report to the seller and the IRS the amount that would have been received by the policyholder upon surrender of the contract. The Treasury Department and the IRS have determined that requiring the reporting of this information is authorized under section 6050Y(b)(1), as well as under sections 6011(a) and 7805.

Section 1.6050Y–3(b) of the proposed regulations provides that a 6050Y(b) issuer's reporting obligation under section 6050Y(b) and § 1.6050Y–3(a) is deemed satisfied if the information required by section 6050Y(b) and § 1.6050Y–3 is timely reported by any other 6050Y(b) issuer or a third party information reporting contractor.

Section 1.6050Y–3(c) of the proposed regulations sets forth the time and place for filing returns required under section 6050Y(b)(1).

Section 1.6050Y–3(d)(1) of the proposed regulations sets forth the requirement under section 6050Y(b)(2) to furnish statements to certain persons with respect to whom information is required on the return required by section 6050Y(b)(1). These persons are the sellers that (1) Transfer interests in life insurance contracts in reportable policy sales and are reportable policy sale payment recipients, or (2) transfer life insurance contracts to foreign persons. The sellers may use the information in the written statements furnished under section 6050Y(b)(2) to determine their taxable income.

To facilitate proper tax reporting, § 1.6050Y–2(d)(2)(ii) of the proposed regulations requires acquirers to furnish a RPSS to the 6050Y(a) issuer by January 15 of the year following the calendar year in which the reportable policy sale occurred, if not earlier, and § 1.6050Y–3(d)(2) of the proposed regulations provides that a 6050Y(b) issuer generally must furnish any written statement required to be provided to a seller no later than February 15 of the year following the calendar year in which the reportable policy sale or transfer to a foreign person occurs. Comments received on Notice 2018–41 suggested that issuers be required to furnish written statements required by section 6050Y(b)(2) to the seller no later than February 15 of the year following the calendar year in which the reportable policy sale occurs, noting that this is currently the due date for section 6045 broker returns and consolidated statements, and brokers also rely on third party information (*e.g.,* dividend reclassifications). The Treasury Department and the IRS propose to adopt this suggestion. *See* § 1.6050Y–3(d)(2) of the proposed regulations. Section 1.6050Y–3(d)(3) of the proposed regulations provides that a 6050Y(b) issuer's reporting obligation is deemed satisfied if the information required by § 1.6050Y–3(d)(1) of the proposed regulations with respect to that 6050Y(b) issuer is timely reported on behalf of that 6050Y(b) issuer consistent with forms, instructions, and other IRS guidance by one or more other 6050Y(b) issuers or by a third party information reporting contractor.

Section 1.6050Y–3(e) of the proposed regulations requires the 6050Y(b) issuer to correct returns filed under section 6050Y(b)(1) and written statements furnished under section 6050Y(b)(2) within 15 days of the 6050Y(b) issuer's receipt of notice of the rescission of the related reportable policy sale or transfer to a foreign person.

Section 1.6050Y–3(f) of the proposed regulations sets forth exceptions to reporting under section 6050Y(b) that may apply to 6050Y(b) issuers. These exceptions are described in section 5 of this Explanation of Provisions.

Section 1.6050Y–3(g) of the proposed regulations describes the penalty provisions applicable when a person is required under section 6050Y(b) to file an information return, or furnish a written statement, but fails to do so on or before the prescribed date, fails to include all of the information required to be shown, or includes incorrect information.

4. Section 1.6050Y–4: Reporting of Reportable Death Benefits by Payor

Section 6050Y(c) requires payors to report payments of reportable death benefits. Section 1.6050Y–4(a) of the proposed regulations sets forth the requirement of information reporting applicable to payors under section 6050Y(c)(1).

Section 1.6050Y–4(b) of the proposed regulations sets forth the time and place for filing returns required under section 6050Y(c)(1).

Section 1.6050Y–4(c)(1) of the proposed regulations sets forth the requirement under section 6050Y(c)(2) to furnish statements to persons with respect to whom information is required on the return required by section 6050Y(c)(1). These persons are the recipients of reportable death benefits (reportable death benefits payment recipients). The reportable death benefits payment recipients may use the information in the written statements furnished under section 6050Y(c)(2) to determine their taxable income. To facilitate proper tax reporting, § 1.6050Y–4(c)(2) of the proposed regulations provides that a payor must furnish any written statement required to be provided to a reportable death benefits payment recipient no later than January 31 of the year following the calendar year in which the reportable policy sale occurs. The proposed regulations use January 31 because it is generally the deadline for furnishing copies of Form 1099–R to recipients.

Section 1.6050Y–4(d) of the proposed regulations requires the payor to correct returns filed under section 6050Y(c)(1) and written statements furnished under section 6050Y(c)(2) within 15 days of the payor's receipt of notice of the rescission of the related reportable policy sale.

Section 1.6050Y–4(e) of the proposed regulations sets forth exceptions to reporting under section 6050Y(c) that may apply to payors. These exceptions are described in the next section of this Explanation of Provisions.

Section 1.6050Y–4(f) of the proposed regulations describes the penalty provisions applicable when a person is required under section 6050Y(c) to file an information return, or furnish a written statement, but fails to do so on or before the prescribed date, fails to include all of the information required to be shown, or includes incorrect information.

5. Exceptions To Reporting Under Section 6050Y

The proposed regulations include certain exceptions to the reporting requirements otherwise imposed on acquirers, 6050Y(b) issuers, and payors under §§ 1.6050Y–2, –3, and –4 of the proposed regulations, respectively. These exceptions to reporting are similar in their intended purposes to exceptions included in regulations issued under other sections in chapter 61 that except reporting by certain payors and brokers (as applicable based on the section) with respect to a transaction occurring outside the United States when no nexus of the transaction to the United States is identified (under criteria specified in each of the regulations). For example, § 1.6045–1 generally requires brokers to report the proceeds of certain sales (such as sales of securities) on a Form 1099–B, Proceeds from Broker and Barter Exchange Transactions, but includes an exception to the term ''broker'' that applies to most non-U.S. securities brokers for sales that are effected outside of the United States within the meaning provided in those regulations. *See* § 1.6045–1(a) and (g)(3)(iii). Reporting of payments under several of the sections in chapter 61 is also excepted when a payor or broker is permitted to treat the person receiving the payments as a foreign person. For certain of those excepted payments, withholding and reporting requirements may instead apply under chapter 3 of subtitle A of the Code.

Sections 1.6050Y–2(f) and 1.6050Y–3(f)(2) of the proposed regulations describe exceptions to the reporting otherwise required of an acquirer and 6050Y(b) issuer under section 6050Y(a) or (b), respectively, for cases in which the Treasury Department and the IRS are of the view that a nexus of the sale or life insurance contract to the United States is insufficient for applying the reporting provisions of those sections.

Sections 1.6050Y–3(f)(1) and 1.6050Y–4(e)(1) of the proposed regulations provide that reporting under section 6050Y(b) or (c) is not required by 6050Y(b) issuers and payors with

respect to sellers or reportable death benefits payment recipients, respectively, documented as foreign beneficial owners under the requirements of the regulations under section 1441. The proposed regulations include, however, two modifications to those requirements. First, §§ 1.6050Y–3(f)(1) and 1.6050Y–4(e)(1) of the proposed regulations permit a 6050Y(b) issuer or payor to treat a partnership or trust as a foreign beneficial owner provided that the 6050Y(b) issuer or payor obtains a written certification from the partnership or trust that no beneficial owner (within the meaning of § 1.1441–1(c)(6)(ii)) of any portion of the sales proceeds or reportable death benefits payment (as applicable based on the section) received by the partnership or trust is a United States person, as well as documentation establishing the partnership's or trust's foreign status. The treatment described in the preceding sentence does not apply, however, when the issuer or payor has actual knowledge that a United States person is a beneficial owner of all or a portion of the sale proceeds or reportable death benefit payment. Second, § 1.6050Y–3(f)(1) of the proposed regulations provides that this exception does not apply to a foreign beneficial owner for which the sale of the insurance contract (or interest therein) results in a requirement to report any of the income from the sale as effectively connected with a U.S. trade or business. To address those cases, the proposed regulations provide that a seller required to report any of the income from the sale of an insurance contract (or interest therein) as effectively connected with the conduct of a trade or business in the United States under section 864(b) must provide to the 6050Y(b) issuer a Form W–8ECI, Certificate of Foreign Person's Claim that Income is Effectively Connected with the Conduct of a Trade or Business in the United States. The proposed regulations do not permit a 6050Y(b) issuer to apply the exception when it receives a Form W–8ECI from a seller or has reason to know that the seller is required to report any of the sale proceeds as income effectively connected with a U.S. trade or business. Similar provisions apply with respect to foreign beneficial owners of reportable death benefits under § 1.6050Y–4(e)(1) of the proposed regulations. However, in response to comments received on Notice 2018–41, the Treasury Department and the IRS are considering whether payors required under section 6050Y(c) and § 1.6050Y–4(e)(1) of the proposed regulations to report payments of reportable death benefits that are income effectively connected with a U.S. trade or business may satisfy their reporting obligation under section 6050Y(c) by filing a Form 1042–S, Foreign Person's U.S. Source Income Subject to Withholding, or if such payors may be relieved from the obligation to report some of the information required to be reported under section 6050Y(c).

Section 1.6050Y–4(e)(2) of the proposed regulations also includes a reporting exception for death benefits paid under an insurance contract (or interest therein) held by a buyer that obtained the contract or interest in a reportable policy sale that was within an exception to reporting described in § 1.6050Y–3(f)(2) of the proposed regulations. The exception to reporting described in § 1.6050Y–3(f)(2) of the proposed regulations applies in those cases in which a 6050Y(b) issuer received only a notice of transfer to a foreign person and, because the requirements set forth in § 1.6050Y–3(f)(2)(i) through (iii) of the proposed regulations were met, was not required to treat the transfer as reportable for purposes of section 6050Y(b).

6. Section 1.101–1: Exclusion From Gross Income of Proceeds of Life Insurance Contracts Payable by Reason of Death

Generally, amounts received under a life insurance contract that are paid by reason of the death of the insured are excluded from federal income tax under section 101(a)(1). However, if a life insurance contract is sold or otherwise transferred for valuable consideration, the ''transfer for value rule'' set forth in section 101(a)(2) limits the excludable portion of the amount paid by reason of the death of the insured. Section 101(a)(2) provides that the excludable amount following a transfer for valuable consideration generally may not exceed the sum of (1) The actual value of the consideration paid by the transferee to acquire the life insurance contract and (2) the premiums and other amounts subsequently paid by the transferee. Section 101(a)(2) provides two exceptions to this transfer for value rule. Specifically, the limitation set forth in section 101(a)(2) does not apply if (1) The transferee's basis in the contract is determined in whole or in part by reference to the transferor's basis in the contract or (2) the transfer is to the insured, to a partner of the insured, to a partnership in which the insured is a partner, or to a corporation in which the insured is a shareholder or officer.

Section 13522 of the Act added section 101(a)(3) to the Code. Section 101(a)(3)(A) provides that these two exceptions shall not apply in the case of a transfer of a life insurance contract, or any interest therein, that is a reportable policy sale. Section 101(a)(3)(B) defines the term ''reportable policy sale'' to mean the acquisition of an interest in a life insurance contract, directly or indirectly, if the acquirer has no substantial family, business, or financial relationship with the insured apart from the acquirer's interest in such life insurance contract. For purposes of the preceding sentence, the term ''indirectly'' applies to the acquisition of an interest in a partnership, trust, or other entity that holds an interest in the life insurance contract.

The proposed regulations update § 1.101–1(a)(1) of the existing regulations to reflect the repeal of section 101(b) (treatment of employees' death benefits) in 1996, and the addition of section 7702 (definition of life insurance contract) in 1984, section 101(j) (treatment of certain employer-owned life insurance contracts) in 2006, and section 101(a)(3) (exception to valuable consideration rules for reportable policy sales) in 2017. The proposed regulations remove the second and third sentences of § 1.101–1(a)(1) of the existing regulations and add a sentence at the end of § 1.101–1(a)(1) to address the earlier changes in law. To address the changes in law made by the Act, the proposed regulations under section 101 provide updated rules for determining the amount of death benefits excluded from gross income following a transfer for value or gratuitous transfer, including a reportable policy sale, and provide definitions applicable under section 101. The proposed regulations under section 6050Y adopt the relevant definitions by cross-reference.

The proposed regulations provide that any transfer of an interest in a life insurance contract for cash or other consideration reducible to a money value is a transfer for valuable consideration. *See* § 1.101–1(f)(5) of the proposed regulations; *see also* § 25.2512–8 (''[a] consideration not reducible to a value in money or money's worth, as love and affection, promise of marriage, etc., is to be wholly disregarded''). An interest in a life insurance contract (also referred to as a life insurance policy) is held by any person that has taken title to or possession of the life insurance contract, in whole or part, for state law purposes, including any person that has taken title or possession as nominee for another person, or by any person that has an enforceable right to receive all or a part of the proceeds of the life insurance

contract or to any other economic benefits of the insurance policy as described in § 20.2042–1(c)(2). *See* § 1.101–1(e)(1) of the proposed regulations. The enforceable right to designate a contract beneficiary is an interest in a life insurance contract. Id. Any person named as the owner in a life insurance contract generally is the owner (or an owner) of the contract and holds an interest in the contract. Id.

The transfer of an interest in a life insurance contract includes the transfer of any interest in the life insurance contract as well as any transfer of the life insurance contract itself (meaning a transfer of title to, possession of, or legal or beneficial ownership of the life insurance contract). *See* § 1.101–1(e)(2) of the proposed regulations. For instance, the creation of an enforceable right to receive all or a part of the proceeds of a life insurance contract constitutes the transfer of an interest in the life insurance contract. Id. However, the revocable designation of a beneficiary of the policy proceeds does not constitute a transfer of an interest in a life insurance contract to the beneficiary until the designation becomes irrevocable other than by reason of the death of the insured. Id. For purposes of this rule, a beneficiary designation is not revocable if the person with the right to designate the beneficiary of the contract has an enforceable contractual obligation to designate a particular contract beneficiary. The pledging or assignment of a policy as collateral security also is not a transfer of an interest in a life insurance contract. Id. In response to comments received on Notice 2018–41 suggesting that the initial owner of a life insurance contract should not be considered an ''acquirer'' for purposes of section 6050Y(a), § 1.101–1(e)(2) of the proposed regulations clarifies that the issuance of a life insurance contract to a policyholder, other than the issuance of a policy in an exchange pursuant to section 1035, is not a transfer of an interest in a life insurance contract.

Section 1.101–1(b)(1)(i) of the proposed regulations provides that, in the case of a transfer of an interest in a life insurance contract for valuable consideration, the amount of the proceeds attributable to the interest that is excludable from gross income under section 101(a)(1) is limited under section 101(a)(2) to the sum of the actual value of the consideration for the transfer paid by the transferee and the premiums and other amounts subsequently paid by the transferee with respect to that interest. Consistent with section 101(a)(3), this general rule applies to all transfers of interests in life insurance contracts for valuable consideration that are reportable policy sales. Consistent with section 101(a)(2), this general rule also continues to apply to transfers of interests in life insurance contracts for valuable consideration that are not reportable policy sales, unless an exception set forth in section 101(a)(2) applies. *See* § 1.101–1(b)(1)(i) and (ii) of the proposed regulations. Section 1.101–1(b)(1)(ii)(A) of the proposed regulations applies to carryover basis transfers that are not also subject to § 1.101–1(b)(1)(ii)(B) of the proposed regulations. Section 1.101–1(b)(1)(ii)(B) of the proposed regulations applies to transfers to certain persons.

Under § 1.101–1(b)(1)(ii)(A) of the proposed regulations, the limitation described in section 101(a)(2) and § 1.101–1(b)(1)(i) of the proposed regulations does not apply to the transfer of an interest in a life insurance contract for valuable consideration if (1) The transfer is not a reportable policy sale, (2) the basis of the interest transferred, for the purpose of determining gain or loss with respect to the transferee, is determinable in whole or in part by reference to the basis of that interest in the hands of the transferor, and (3) § 1.101–1(b)(1)(ii)(B) of the proposed regulations does not apply to the transfer. The amount of the proceeds attributable to the interest that is excludable from gross income under section 101(a)(1) is, however, limited to the sum of (1) The amount that would have been excludable by the transferor, and (2) the premiums and other amounts subsequently paid by the transferee.

This limitation applies without regard to whether the interest previously has been transferred or to the nature of any prior transfer of the interest. For instance, it is irrelevant whether a prior transfer was gratuitous or for value, whether section 101(a)(2)(A) or (B) applied to a prior transfer, whether any prior transfer was a reportable policy sale, or whether the prior transfer was of the same interest or a larger interest in a life insurance contract that included the same interest. If the full amount of the proceeds would have been excludable by the transferor, as would generally be the case if the original policyholder is the transferor, § 1.101–1(b)(1)(ii)(A) of the proposed regulations will, as a practical matter, impose no limitation on the amount of the proceeds attributable to the interest that is excludable from gross income under section 101(a)(1).

Under § 1.101–1(b)(1)(ii)(B)(*1*) of the proposed regulations, the limitation on the excludable amount of the proceeds described in section 101(a)(2) and § 1.101–1(b)(1)(i) of the proposed regulations will not apply to an interest in a life insurance contract that is transferred for valuable consideration if (1) The transfer is not a reportable policy sale and the interest was not previously transferred for valuable consideration in a reportable policy sale, and (2) the transfer is to the insured, a partner of the insured, a partnership in which the insured is a partner, or a corporation in which the insured is a shareholder or officer (a (B)(*1*) person).

Under § 1.101–1(b)(1)(ii)(B)(*2*) of the proposed regulations, if a transfer of an interest in a life insurance contract to a (B)(*1*) person follows a transfer for valuable consideration in a reportable policy sale (whether in the immediately preceding transfer or an earlier transfer), the amount of the proceeds attributable to that interest that is excludable from gross income under section 101(a)(1) is limited to the sum of (1) The higher of the amount that would have been excludable by the transferor if the transfer to the (B)(*1*) person had not occurred or the actual value of the consideration for the transfer to the (B)(*1*) person paid by the (B)(*1*) person, and (2) the premiums and other amounts subsequently paid by the transferee. Thus, in determining the excludable amount of the proceeds attributable to an interest in a life insurance contract that is transferred to a (B)(*1*) person in a transfer that is not a reportable policy sale, the limitation described in section 101(a)(2) and § 1.101–1(b)(1)(i) of the proposed regulations is inapplicable unless the interest previously had been transferred in a reportable policy sale. Additionally, because of the alternative in the formula for computing the limitation, a (B)(*1*) person will not be subject to a less favorable limitation than the limitation applicable to a transferee in a carryover basis transfer eligible for the exception set forth in § 1.101–1(b)(1)(ii)(A) of the proposed regulations.

The proposed regulations provide a single rule applicable to all gratuitous transfers of interests in life insurance contracts, including reportable policy sales that are not for valuable consideration: the amount of the proceeds attributable to the interest that is excludable from gross income under section 101(a)(1) is limited to the sum of (1) The amount of the proceeds attributable to the gratuitously transferred interest that would have been excludable by the transferor if the transfer had not occurred, and (2) the premiums and other amounts subsequently paid by the transferee. *See*

§ 1.101–1(b)(2)(i) of the proposed regulations. Although § 1.101–1(b)(2) of the existing regulations provides a special rule for gratuitous transfers made by or to the insured, a partner of the insured, a partnership in which the insured is a partner, or a corporation in which the insured is a shareholder or officer, such a rule is not required by section 101(a), and the proposed regulations do not contain a special rule for these transfers because it could be subject to abuse.

Section 1.101–1(b)(3) of the proposed regulations clarifies that, for purposes of § 1.101–1(b)(1) and (2) of the proposed regulations, in determining the amounts, if any, of consideration paid by the transferee for the transfer of an interest in a life insurance contract and premiums and other amounts subsequently paid by the transferee with respect to that interest, the amounts paid by the transferee are reduced, but not below zero, by amounts received by the transferee under the life insurance contract that are not received as an annuity, to the extent excludable from gross income under section 72(e). This provision is necessary to prevent an exclusion from gross income based on a double-counting of consideration paid.

Section 1.101–1(c) of the proposed regulations defines the term ''reportable policy sale,'' which was introduced in section 101(a)(3). The proposed regulations provide that, as a general matter, any direct or indirect acquisition of an interest in a life insurance contract is a ''reportable policy sale'' if the acquirer has, at the time of the acquisition, no substantial family, business, or financial relationship with the insured apart from the acquirer's interest in that life insurance contract. *See* § 1.101–1(c)(1) of the proposed regulations.

Under § 1.101–1(e)(3)(i) of the proposed regulations, the transfer of an interest in a life insurance contract results in the direct acquisition of the interest by the transferee (acquirer). Under § 1.101–1(e)(3)(ii) of the proposed regulations, an indirect acquisition of an interest in a life insurance contract occurs when a person (acquirer) becomes a beneficial owner of a partnership, trust, or other entity that holds (directly or indirectly) an interest in the life insurance contract. For this purpose, the term ''other entity'' does not include a C corporation (as that term is defined in section 1361(a)(2)), unless more than 50 percent of the gross value of the assets of the C corporation (as determined under § 1.101–1(f)(4)) consists of life insurance contracts immediately before the indirect acquisition. Under § 1.101–1(f)(1) of the proposed regulations, a ''beneficial owner'' of a partnership, trust, or other entity is an individual or C corporation with an ownership interest in that partnership, trust, or other entity. The beneficial owner's interest may be held directly or indirectly, through one or more other partnerships, trusts, or other entities.

Accordingly, under § 1.101–1(e)(3)(ii) of the proposed regulations, persons that acquire shares in a C corporation that holds an interest in a life insurance contract generally will not be considered to have an indirect acquisition of an interest in such contract. However, if the C corporation primarily owns life insurance contracts (or interests therein), any person that acquires shares in the C corporation will be considered to have an indirect acquisition of an interest in any life insurance contract held by the C corporation.

Section 1.101–1(d) of the proposed regulations defines the terms ''substantial family relationship,'' ''substantial business relationship,'' and ''substantial financial relationship.'' Under section 1.101–1(d)(1) of the proposed regulations, a ''substantial family relationship'' is the relationship between an individual and any family member of that individual as defined in § 1.101–1(f)(3) of the proposed regulations. A substantial family relationship also exists between an individual and his or her former spouse with regard to a transfer of an interest in a life insurance contract to (or in trust for the benefit of) that former spouse incident to divorce. *See* § 1.101–1(d)(1) of the proposed regulations. Additionally, a substantial family relationship exists between the insured and an entity if all of the entity's beneficial owners have a substantial family relationship with the insured. Id.

Section 1.101–1(d)(2) describes the two situations in which a substantial business relationship exists between the acquirer and insured: (1) The insured is a key person (as defined in section 264) of, or materially participates (as defined in section 469 and the corresponding regulations) in, an active trade or business as an owner, employee, or contractor, and at least 80% of that trade or business is owned (directly or indirectly, through one or more partnerships, trusts, or other entities) by the acquirer or the beneficial owners of the acquirer, and (2) the acquirer acquires an active trade or business and acquires the interest in the life insurance contract either as part of that acquisition or from a person owning significant property leased to the acquired trade or business or life insurance policies held to facilitate the succession of the ownership of the business, if certain requirements are met. *See* § 1.101–1(d)(2)(i) and (ii) of the proposed regulations.

Comments received on Notice 2018–41 suggested that acquisitions of life insurance contracts, or interests therein, in certain ordinary course business transactions involving the acquisition of a trade or business should not be considered reportable policy sales, including ordinary course business transactions whereby one trade or business acquires another trade or business that owns life insurance on the lives of former employees or directors. The definition of substantial business relationship in § 1.101–1(d)(2) of the proposed regulations, as well as certain other provisions in the proposed regulations, are intended to exclude certain of these transactions from the definition of reportable policy sales.

Section 1.101–1(d)(3) of the proposed regulations describes the three situations in which a substantial financial relationship exists between the insured and the acquirer: (1) The acquirer (directly or indirectly, through one or more partnerships, trusts, or other entities of which it is a beneficial owner) has, or the beneficial owners of the acquirer have, a common investment (other than the interest in the life insurance contract) with the insured and a buy-out of the insured's interest in the common investment by the co-investor(s) after the insured's death is reasonably foreseeable; (2) the acquirer maintains the life insurance contract on the life of the insured to provide funds to purchase assets or satisfy liabilities following the death of the insured; or (3) the acquirer is an organization described in sections 170(c), 2055(a), and 2522(a) that previously received financial support in a substantial amount or significant volunteer support from the insured. *See* § 1.101–1(d)(3)(i) through (iii) of the proposed regulations.

The proposed regulations also specify that the fact that an acquirer is a partner of the insured, a partnership in which the insured is a partner, or a corporation in which the insured is a shareholder or officer (all relationships that are covered by an exception from the transfer for value rule) is not sufficient to establish a substantial business or financial relationship, nor is such status required to establish a substantial business or financial relationship. *See* § 1.101–1(d)(4)(ii) of the proposed regulations. The proposed regulations also clarify that, for purposes of determining whether the acquirer in an indirect acquisition of an interest in a life insurance contract has a substantial

business or financial relationship with the insured, the acquirer will be deemed to have a substantial business or financial relationship with the insured if the direct holder of the interest in the life insurance contract has a substantial business or financial relationship with the insured immediately before and after the date the acquirer acquires its interest. *See* § 1.101–1(d)(4)(i) of the proposed regulations. Accordingly, the acquirer in an indirect acquisition may establish a substantial business or financial relationship with the insured based on the acquirer's own relationship with the insured or the relationship between the insured and the direct holder of the interest in the life insurance contract.

The proposed regulations also provide several exceptions from the definition of reportable policy sale. The proposed regulations provide that the transfer of an interest in a life insurance contract between certain related entities is not a reportable policy sale. Specifically, a transfer between entities with the same beneficial owners is not a reportable policy sale if the ownership interest of each beneficial owner in each entity does not vary by more than a 20 percent ownership interest. *See* § 1.101–1(c)(2)(i) and (g)(10) of the proposed regulations. Also, a transfer between corporations that are members of an affiliated group (as defined in section 1504(a)) that files a consolidated U.S. tax return for the taxable year in which the transfer occurs is not a reportable policy sale. *See* § 1.101–1(c)(2)(ii) of the proposed regulations.

Finally, in response to comments received on Notice 2018–41, certain indirect acquisitions of life insurance contracts, or interests in life insurance contracts, are excepted from the definition of a reportable policy sale. The limited definition of ''indirect acquisition'' under § 1.101–1(e)(3)(ii) of the proposed regulations means that shareholders acquiring an interest in a C corporation that holds an interest in one or more life insurance contracts will not be considered to have an indirect acquisition or reportable policy sale unless the C corporation primarily owns life insurance contracts (or interests therein). The proposed regulations also provide an exception from the definition of a reportable policy sale for an indirect acquisition of an interest in a life insurance contract if the direct holder of the interest acquired the interest in a reportable policy sale and reported the acquisition in compliance with section 6050Y(a) and § 1.6050Y–2 of the proposed regulations. *See* § 1.101–1(c)(2)(iii)(A) of the proposed regulations. Also, the indirect acquisition of an interest in a life insurance contract is not a reportable policy sale if (1) Immediately before the acquisition, no more than 50 percent of the gross value of the assets of the entity that directly holds the interest in the life insurance contract consists of life insurance contracts, and (2) the acquirer and his or her family members own five percent or less of the ownership interests in the entity that directly holds the interest in the life insurance contract. *See* § 1.101–1(c)(2)(iii)(B) of the proposed regulations. Section 1.101–1(f)(4) of the proposed regulations provides rules regarding the determination of the gross value of assets for this purpose.

Applicability Dates

The rules in § 1.101–1(b) through (g) of the proposed regulations are proposed to apply, for purposes of section 6050Y, to reportable policy sales made after December 31, 2017, and to reportable death benefits paid after December 31, 2017. For any other purpose, § 1.101–1(b) through (g) of the proposed regulations apply to transfers of life insurance contracts, or interests therein, made after the date the Treasury decision adopting these regulations as final regulations is published in the **Federal Register**.

The rules in § 1.6050Y–1 of the proposed regulations are proposed to apply to reportable policy sales made and reportable death benefits paid after December 31, 2017. The rules in §§ 1.6050Y–2 and 1.6050Y–3 are proposed to apply to reportable policy sales made after December 31, 2017. The rules in § 1.6050Y–4 are proposed to apply to reportable death benefits paid after December 31, 2017. *See* § 1.6050Y–1(b) of the proposed regulations.

For reportable policy sales and payments of reportable death benefits occurring after December 31, 2017, and before the date final regulations are published in the **Federal Register**, § 1.6050Y–1(b) of the proposed regulations would provide transition relief as follows:

1. With respect to reportable policy sales occurring after December 31, 2017, and before the date final regulations are published in the **Federal Register**, statements required to be furnished to issuers under section 6050Y(a)(2) must be furnished by the later of the applicable deadline set forth in final regulations or 60 days after the date final regulations are published in the **Federal Register**;

2. With respect to reportable policy sales occurring after December 31, 2017, and before the date final regulations are published in the **Federal Register**, returns required to be filed under section 6050Y(a)(1) and (b)(1) and statements required to be furnished to payment recipients and sellers under section 6050Y(a)(2) and (b)(2) must be filed or furnished by the later of the applicable deadline set forth in final regulations or 90 days after the date final regulations are published in the **Federal Register**; and

3. With respect to payments of reportable death benefits paid after December 31, 2017, and before the date final regulations are published in the **Federal Register**, returns required to be filed under section 6050Y(c)(1) and statements required to be furnished to payment recipients under section 6050Y(c)(2) must be filed or furnished by the later of the applicable deadline set forth in final regulations or 90 days after the date final regulations are published in the **Federal Register**.

Special Analyses

The proposed regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

When the IRS issues a proposed rulemaking imposing a requirement on small entities, the Regulatory Flexibility Act (RFA) requires the agency to ''prepare and make available for public comment 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(b) 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.

Pursuant to the RFA, it is hereby certified that the proposed regulations will not have a significant economic impact on a substantial number of small entities. Section 13520 of the Act added section 6050Y to chapter 61 (Information and Returns) of the Code. Section 6050Y imposes information reporting obligations related to certain life insurance contract transactions, including reportable policy sales and payments of reportable death benefits. Section 6050Y provides that each of the returns required by section 6050Y is to be made ''at such time and in such manner as the Secretary shall prescribe.'' The proposed regulations under section 6050Y would implement section 6050Y by specifying the manner in which and time at which the information reporting obligations must

be satisfied. Accordingly, because the regulations are limited in scope to time and manner of information reporting and definitional information, the economic impact of the proposal is expected to be minimal. In addition, the IRS and Treasury expect that the reporting burden will fall primarily on financial and insurance firms with annual receipts greater than $38.5 million (see 13 CFR 121.201, sector 52 (finance and insurance)). Therefore, because the Commissioner of the IRS hereby certifies that the proposed regulations will not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis is not required. The Treasury Department and the IRS request comments on the accuracy of this statement. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small entities.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. The Treasury Department and the IRS specifically request comments on the following:

1. Whether the proposed regulations should provide rules regarding the electronic furnishing of statements that differ in any way from the rules regarding the electronic furnishing of statements that are set forth in § 31.6051–1(j).

2. Information about the types and timing of payments made by acquirers in reportable policy sales, including the types of ancillary costs and expenses paid in reportable policy sales, the recipients of those payments, and existing reporting requirements applicable to those payments.

3. Whether, for purposes of reporting under section 6050Y(c), only issuers should be considered payors of reportable death benefits or whether payors should be more broadly defined to include any holder of an interest in a life insurance contract that receives reportable death benefits attributable to that interest and is contractually obligated to pay them to the beneficial owner of the interest.

4. Whether a substantial business relationship or substantial financial relationship should be considered to exist between the acquirer and insured for purposes of section 101(a)(3) in any situation not included in the definition of ''substantial business relationship'' in § 1.101–1(d)(2) of the proposed regulations or the definition of ''substantial financial relationship'' in § 1.101–1(d)(3) of the proposed regulations.

5. Whether the proposed regulations should include additional provisions regarding the treatment of section 1035 exchanges of life insurance contracts.

6. Whether the exceptions to reporting by 6050Y(b) issuers and payors under §§ 1.6050Y–3(f)(1) and 1.6050Y–4(e)(1) of the proposed regulations (covering sellers and reportable death benefit payment recipients documented as foreign beneficial owners) are appropriate, including for cases in which a foreign partnership or a foreign trust is the seller or reportable death benefit payment recipient, and also whether the proposed reporting requirements are duplicative or could be combined with other reporting requirements.

All comments that are submitted by the public will be available for public inspection and copying at *www.regulations.gov* or upon request.

A public hearing has been scheduled for June 5, 2019, at 10 a.m., in the IRS Auditorium, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For more information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic by May 9, 2019. Such persons should submit a signed paper original and eight (8) copies or an electronic copy. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Kathryn M. Sneade, Office of Associate Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the Treasury Department and the IRS participated in their development.

Availability of IRS Documents

The IRS notice cited in this preamble is published in the Internal Revenue Bulletin (or Cumulative Bulletin) and is available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *www.irs.gov*.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.101–1 is amended by:

■ 1. Removing the second and third sentences in paragraph (a)(1) and adding a sentence at the end of the paragraph.

■ 2. Revising paragraphs (b)(1) through (3).

■ 3. Removing paragraphs (b)(4) and (5).

■ 4. Adding paragraphs (c) through (g).

The revisions and additions read as follows:

§ 1.101–1 Exclusion from gross income of proceeds of life insurance contracts payable by reason of death.

(a)(1) * * * If the life insurance contract is an employer-owned life insurance contract within the definition of section 101(j)(3), the amount to be excluded from gross income may be affected by the provisions of section 101(j).

* * * * *

(b) * * * (1) *Transfer of an interest in a life insurance contract for valuable consideration*—(i) *In general.* In the case of a transfer of an interest in a life insurance contract for valuable consideration, including a reportable policy sale for valuable consideration, the amount of the proceeds attributable to the interest that is excludable from gross income under section 101(a)(1) is limited under section 101(a)(2) to the

sum of the actual value of the consideration for the transfer paid by the transferee and the premiums and other amounts subsequently paid by the transferee with respect to the interest. For exceptions to this general rule for certain transfers for valuable consideration that are not reportable policy sales, see paragraph (b)(1)(ii) of this section. The application of section 101(d), (f) or (j), which is not addressed in paragraph (b) of this section, may further limit the amount of the proceeds excludable from gross income.

(ii) *Exceptions*—(A) *Exception for carryover basis transfers.* The limitation described in paragraph (b)(1)(i) of this section does not apply to the transfer of an interest in a life insurance contract for valuable consideration if each of the following requirements are satisfied. First, the transfer is not a reportable policy sale. Second, the basis of the interest, for the purpose of determining gain or loss with respect to the transferee, is determinable in whole or in part by reference to the basis of the interest in the hands of the transferor (see section 101(a)(2)(A)). Third, paragraph (b)(1)(ii)(B) of this section does not apply. In the case of a transfer described in this paragraph (b)(1)(ii)(A), the amount of the proceeds attributable to the interest that is excludable from gross income under section 101(a)(1) is limited to the sum of the amount that would have been excludable by the transferor if the transfer had not occurred and the premiums and other amounts subsequently paid by the transferee. The preceding sentence applies without regard to whether the interest previously has been transferred and the nature of any prior transfer of the interest.

(B) *Exception for transfers to certain persons*—(*1*) *In general.* The limitation described in paragraph (b)(1)(i) of this section does not apply to the transfer of an interest in a life insurance contract for valuable consideration if both of the following requirements are satisfied. First, the transfer is not a reportable policy sale and the interest was not previously transferred for valuable consideration in a reportable policy sale. Second, the interest is transferred to the insured, a partner of the insured, a partnership in which the insured is a partner, or a corporation in which the insured is a shareholder or officer (see section 101(a)(2)(B)).

(*2*) *Transfers to certain persons subsequent to a reportable policy sale.* If a transfer of an interest in a life insurance contract would be described in paragraph (b)(1)(ii)(B)(*1*) of this section, but for the fact that the interest was previously transferred for valuable consideration in a reportable policy sale (whether in the immediately preceding transfer or an earlier transfer), then the amount of the proceeds attributable to the interest that is excludable from gross income under section 101(a)(1) is limited to the sum of—

(*i*) The higher of the amount that would have been excludable by the transferor if the transfer had not occurred or the actual value of the consideration for the transfer paid by the transferee; and

(*ii*) The premiums and other amounts subsequently paid by the transferee.

(2) *Other transfers*—(i) *Gratuitous transfer of an interest in a life insurance contract.* To the extent that a transfer of an interest in a life insurance contract is gratuitous, including a reportable policy sale that is not for valuable consideration, the amount of the proceeds attributable to the interest that is excludable from gross income under section 101(a)(1) is limited to the sum of the amount of the proceeds attributable to the gratuitously transferred interest that would have been excludable by the transferor if the transfer had not occurred and the premiums and other amounts subsequently paid by the transferee.

(ii) *Partial transfers.* When only part of an interest in a life insurance contract is transferred, the transferor's exclusion is ratably apportioned among the several parts. If multiple parts of an interest are transferred, the transfer of each part is treated as a separate transaction, with each transaction subject to the rule under paragraph (b) of this section that is appropriate to the type of transfer involved.

(iii) *Bargain sales.* When the transfer of an interest in a life insurance contract is in part a sale and in part a gratuitous transfer, the transfer of each part is treated as a separate transaction for purposes of determining the amount of the proceeds attributable to the interest that is excludable from gross income under section 101(a)(1). Each separate transaction is subject to the rule under paragraph (b) of this section that is appropriate to the type of transfer involved.

(3) *Determination of amounts paid by the transferee.* For purposes of paragraphs (b)(1) and (2) of this section, in determining the amounts, if any, of consideration paid by the transferee for the transfer of an interest in a life insurance contract and premiums and other amounts subsequently paid by the transferee with respect to that interest, the amounts paid by the transferee are reduced, but not below zero, by amounts received by the transferee under the life insurance contract that are not received as an annuity, to the extent excludable from gross income under section 72(e).

(c) *Reportable policy sale*—(1) *In general.* Except as provided in paragraph (c)(2) of this section, a reportable policy sale for purposes of this section and section 6050Y is any direct or indirect acquisition of an interest in a life insurance contract if the acquirer has, at the time of the acquisition, no substantial family, business, or financial relationship with the insured apart from the acquirer's interest in the life insurance contract.

(2) *Exceptions.* None of the following transactions is a reportable policy sale:

(i) A transfer of an interest in a life insurance contract between entities with the same beneficial owners, if the ownership interest of each beneficial owner in the transferor entity does not vary by more than a 20 percent ownership interest from that beneficial owner's ownership interest in the transferee entity. In a series of transfers, the prior sentence is applied by comparing the beneficial owners' ownership interest in the first transferor entity and the last transferee entity. For purposes of this paragraph (c)(2)(i), each beneficial owner of a trust is deemed to have an ownership interest determined by the broadest possible exercise of a trustee's discretion in that beneficial owner's favor. *Example 10* in paragraph (g)(10) of this section provides an illustration of the application of this paragraph (c)(2)(i).

(ii) A transfer between corporations that are members of an affiliated group (as defined in section 1504(a)) that files a consolidated U.S. income tax return for the taxable year in which the transfer occurs.

(iii) The indirect acquisition of an interest in a life insurance contract by a person if—

(A) The partnership, trust, or other entity that directly holds the interest in the life insurance contract acquired that interest in a reportable policy sale reported in compliance with section 6050Y(a) and § 1.6050Y–2; or

(B) Immediately before the acquisition, no more than 50 percent of the gross value of the assets (as determined under paragraph (f)(4) of this section) of the partnership, trust, or other entity that directly holds the interest in the life insurance contract consists of life insurance contracts, and with respect to that partnership, trust, or other entity, the person indirectly acquiring the interest in the contract (acquirer) and his or her family members own, in the aggregate—

(*1*) With respect to an S corporation, stock possessing 5 percent or less of the

total combined voting power of all classes of stock entitled to vote and 5 percent or less of the total value of shares of all classes of stock of the S corporation;

(*2*) With respect to a trust or decedent's estate, 5 percent or less of the corpus and 5 percent or less of the annual income (taking into account, for the purpose of determining any person's ownership interest, the maximum amount of income and corpus that could be distributed to or held for the benefit of that person); or

(*3*) With respect to a partnership or other entity that is not a corporation or a trust, 5 percent or less of the capital interest and 5 percent or less of the profits interest.

(d) *Substantial relationship*—(1) *Substantial family relationship.* For purposes of this section, a substantial family relationship means the relationship between an individual and any family member of that individual as defined in paragraph (f)(3) of this section. In addition, a substantial family relationship exists between an individual and his or her former spouse with regard to the transfer of an interest in a life insurance contract to (or in trust for the benefit of) that former spouse incident to divorce. A substantial family relationship also exists between the insured and a partnership, trust, or other entity if all of the beneficial owners of that partnership, trust, or other entity have a substantial family relationship with the insured. For example, a substantial family relationship exists between the insured and an entity that acquires an interest in a life insurance contract on the insured's life if the insured is the sole beneficial owner of the entity or each beneficial owner of the entity is either the insured or a family member of the insured.

(2) *Substantial business relationship.* For purposes of this section, a substantial business relationship between the insured and the acquirer exists in each of the following situations:

(i) The insured is a key person (as defined in section 264) of, or materially participates (within the meaning of section 469) in, an active trade or business as an owner, employee, or contractor, and at least 80% of that trade or business is owned (directly or indirectly, through one or more partnerships, trusts, or other entities) by the acquirer or the beneficial owners of the acquirer.

(ii) The acquirer acquires an active trade or business and acquires the interest in the life insurance contract either as part of that acquisition or from a person owning significant property leased to the acquired trade or business or life insurance policies held to facilitate the succession of the ownership of the business if—

(A) The insured—

(*1*) Is an employee within the meaning of section 101(j)(5)(A) of the acquired trade or business immediately preceding the acquisition; or

(*2*) Was a director, highly compensated employee, or highly compensated individual within the meaning of section 101(j)(2)(A)(ii) of the acquired trade or business, and the acquirer, immediately after the acquisition, has ongoing financial obligations to the insured with respect to the insured's employment by the trade or business (for example, the life insurance contract is maintained by the acquirer to fund current or future retirement, pension, or survivorship obligations based on the insured's relationship with the entity or to fund a buy-out of the insured's interest in the acquired trade or business); and

(B) The acquirer either carries on the acquired trade or business or uses a significant portion of the acquired business assets in an active trade or business that does not include investing in interests in life insurance contracts.

(3) *Substantial financial relationship.* For purposes of this section, a substantial financial relationship between the insured and the acquirer exists in each of the following situations:

(i) The acquirer (directly or indirectly, through one or more partnerships, trusts, or other entities of which it is a beneficial owner) has, or the beneficial owners of the acquirer have, a common investment (other than the interest in the life insurance contract) with the insured and a buy-out of the insured's interest in the common investment by the co-investor(s) after the insured's death is reasonably foreseeable.

(ii) The acquirer maintains the life insurance contract on the life of the insured to provide funds to purchase assets or satisfy liabilities following the death of the insured.

(iii) The acquirer is an organization described in sections 170(c), 2055(a), and 2522(a) that previously received financial support in a substantial amount or significant volunteer support from the insured.

(4) *Special rules.* Paragraphs (d)(4)(i) and (ii) of this section apply for purposes of determining whether a substantial business relationship exists under paragraph (d)(2) of this section and for purposes of determining whether a substantial financial relationship exists under paragraph (d)(3) of this section.

(i) *Indirect acquisitions.* The acquirer in an indirect acquisition of an interest in a life insurance contract is deemed to have a substantial business or financial relationship with the insured if the direct holder of the interest in the life insurance contract has a substantial business or financial relationship with the insured immediately before and after the date the acquirer acquires its interest.

(ii) *Acquisitions by certain persons.* The sole fact that an acquirer is a partner of the insured, a partnership in which the insured is a partner, or a corporation in which the insured is a shareholder or officer, is not sufficient to establish a substantial business or financial relationship with the insured. In addition, an acquirer need not be a partner of the insured, a partnership in which the insured is a partner, or a corporation in which the insured is a shareholder or officer to have a substantial business or financial relationship with the insured.

(e) *Interest in a life insurance contract*—(1) *Definition.* For purposes of this section and section 6050Y, the term *interest in a life insurance contract* means the interest held by any person that has taken title to or possession of the life insurance contract (also referred to as a life insurance policy), in whole or part, for state law purposes, including any person that has taken title or possession as nominee for another person, and the interest held by any person that has an enforceable right to receive all or a part of the proceeds of a life insurance contract or to any other economic benefits of the policy as described in § 20.2042–1(c)(2) of this chapter, such as the enforceable right to designate a contract beneficiary. Any person named as the owner in the life insurance contract generally is the owner (or an owner) of the contract and holds an interest in the contract.

(2) *Transfer of an interest in a life insurance contract.* For purposes of this section and section 6050Y, the term *transfer of an interest in a life insurance contract* means the transfer of any interest in the life insurance contract, including any transfer of title to, possession of, or legal or beneficial ownership of the life insurance contract itself. The creation of an enforceable right to receive all or a part of the proceeds of a life insurance contract constitutes the transfer of an interest in the life insurance contract. The following events are not a transfer of an interest in a life insurance contract: The revocable designation of a beneficiary of the policy proceeds (until the

designation becomes irrevocable other than by reason of the death of the insured); the pledging or assignment of a policy as collateral security; and the issuance of a life insurance contract to a policyholder, other than the issuance of a policy in an exchange pursuant to section 1035.

(3) *Acquisition of an interest in a life insurance contract.* For purposes of this section and section 6050Y, the acquisition of an interest in a life insurance contract may be direct or indirect.

(i) *Direct acquisition of an interest in a life insurance contract.* For purposes of this section and section 6050Y, the transfer of an interest in a life insurance contract results in the direct acquisition of the interest by the transferee (acquirer).

(ii) *Indirect acquisition of an interest in a life insurance contract.* For purposes of this section and section 6050Y, an indirect acquisition of an interest in a life insurance contract occurs when a person (acquirer) becomes a beneficial owner of a partnership, trust, or other entity that holds (whether directly or indirectly) the interest in the life insurance contract. For purposes of this paragraph (e)(3)(ii), the term *other entity* does not include a C corporation, unless more than 50 percent of the gross value of the assets of the C corporation consists of life insurance contracts (as determined under paragraph (f)(4) of this section) immediately before the indirect acquisition.

(f) *Definitions.* The following definitions apply for purposes of this section:

(1) *Beneficial owner.* A beneficial owner of a partnership, trust or other entity is an individual or C corporation with an ownership interest in that entity. The interest may be held directly or indirectly, through one or more other partnerships, trusts, or other entities. For instance, an individual that directly owns an interest in a partnership (P1), which directly owns an interest in another partnership (P2), is an indirect beneficial owner of P2 and any assets or other entities owned by P2 directly or indirectly. For purposes of this paragraph (f)(1), the beneficial owners of a trust include those who may receive current distributions of trust income or corpus and those who could receive distributions if the trust were to terminate currently.

(2) *C corporation.* The term *C corporation* has the meaning given to it in section 1361(a)(2).

(3) *Family member.* With respect to any individual, the term *family member* refers to any person described in paragraphs (f)(3)(i) through (vii) of this section. For purposes of this paragraph (f)(3), full effect is given to a legal adoption, and a step-child is deemed to be a descendant. The family members of an individual include:

(i) The individual;

(ii) The individual's spouse or a person with whom the individual is in a registered domestic partnership, civil union, or other similar relationship established under state law;

(iii) Any parent, grandparent, or great-grandparent of the individual or of the person described in paragraph (f)(3)(ii) of this section and any spouse of such parent, grandparent, or great-grandparent, or person with whom the parent, grandparent, or great-grandparent is in a registered domestic partnership, civil union, or other similar relationship established under state law;

(iv) Any lineal descendant of the individual or of any person described in paragraph (f)(3)(ii) or (iii) of this section;

(v) Any spouse of a lineal descendant described in paragraph (f)(3)(iv) of this section and any person with whom such a lineal descendant is in a registered domestic partnership, civil union, or other similar relationship established under state law;

(vi) Any lineal descendant of a person described in paragraph (f)(3)(v) of this section; and

(vii) Any trust established and maintained for the primary benefit of the individual or one or more persons described in paragraph (f)(3)(i) through (vi) of this section.

(4) *Gross value of assets*—(i) *Determination of gross value of assets.* Except as otherwise provided in paragraph (f)(4)(ii) and (iii) of this section, for purposes of paragraphs (c)(2)(iii)(B) and (e)(3)(ii) of this section, the term *gross value of assets* means, with respect to any entity, the fair market value of the entity's assets.

(ii) *Determination of gross value of assets of publicly traded entity.* For purposes of determining the gross value of assets of an entity that is publicly traded, if the entity's annual Form 10–K filed with the United States Securities and Exchange Commission (or equivalent annual filing if the entity is publicly traded in a non-U.S. jurisdiction) for the period immediately preceding a person's acquisition of an ownership interest in the entity does not contain information demonstrating that more than 50 percent of the gross value of the entity's assets consist of life insurance contracts, that person may assume that no more than 50 percent of the gross value of the entity's assets consist of life insurance contracts, unless that person has actual knowledge or reason to know that more than 50 percent of the gross value of the entity's assets consist of life insurance contracts.

(iii) *Safe harbor definition of gross value of assets.* An entity may choose to determine the gross value of all the entity's assets for purposes of this section using the following alternative definition of *gross value of assets:*

(A) In the case of assets that are life insurance policies or annuity or endowment contracts that have cash values, the cash surrender value as defined in section 7702(f)(2)(A); and

(B) In the case of assets not described in paragraph (f)(4)(iii)(A) of this section, the adjusted bases (within the meaning of section 1016) of such assets.

(5) *Transfer for valuable consideration.* A transfer for valuable consideration means any transfer of an interest in a life insurance contract for cash or other consideration reducible to a money value.

(g) *Examples.* The application of this section is illustrated by the following examples, all of which assume that the transferee did not receive any amounts under the life insurance contract other than the amounts described in the examples:

(1) *Example 1.* A is the initial policyholder of a $100,000 insurance policy on A's life. A sells the policy to B, A's child, for $6,000, its fair market value. B is not a partner in a partnership in which A is a partner. B receives the proceeds of $100,000 upon the death of A. Because the transfer to B was for valuable consideration, and none of the exceptions in paragraph (b)(1)(ii) of this section applies, the amount of the proceeds B may exclude from B's gross income under this section is limited under paragraph (b)(1)(i) of this section to $6,000 plus any premiums and other amounts paid by B subsequent to the transfer.

(2) *Example 2.* The facts are the same as in *Example 1* in paragraph (g)(1) of this section except that, before A's death, B gratuitously transfers the policy back to A. A's estate receives the proceeds of $100,000 on A's death. Because the transfer from B to A is a gratuitous transfer, the amount of the proceeds A's estate may exclude from gross income under this section is limited under paragraph (b)(2)(i) of this section to the sum of the amount B could have excluded had the transfer back to A not occurred ($6,000 plus any premiums and other amounts paid by B subsequent to the transfer to B, as described in *Example 1* in paragraph (g)(1) of this section) plus any premiums and other amounts paid by A subsequent to the transfer to A.

(3) *Example 3.* The facts are the same as in *Example 1* in paragraph (g)(1) of this section except that, before A's death, B sells the policy back to A for its fair market value. A's estate receives the proceeds of $100,000 on A's death. The transfer from A to B is not a reportable policy sale because the acquirer B has a substantial family relationship with

the insured A. The transfer from B to A is also not a reportable policy sale because the acquirer A has a substantial family relationship with the insured A. Accordingly, paragraph (b)(1)(ii)(B)(*1*) of this section applies to the transfer to A. The amount of the proceeds A's estate may exclude from gross income is not limited by paragraph (b) of this section.

(4) *Example 4.* A is the initial policyholder of a $100,000 insurance policy on A's life. A transfers the policy for $6,000, its fair market value, to an individual, C, who does not have a substantial family, business, or financial relationship with A. The transfer from A to C is a reportable policy sale. C receives the proceeds of $100,000 on A's death. The amount of the proceeds C may exclude from C's gross income under this section is limited under paragraph (b)(1)(i) of this section to $6,000 plus any premiums and other amounts paid by C subsequent to the transfer.

(5) *Example 5.* The facts are the same as in *Example 4* in paragraph (g)(4) of this section, except that before A's death, C transfers the policy back to A for $8,000, its fair market value. A's estate receives the proceeds of $100,000 on A's death. The transfer from C to A is not a reportable policy sale because the acquirer A has a substantial family relationship with the insured A. Because that transfer follows a reportable policy sale (the transfer from A to C), the amount of the proceeds that A's estate may exclude from gross income under this section is limited by paragraph (b)(1)(ii)(B)(*2*) of this section to the sum of—

(i) The higher of the amount C could have excluded had the transfer back to A not occurred ($6,000 plus any premiums and other amounts paid by C subsequent to the transfer to C, as described in *Example 4* in paragraph (g)(4) of this section) or the actual value of the consideration for that transfer paid by A ($8,000); and

(ii) Any premiums and other amounts paid by A subsequent to the transfer to A.

(6) *Example 6.* The facts are the same as in *Example 4* in paragraph (g)(4) of this section, except that before A's death, C gratuitously transfers the policy to A. A's estate receives the proceeds of $100,000 on A's death. Because the transfer from C to A was gratuitous, the amount of the proceeds A's estate may exclude from gross income is limited under paragraph (b)(2)(i) of this section to the sum of the amount C could have excluded had the transfer back to A not occurred ($6,000 plus any premiums and other amounts paid by C subsequent to the transfer to C, as described in *Example 4* in paragraph (g)(4) of this section), plus any premiums and other amounts paid by A subsequent to the transfer back to A.

(7) *Example 7.* A is the initial policyholder of a $100,000 insurance policy on A's life. A contributes the policy to Corporation X in exchange for stock. Corporation X's basis in the policy is determinable in whole or in part by reference to A's basis in the policy. Corporation X conducts an active trade or business that it wholly owns, and A materially participates in that active trade or business as an employee of Corporation X. Corporation X receives the proceeds of $100,000 on A's death. A's contribution of the policy to Corporation X is not a reportable policy sale because Corporation X has a substantial business relationship with A under paragraph (d)(2)(i) of this section. Accordingly, under paragraph (b)(1)(ii)(B)(*1*) of this section, Corporation X may exclude the full amount of the proceeds from gross income because Corporation X's exclusion is not limited by paragraph (b) of this section.

(8) *Example 8.* The facts are the same as in *Example 7* in paragraph (g)(7) of this section, except that Corporation X transfers its active trade or business and the policy on A's life to Corporation Y in a tax-free reorganization at a time when A is still employed by Corporation X, but is no longer a shareholder of Corporation X. Corporation Y's basis in the policy is determinable in whole or in part by reference to Corporation X's basis in the property, and Corporation Y carries on the trade or business acquired from Corporation X. Corporation Y receives the proceeds of $100,000 on A's death. The transfer from Corporation X to Corporation Y is not a reportable policy sale because Corporation Y has a substantial business relationship with A under paragraph (d)(2)(ii) of this section. The amount of the proceeds that Corporation Y may exclude from gross income is limited under paragraph (b)(1)(ii)(A) of this section to the sum of the amount that would have been excludable by Corporation X had the transfer to Corporation Y not occurred (the full amount of the proceeds, as described in *Example 7* in paragraph (g)(7) of this section), plus any premiums and other amounts paid by Corporation Y subsequent to the transfer. Accordingly, Corporation Y may exclude the full amount of the proceeds from gross income.

(9) *Example 9.* A is the initial policyholder of a $100,000 insurance policy on A's life. A contributes the policy to a C corporation, Corporation W, in exchange for stock. Before and after the acquisition, A and A's family members own less than 5% of the total combined voting power of all classes of Corporation W stock entitled to vote and less than 5% of the total value of all classes of Corporation W stock. Corporation W's basis in the policy is determinable in whole or in part by reference to A's basis in the property. However, no substantial family, business, or financial relationship exists between A and Corporation W. Corporation W receives the proceeds of $100,000 on A's death. A's contribution of the policy to Corporation W is a reportable policy sale. Under paragraph (b)(1)(i) of this section, the amount of the proceeds Corporation W may exclude from gross income is limited to the actual value of the stock exchanged for the policy, plus any premiums and other amounts paid by Corporation W subsequent to the transfer.

(10) *Example 10.* Partnership X and Partnership Y are owned by individuals A, B, and C. A holds 40% of the capital and profits interest of Partnership X and 20% of the capital and profits interest of Partnership Y. B holds 35% of the capital and profits interest of Partnership X and 40% of the capital and profits interest of Partnership Y. C holds 25% of the capital and profits interest of Partnership X and 40% of the capital and profits interest of Partnership Y. Partnership X is the initial policyholder of a $100,000 insurance policy on the life of A. Partnership Y purchases the policy from Partnership X. Under paragraph (c)(2)(i) of this section, this transfer is not a reportable policy sale because the ownership interest of each beneficial owner in Partnership X does not vary from that owner's interest in Partnership Y by more than a 20% ownership interest. A's ownership varies by a 20% interest, B's ownership varies by a 5% interest, and C's ownership varies by a 15% interest.

(11) *Example 11.* Partnership X conducts an active trade or business and is the initial policyholder of a $100,000 insurance policy on the life of its full-time employee, A. A materially participates in Partnership X's active trade or business in A's capacity as an employee. Individual B acquires a 10% profits interest in Partnership X in exchange for a cash payment of $1,000,000. Under paragraphs (d)(1) through (3) of this section, B does not have a substantial family, business, or financial relationship with A. Under paragraph (d)(4)(i) of this section, B is deemed to have a substantial business relationship with A because, under paragraph (d)(2)(i) of this section, Partnership X (the direct policyholder) has a substantial business relationship with A. Accordingly, although the acquisition of the 10% partnership interest by B is an indirect acquisition of a 10% interest in the insurance policy covering A's life, the acquisition is not a reportable policy sale.

(12) *Example 12.* The facts are the same as in *Example 11* in paragraph (g)(11) of this section, except that A is no longer an employee of Partnership X when B acquires the profits interest in Partnership X, and Partnership X does not have any ongoing financial obligations to A. Also, B acquires only a 5% partnership interest in exchange for a cash payment of $500,000. Partnership X does not own an interest in any other life insurance policies, and the gross value of its assets is $10 million. Although neither Partnership X nor B has a substantial family, business, or financial relationship with A at the time of B's indirect acquisition of an interest in the policy covering A's life, because B's profits interest in Partnership X does not exceed 5%, and because no more than 50% of Partnership X's asset value consists of life insurance contracts, the exception in paragraph (c)(2)(iii)(B) of this section applies, and B's indirect acquisition of an interest in the policy covering A's life is not a reportable policy sale.

■ **Par. 3.** Section 1.101–6 is amended by revising paragraph (b) to read as follows:

§ 1.101–6 Effective date.

* * * * *

(b) Notwithstanding paragraph (a) of this section, for purposes of section 6050Y, § 1.101–1(b), (c), (d), (e), (f), and (g) apply to reportable policy sales made after December 31, 2017, and to reportable death benefits paid after December 31, 2017. For any other purpose, § 1.101–1(b), (c), (d), (e), (f), and (g) apply to transfers of life

insurance contracts, or interests therein, made after the date the Treasury decision adopting these regulations as final regulations is published in the **Federal Register**.

■ **Par. 4.** Section 1.6050Y–1 is added to read as follows:

§ 1.6050Y–1 Information reporting for reportable policy sales, transfers of life insurance contracts to foreign persons, and reportable death benefits.

(a) *Definitions.* The following definitions apply for purposes of this section and §§ 1.6050Y–2 through 1.6050Y–4:

(1) *Acquirer.* The term *acquirer* means any person that acquires an interest in a life insurance contract (through a direct acquisition or indirect acquisition of the interest) in a reportable policy sale.

(2) *Buyer.* The term *buyer* means, with respect to any interest in a life insurance contract that has been transferred in a reportable policy sale, the person that was the most recent acquirer of that interest in a reportable policy sale as of the date reportable death benefits are paid under the contract.

(3) *Direct acquisition of an interest in a life insurance contract.* The term *direct acquisition of an interest in a life insurance contract* has the meaning given to it in § 1.101–1(e)(3)(i).

(4) *Foreign person.* The term *foreign person* means a person that is not a United States person, as defined in section 7701(a)(30).

(5) *Indirect acquisition of an interest in a life insurance contract.* The term *indirect acquisition of an interest in a life insurance contract* has the meaning given to it in § 1.101–1(e)(3)(ii).

(6) *Interest in a life insurance contract.* The term *interest in a life insurance contract* has the meaning given to it in § 1.101–1(e)(1).

(7) *Investment in the contract*—(i) *Definition of investment in the contract.* With respect to the original policyholder of a life insurance contract, the term *investment in the contract* on any date means that person's investment in the contract under section 72(e)(6) on that date. With respect to any other person, the term *investment in the contract* on any date means the *estimate of investment in the contract* on that date.

(ii) *Definition of estimate of investment in the contract.* The term *estimate of investment in the contract* with respect to any person, other than the original policyholder, means, on any date, the aggregate amount of premiums paid for the contract by that person before that date, less the aggregate amount received under the contract by that person before that date to the extent such information is known to or can reasonably be estimated by the issuer or payor.

(8) *Issuer*—(i) *In general.* Except as provided in paragraphs (a)(8)(ii) and (iii) of this section, the term *issuer* generally means, on any date, with respect to any interest in a life insurance contract, any person that bears any part of the risk with respect to the life insurance contract on that date and any person responsible on that date for administering the contract, including collecting premiums and paying death benefits. For instance, if a reinsurer reinsures on an indemnity basis all or a portion of the risks that the original issuer (and continuing contract administrator) might otherwise have incurred with respect to a life insurance contract, both the reinsurer and the original issuer of the contract are issuers of the life insurance contract for purposes of this paragraph (a)(8)(i). Any designee of an issuer is also considered an issuer for purposes of this paragraph (a)(8)(i).

(ii) *6050Y(a) issuer.* For purposes of information reporting under section 6050Y(a) and § 1.6050Y–2, the 6050Y(a) issuer is the issuer that is responsible for administering the life insurance contract, including collecting premiums and paying death benefits under the contract, on the date of the reportable policy sale.

(iii) *6050Y(b) issuer.* For purposes of information reporting under section 6050Y(b) and § 1.6050Y–3, a 6050Y(b) issuer is:

(A) Any person that receives a RPSS with respect to a life insurance contract or interest therein (or, in the case of a designee, receives notice that the issuer for whom it serves as designee received a RPSS), and is or was, on or before the date of receipt of the RPSS, an issuer with respect to the life insurance contract; or

(B) Any person that receives notice of a transfer to a foreign person of the life insurance contract and is or was, on the date of transfer or on the date of receipt of the notice, an issuer with respect to the life insurance contract, unless:

(*1*) That person (or, in the case of a designee, the issuer for whom it serves as designee) is not responsible for administering the life insurance contract, including collecting premiums and paying death benefits under the contract, on the date the notice of a transfer to a foreign person of a life insurance contract is received; and

(*2*) That person, or its designee, provides the issuer that is responsible on that date for administering the life insurance contract, including collecting premiums and paying death benefits under the contract, with such notice and with any available information necessary to accomplish reporting under section 6050Y(b) and § 1.6050Y–3.

(iv) *Designee.* A person is treated as the designee of an issuer for purposes of this paragraph (a)(8) only if so designated in writing, including electronically. The designation must be signed and acknowledged, in writing or electronically, by the person named as designee, or that person's representative, and by the issuer making the designation, or its representative.

(9) *Life insurance contract.* The term *life insurance contract* has the meaning given to it in section 7702(a). A life insurance contract may also be referred to as a life insurance policy.

(10) *Notice of a transfer to a foreign person.* The term *notice of a transfer to a foreign person* means any notice of a transfer of title to, possession of, or legal ownership of a life insurance contract received by a 6050Y(b) issuer, including information provided for nontax purposes such as a change of address notice for purposes of sending statements or for other purposes, and information relating to loans, premiums, or death benefits with respect to the contract unless the 6050Y(b) issuer knows that no transfer of the life insurance contract has occurred or knows that the transferee is a United States person. For this purpose, a 6050Y(b) issuer may rely on a Form W–9, Request for Taxpayer Identification Number and Certification, or a valid substitute form, that meets the requirements of § 1.1441–1(d)(2) (substituting ''6050Y(b) issuer'' for ''withholding agent''), that indicates the transferee is a United States person. For instance, a change of address notice that changes the address to a foreign address or other updates to the information relating to the payment of premiums that includes foreign banking or other foreign financial institution information is notice of a transfer to a foreign person unless the 6050Y(b) issuer knows that no transfer has occurred or the transferee is a United States person.

(11) *Payor.* The term *payor* means any person making a payment of reportable death benefits.

(12) *Reportable death benefits.* The term *reportable death benefits* means amounts paid by reason of the death of the insured under a life insurance contract that are attributable to an interest in the life insurance contract that was transferred in a reportable policy sale.

(13) *Reportable death benefits payment recipient.* The term *reportable death benefits payment recipient* means

any person that receives reportable death benefits as a beneficiary under a life insurance contract or as the holder of an interest in a life insurance contract.

(14) *Reportable policy sale.* The term *reportable policy sale* has the meaning given to it in § 1.101–1(c).

(15) *Reportable policy sale payment.* The term *reportable policy sale payment* generally means the total amount of cash and the fair market value of any other consideration transferred, or to be transferred, in a reportable policy sale, including any amount of a reportable policy sale payment recipient's debt assumed by the acquirer in a reportable policy sale. In the case of an indirect acquisition of an interest in a life insurance contract that is a reportable policy sale, the reportable policy sale payment is the amount of cash and the fair market value of any other consideration transferred for the ownership interest in the entity, including the amount of any debt assumed by the acquirer, that is appropriately allocable to the interest in the life insurance contract held by the entity.

(16) *Reportable policy sale payment recipient.* The term *reportable policy sale payment recipient* means any person that receives a reportable policy sale payment in a reportable policy sale. A broker or other intermediary that retains a portion of the cash or other consideration transferred in a reportable policy sale is also a reportable policy sale payment recipient.

(17) *Reportable policy sale statement.* The term *reportable policy sale statement (RPSS)* means a statement furnished by an acquirer to an issuer under section 6050Y(a)(2) and § 1.6050Y–2(d)(2)(i).

(18) *Seller.* The term *seller* means any person that—

(i) Holds an interest in a life insurance contract and transfers that interest, or any part of that interest, to an acquirer in a reportable policy sale; or

(ii) Owns a life insurance contract and transfers title to, possession of, or legal ownership of that life insurance contract to a foreign person.

(19) *Transfer of an interest in a life insurance contract.* The term *transfer of an interest in a life insurance contract* has the meaning given to it in § 1.101–1(e)(2).

(20) *United States person.* The term *United States person* has the meaning given to it in section 7701(a)(30).

(b) *Applicability date.* This section and §§ 1.6050Y–2 through 1.6050Y–3 apply to reportable policy sales made after December 31, 2017. This section and § 1.6050Y–4 apply to reportable death benefits paid after December 31, 2017. However, for reportable policy sales and payments of reportable death benefits occurring after December 31, 2017, and before the date final regulations are published in the **Federal Register**, transition relief will be provided as follows:

(1) For reportable policy sales occurring after December 31, 2017, and before the date final regulations are published in the **Federal Register**, statements required to be furnished to issuers under section 6050Y(a)(2) and § 1.6050Y–2 must be furnished by the later of the applicable deadline set forth in final regulations or 60 days after the date final regulations are published in the **Federal Register**.

(2) For reportable policy sales occurring after December 31, 2017, and before the date final regulations are published in the **Federal Register**, returns required to be filed under section 6050Y(a)(1) and (b)(1), § 1.6050Y–2, and § 1.6050Y–3 and statements required to be furnished to payment recipients and sellers under section 6050Y(a)(2) and (b)(2), § 1.6050Y–2, and § 1.6050Y–3 must be filed or furnished by the later of the applicable deadline set forth in final regulations or 90 days after the date final regulations are published in the **Federal Register**.

(3) For payments of reportable death benefits paid after December 31, 2017, and before the date final regulations are published in the **Federal Register**, returns required to be filed under section 6050Y(c)(1) and § 1.6050Y–4 and statements required to be furnished to payment recipients under section 6050Y(c)(2) and § 1.6050Y–4 must be filed or furnished by the later of the applicable deadline set forth in final regulations or 90 days after the date final regulations are published in the **Federal Register**.

■ **Par. 5.** Section 1.6050Y–2 is added to read as follows:

§ 1.6050Y–2 Information reporting by acquirers for reportable policy sale payments.

(a) *Requirement of reporting.* Except as provided in paragraph (f) of this section, every person that is an acquirer in a reportable policy sale during any calendar year must file a separate information return with the Internal Revenue Service (IRS) in the form and manner as required by the IRS for each reportable policy sale payment recipient, including any seller that is a reportable policy sale payment recipient. Each return must include the following information with respect to the seller or other reportable policy sale payment recipient to which the return relates:

(1) The name, address, and taxpayer identification number (TIN) of the acquirer;

(2) The name, address, and TIN of the seller or other reportable policy sale payment recipient to which the return relates;

(3) The date of the reportable policy sale;

(4) The name of the 6050Y(a) issuer of the life insurance contract acquired and the policy number of the life insurance contract;

(5) The aggregate amount of reportable policy sale payments made, or to be made, to the seller or other reportable policy sale payment recipient to which the return relates with respect to the reportable policy sale; and

(6) Any other information that is required by the form or its instructions.

(b) *Unified reporting.* The information reporting requirement of paragraph (a) of this section applies to each acquirer in a series of prearranged transfers of an interest in a life insurance contract. In a series of prearranged transfers, an acquirer's reporting obligation is deemed satisfied if the information required by paragraph (a) of this section with respect to that acquirer is timely reported on behalf of that acquirer in a manner that is consistent with forms, instructions, and other IRS guidance by one or more other acquirers or by a third party information reporting contractor.

(c) *Time and place for filing.* Returns required to be made under paragraph (a) of this section must be filed with the Internal Revenue Service Center designated on the prescribed form or in its instructions on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the reportable policy sale occurred. However, see § 1.6050Y–1(b)(2) for transition rules.

(d) *Requirement of and time for furnishing statements*—(1) *Statements to reportable policy sale payment recipients*—(i) *Requirement of furnishing statement.* Every person required to file an information return under paragraph (a) of this section with respect to a reportable policy sale payment recipient must furnish in the form and manner prescribed by the IRS to the reportable policy sale payment recipient whose name is set forth in that return a written statement showing the information required by paragraph (a) of this section with respect to the reportable policy sale payment recipient and the name, address, and phone number of the information contact of the person furnishing the written statement. The contact information of the person

furnishing the written statement must provide direct access to a person that can answer questions about the statement. The statement is not required to include information with respect to any other reportable policy sale payment recipient in the reportable policy sale or information about reportable policy sale payments to any other reportable policy sale payment recipient.

(ii) *Time for furnishing statement.* Each statement required by paragraph (d)(1)(i) of this section to be furnished to any reportable policy sale payment recipient must be furnished on or before February 15 of the year following the calendar year in which the reportable policy sale occurred. However, see § 1.6050Y–1(b)(2) for transition rules.

(2) *Statements to 6050Y(a) issuers*—(i) *Requirement of furnishing RPSS*—(A) *In general.* Except as provided in paragraph (d)(2)(i)(B) of this section, every person required to file a return under paragraph (a) of this section must furnish in the form and manner prescribed by the IRS to the 6050Y(a) issuer whose name is required to be set forth in the return a RPSS with respect to each reportable policy sale payment recipient that is also a seller. Each RPSS must show the information required by paragraph (a) of this section with respect to the seller named therein, except that the RPSS is not required to set forth the amount of any reportable policy sale payment. Each RPSS must also show the name, address, and phone number of the information contact of the person furnishing the RPSS. This contact information must provide direct access to a person that can answer questions about the RPSS.

(B) *Exception from reporting.* A RPSS is not required to be furnished to the 6050Y(a) issuer by an acquirer acquiring an interest in a life insurance contract in an indirect acquisition.

(ii) *Time for furnishing RPSS.* Except as otherwise provided in this paragraph (d)(2)(ii), each RPSS required by paragraph (d)(2)(i) of this section to be furnished to a 6050Y(a) issuer must be furnished by the later of 20 calendar days after the reportable policy sale, or 5 calendar days after the end of the applicable state law rescission period. However, if the later date is after January 15 of the year following the calendar year in which the reportable policy sale occurred, the RPSS must be furnished by January 15 of the year following the calendar year in which the reportable policy sale occurred. See § 1.6050Y–1(b)(1) for transition rules.

(3) *Unified reporting.* The information reporting requirements of paragraphs (d)(1)(i) and (d)(2)(i) of this section apply to each acquirer in a series of prearranged transfers of an interest in a life insurance contract, as described in paragraph (b) of this section. In a series of prearranged transfers of an interest in a life insurance contract, an acquirer's obligation to furnish statements is deemed satisfied if the information required by paragraphs (d)(1)(i) and (d)(2)(i) of this section with respect to that acquirer is timely reported on behalf of that acquirer consistent with forms, instructions, and other IRS guidance by one or more other acquirers or by a third party information reporting contractor.

(e) *Notice of rescission of a reportable policy sale.* Any person that has filed a return required by section 6050Y(a)(1) and this section with respect to a reportable policy sale must file a corrected return within 15 calendar days of the receipt of notice of the rescission of the reportable policy sale. Any person that has furnished a written statement under section 6050Y(a)(2) and this section with respect to the reportable policy sale must furnish the recipient of that statement with a corrected statement within 15 calendar days of the receipt of notice of the rescission of the reportable policy sale.

(f) *Exceptions to requirement to file.* An acquirer that is a foreign person is not required to file an information return under paragraph (a) of this section with respect to a reportable policy sale unless—

(1) The life insurance contract (or interest therein) transferred in the sale is on the life of an insured who is a United States person at the time of the sale; or

(2) The sale is subject to the laws of one or more States of the United States that pertain to acquisitions or sales of life insurance contracts (or interests therein).

(g) *Cross-reference to penalty provisions*—(1) *Failure to file correct information return.* For provisions relating to the penalty provided for failure to file timely a correct information return required under section 6050Y(a)(1) and this section, see section 6721 and § 301.6721–1 of this chapter. See § 301.6724–1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

(2) *Failure to furnish correct statement.* For provisions relating to the penalty provided for failure to furnish a correct statement to identified persons under section 6050Y(a)(2) and this section, see section 6722 and § 301.6722–2 of this chapter. See § 301.6724–1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

■ **Par. 6.** Section 1.6050Y–3 is added to read as follows:

§ 1.6050Y–3 Information reporting by 6050Y(b) issuers for reportable policy sales and transfers of life insurance contracts to foreign persons.

(a) *Requirement of reporting.* Except as provided in paragraph (f) of this section, each 6050Y(b) issuer, that receives a RPSS or any notice of a transfer to a foreign person must file an information return with the Internal Revenue Service (IRS) with respect to each seller in the form and manner prescribed by the IRS. The return must include the following information with respect to the seller:

(1) The name, address, and taxpayer identification number (TIN) of the seller;

(2) The investment in the contract with respect to the seller;

(3) The amount the seller would have received if the seller had surrendered the life insurance contract on the date of the reportable policy sale or the transfer of the contract to a foreign person, or if the date of the transfer to a foreign person is not known to the 6050Y(b) issuer, the date the 6050Y(b) issuer received notice of the transfer; and

(4) Any other information that is required by the form or its instructions.

(b) *Unified reporting.* Each 6050Y(b) issuer subject to the information reporting requirement of paragraph (a) of this section must satisfy that requirement, but a 6050Y(b) issuer's reporting obligation is deemed satisfied if the information required by paragraph (a) of this section with respect to that 6050Y(b) issuer is timely reported on behalf of that 6050Y(b) issuer in a manner that is consistent with forms, instructions, and other IRS guidance by one or more other 6050Y(b) issuers or by a third party information reporting contractor.

(c) *Time and place for filing.* Except as otherwise provided in this paragraph (c), returns required to be made under paragraph (a) of this section must be filed with the Internal Revenue Service Center designated on the prescribed form or in its instructions on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the reportable policy sale or the transfer of the contract to a foreign person occurred. If the 6050Y(b) issuer does not receive notice of a transfer to a foreign person until after January 31 of the calendar year following the year in which the transfer occurred, returns required to be made

under paragraph (a) of this section must be filed by the later of February 28 (March 31 if filed electronically) of the calendar year following the year in which the transfer occurred or thirty days after the date notice is received. See § 1.6050Y–1(b)(2) for transition rules.

(d) *Requirement of and time for furnishing statements*—(1) *Requirement of furnishing statement.* Every 6050Y(b) issuer filing a return required by paragraph (a) of this section must furnish to each seller that is a reportable policy sale payment recipient or makes a transfer to a foreign person and whose name is required to be set forth in the return a written statement showing the information required by paragraph (a) of this section with respect to that seller and the name, address, and phone number of the information contact of the person filing the return. This contact information must provide direct access to a person that can answer questions about the statement.

(2) *Time for furnishing statement.* Except as otherwise provided in this paragraph (d)(2), each statement required by paragraph (d)(1) of this section to be furnished to any seller must be furnished on or before February 15 of the year following the calendar year in which the reportable policy sale or transfer to a foreign person occurred. If a 6050Y(b) issuer does not receive notice of a transfer to a foreign person until after January 31 of the calendar year following the year in which the transfer occurred, each statement required to be made under paragraph (d) of this section must be furnished by the date thirty days after the date notice is received. See § 1.6050Y–1(b)(2) for transition rules.

(3) *Unified reporting.* Each 6050Y(b) issuer subject to the information reporting requirement of paragraph (d)(1) of this section must satisfy that requirement, but a 6050Y(b) issuer's reporting obligation is deemed satisfied if the information required by paragraph (d)(1) of this section with respect to that 6050Y(b) issuer is timely reported on behalf of that 6050Y(b) issuer consistent with forms, instructions, and other IRS guidance by one or more other 6050Y(b) issuers or by a third party information reporting contractor.

(e) *Notice of rescission of a reportable policy sale or transfer of an insurance contract to a foreign person.* Any 6050Y(b) issuer that has filed a return required by section 6050Y(b)(1) and this section with respect to a reportable policy sale or transfer of an insurance contract to a foreign person must file a corrected return within 15 calendar days of the receipt of notice of the rescission of the reportable policy sale or transfer of the insurance contract to a foreign person. Any 6050Y(b) issuer that has furnished a written statement under section 6050Y(b)(2) and this section with respect to the reportable policy sale or transfer of the insurance contract to a foreign person must furnish the recipient of that statement with a corrected statement within 15 calendar days of the receipt of notice of the rescission of the reportable policy sale or transfer of the insurance contract to a foreign person.

(f) *Exceptions to requirement to file.* A 6050Y(b) issuer is not required to file an information return under paragraph (a) of this section when either paragraph (f)(1) or (2) of this section applies.

(1) Except as otherwise provided in this paragraph (f)(1), the 6050Y(b) issuer obtains documentation upon which it may rely to treat a seller of the contract as a foreign beneficial owner in accordance with § 1.1441–1(e)(1)(ii), applying in such case the provisions of § 1.1441–1 by substituting the term ''6050Y(b) issuer'' for the term ''withholding agent'' and without regard to the fact that that these provisions apply only to amounts subject to withholding under chapter 3 of subtitle A of the Internal Revenue Code. A 6050Y(b) issuer may also obtain from a seller that is a partnership or trust, in addition to documentation establishing the entity's foreign status, a written certification from the entity that no beneficial owner of any portion of the proceeds of the sale is a United States person. In such a case, the issuer may rely upon the written certification to treat the partnership or trust as a foreign beneficial owner for purposes of this paragraph (f)(1) provided that the seller does not have actual knowledge that a United States person is the beneficial owner of all or a portion of the proceeds of the sale. See § 1.1441–1(c)(6)(ii) for the definition of beneficial owner that applies for purposes of this paragraph (f)(1). Additionally, for certifying its status as a foreign beneficial owner (as applicable) for purposes of this paragraph (f)(1), a seller that is required to report any of the income from the sale as effectively connected with the conduct of a trade or business in the United States under section 864(b) is required to provide to the 6050Y(b) issuer a Form W–8ECI, Certificate of Foreign Person's Claim that Income is Effectively Connected with the Conduct of a Trade or Business in the United States. If a 6050Y(b) issuer obtains a Form W–8ECI from a seller with respect to the sale or has reason to know that income from the sale is effectively connected with the conduct of a trade or business in the United States under section 864(b), the exception to reporting described in this paragraph (f)(1) does not apply.

(2) The 6050Y(b) issuer receives notice of a transfer to a foreign person, but does not receive a RPSS with respect to the transfer, provided that, at the time the notice is received—

(i) The 6050Y(b) issuer is not a United States person;

(ii) The life insurance contract (or interest therein) transferred is not on the life of a United States person; and

(iii) The 6050Y(b) issuer has not classified the seller as a United States person in its books and records.

(g) *Cross-reference to penalty provisions*—(1) *Failure to file correct information return.* For provisions relating to the penalty provided for failure to file timely a correct information return required under section 6050Y(b)(1) and this section, see section 6721 and § 301.6721–1 of this chapter. See § 301.6724–1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

(2) *Failure to furnish correct statement.* For provisions relating to the penalty provided for failure to furnish a correct statement to identified persons under section 6050Y(b)(2) and this section, see section 6722 and § 301.6722–2 of this chapter. See § 301.6724–1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

■ **Par. 7.** Section 1.6050Y–4 is added to read as follows:

§ 1.6050Y–4 Information reporting by payors for reportable death benefits.

(a) *Requirement of reporting.* Except as provided in paragraph (e) of this section, every person that is a payor of reportable death benefits during any calendar year must file a separate information return for such calendar year with the Internal Revenue Service (IRS) for each reportable death benefits payment recipient in the form and manner prescribed by the IRS. The return must include the following information with respect to the reportable death benefits payment recipient to which the return relates:

(1) The name, address, and taxpayer identification number (TIN) of the payor;

(2) The name, address, and TIN of the reportable death benefits payment recipient;

(3) The date of the payment;

(4) The gross amount of payments made to the reportable death benefits payment recipient during the taxable year;

(5) The payor's estimate of the investment in the contract with respect to the buyer, limited to the payor's estimate of the buyer's investment in the contract with respect to the interest for which the reportable death benefits payment recipient was paid; and

(6) Any other information that is required by the form or its instructions.

(b) *Time and place for filing.* Except as otherwise provided in § 1.6050Y–1(b)(3), returns required to be made under this section must be filed with the Internal Revenue Service Center designated in the instructions for the form on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the payment of reportable death benefits was made.

(c) *Requirement of and time for furnishing statements*—(1) *Requirement of furnishing statement.* Every person required to file an information return under paragraph (a) of this section must furnish to each reportable death benefits payment recipient whose name is required to be set forth in that return a written statement showing the information required by paragraph (a) of this section with respect to that reportable death benefits payment recipient and the name, address, and phone number of the information contact of the payor. This contact information must provide direct access to a person that can answer questions about the statement.

(2) *Time for furnishing statement.* Each statement required by paragraph (c)(1) of this section to be furnished to any reportable death benefits payment recipient must be furnished on or before January 31 of the year following the calendar year in which the payment of reportable death benefits was made. However, see § 1.6050Y–1(b)(3) for transition rules.

(d) *Notice of rescission of a reportable policy sale.* Any person that has filed a return required by section 6050Y(c) and this section with respect to a payment of reportable death benefits must file a corrected return within 15 calendar days of the receipt of notice of the rescission of the buyer's reportable policy sale. Any person that has furnished a written statement under section 6050Y(c)(2) and this section with respect to a payment of reportable death benefits must furnish the recipient of that statement with a corrected statement within 15 calendar days of the receipt of notice of the rescission of the buyer's reportable policy sale.

(e) *Exceptions to requirement to file.* A payor is not required to file an information return under paragraph (a) of this section with respect to a payment of reportable death benefits when either paragraph (e)(1) or (2) of this section applies.

(1) Except as otherwise provided in this paragraph (e)(1), the payor obtains documentation in accordance with § 1.1441–1(e)(1)(ii) upon which it may rely to treat the reportable death benefits payment recipient as a foreign beneficial owner of the reportable death benefits, applying in such case the provisions of § 1.1441–1 by substituting the term ''payor'' for the term ''withholding agent'' and without regard to the fact that the provisions apply only to amounts subject to withholding under chapter 3 of subtitle A of the Internal Revenue Code. A payor may also obtain from a partnership or trust that is a reportable death benefits recipient, in addition to documentation establishing the entity's foreign status, a written certification from the entity that no beneficial owner of any portion of the reportable death benefits payment is a United States person. In such a case, a payor may rely upon the written certification to treat the partnership or trust as a foreign beneficial owner for purposes of this paragraph (e)(1) provided that the payor does not have actual knowledge that a United States person is the beneficial owner of all or a portion of the reportable death benefits payment. See § 1.1441–1(c)(6)(ii) for the definition of beneficial owner that applies for purposes of this paragraph (e)(1). Additionally, for certifying its status as a foreign beneficial owner (as applicable) for purposes of this paragraph (e)(1), a reportable death benefits payment recipient that is required to report any of the income from the sale as effectively connected with the conduct of a trade or business in the United States under section 864(b) is required to provide to the payor a Form W–8ECI, Certificate of Foreign Person's Claim that Income is Effectively Connected with the Conduct of a Trade or Business in the United States. If a payor obtains a Form W–8ECI from a reportable death benefits payment recipient with respect to the payment of reportable death benefits or has reason to know that the payment is effectively connected with the conduct of a trade or business of the recipient in the United States under section 864(b), the exception to reporting described in this paragraph (e)(1) does not apply.

(2) The buyer obtained the life insurance contract (or interest therein) under which reportable death benefits are paid in a reportable policy sale to which the exception to reporting described in § 1.6050Y–3(f)(2) applies.

(f) *Cross-reference to penalty provisions*—(1) *Failure to file correct information return.* For provisions relating to the penalty provided for failure to file timely a correct information return required under section 6050Y(c)(1) and this section, see section 6721 and § 301.6721–1 of this chapter. See § 301.6724–1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

(2) *Failure to furnish correct statement.* For provisions relating to the penalty provided for failure to furnish a correct statement to identified persons under section 6050Y(c)(2) and this section, see section 6722 and § 301.6722–2 of this chapter. See § 301.6724–1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 57, 70, 72, and 75

[Docket No. MSHA–2014–0031]

RIN 1219–AB86

Exposure of Underground Miners to Diesel Exhaust

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for information; extension of comment period.

SUMMARY: In response to requests from the public, the Mine Safety and Health Administration (MSHA) is extending the comment period for the Agency's request for information on Exposure of Underground Miners to Diesel Exhaust. This extension will provide stakeholders an opportunity to review and comment on information presented at the Diesel Exhaust Health Effects Partnership meetings that are anticipated for 2019 and 2020.

DATES: The comment period for the request for information, published on June 8, 2016 (81 FR 36826), which was scheduled to close on March 26, 2019 (58 FR 12904) is extended. Comments must be received on or before midnight Eastern Daylight Time on September 25, 2020.

ADDRESSES: Submit comments and informational materials for the

rulemaking record, identified by RIN 1219–AB86 or Docket No. MSHA–2014–0031, by one of the following methods:

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: zzMSHA-comments@dol.gov.*
- *Mail:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452.
- *Hand Delivery or Courier:* 201 12th Street South, Suite 4E401, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal holidays. Sign in at the receptionist's desk on the 4th Floor East, Suite 4E401.
- *Fax:* 202–693–9441.

Instructions: All submissions must include ''RIN 1219–AB86'' or ''Docket No. MSHA–2014–0031.'' Do not include personal information that you do not want publicly disclosed; MSHA will post all comments without change to *http://www.regulations.gov* and *http://arlweb.msha.gov/currentcomments.asp,* including any personal information provided.

Docket: For access to the docket to read comments received, go to *http://www.regulations.gov* or *http://arlweb.msha.gov/currentcomments.asp.* To read background documents, go to *http://www.regulations.gov.* Review the docket in person at MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except Federal Holidays. Sign in at the receptionist's desk in Suite 4E401.

Email Notification: To subscribe to receive an email notification when MSHA publishes rules in the **Federal Register**, go to *http://www.msha.gov/subscriptions.*

FOR FURTHER INFORMATION CONTACT: Sheila A. McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *mcconnell.sheila.a@dol.gov* (email), 202–693–9440 (voice); or 202–693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On June 8, 2016 (81 FR 36826), MSHA published a request for information (RFI) on Exposure of Underground Miners to Diesel Exhaust. The RFI sought input from the public that will help MSHA evaluate the Agency's existing standards and policy guidance on controlling miners' exposures to diesel exhaust and to evaluate the effectiveness of the protections now in place to preserve miners' health.

MSHA held four public meetings on the RFI in 2016 (81 FR 41486), and the comment period was scheduled to close on September 6, 2016; however, in response to requests from the public, MSHA extended the comment period until November 30, 2016 (81 FR 58424).

In response to requests from stakeholders during the comment period, MSHA and the National Institute for Occupational Safety and Health (NIOSH) convened a Diesel Exhaust Health Effects Partnership (Partnership) with the mining industry, diesel engine manufacturers, academia, and representatives of organized labor to gather information regarding the complex questions contained in the RFI. The Partnership provides an opportunity for all relevant stakeholders from the mining community to come together to understand the health effects from underground miners' exposure to diesel exhaust. The Partnership also provides stakeholders an opportunity to consider best practices and new technologies, including engineering controls that enhance control of diesel exhaust exposures to improve protections for miners.

The first meeting of the Partnership was held on December 8, 2016, in Washington, Pennsylvania; and the second meeting was held on September 19, 2017, in Triadelphia, West Virginia. During the comment period and at the first Partnership meeting, MSHA received requests from stakeholders to reopen the rulemaking record for comment on the RFI and allow the comment period to remain open during the Partnership proceedings. In response to those requests, MSHA reopened the record for comment and extended the comment period for one year, until January 9, 2018 (82 FR 2284).

On March 26, 2018, MSHA reopened the rulemaking record and extended the comment period for one year, until March 26, 2019 (83 FR 12904).

On January 23, 2019, the Partnership sponsored a Diesel Technology Workshop (Workshop) in Washington, DC. The Workshop focused on the types of advanced low-emissions diesel technologies—including new engines, equipment, after-treatment systems, and retrofits—that are available for use in underground mines. The Workshop included five panels of experts that presented information and data on current emissions/control technologies, engine controls, emission reduction/exposure reduction, current barriers to deployment of technologies, and strategies addressing miners' exposures to diesel exhaust.

Partnership proceedings—including additional meetings—are anticipated for 2019 and 2020 to address topics relevant to the RFI. Extending the comment period commensurate with these proceedings will enable stakeholders to add information and data related to these proceedings to the record. Accordingly, in response to requests from stakeholders to allow the comment period on the RFI to remain open during Partnership proceedings, and to allow all interested parties an additional opportunity to review and comment on information and data from the proceedings, MSHA is extending the comment period on the RFI to September 25, 2020.

David G. Zatezalo,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2019–05443 Filed 3–22–19; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0132]

RIN 1625–AA00

Safety Zones; Annual Safety Zones in the Captain of the Port Detroit Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its recurring safety zones regulations in the Captain of the Port Detroit zone. This proposed rule would update 51 safety zone locations, dates, and sizes, add 3 safety zones, remove 6 established safety zones and reformat the regulations into an easier to read table format. These proposed amendments will protect spectators, participants, and vessels from the hazards associated with annual marine events and firework shows, and improve the clarity and readability of the regulation. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before April 24, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0132 using the Federal eRulemaking Portal at *http://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 Tracy Girard, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9564, email *Tracy.M.Girard@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

The purpose of this rulemaking is to update the safety zones in § 165.941 to ensure accuracy of times, dates, and dimensions for various triggering and marine events that are expected to be conducted within the Captain of the Port Detroit Zone throughout the year. The purpose of the rulemaking is also to ensure vessels and persons are protected from the specific hazards related to the aforementioned events. These specific hazards include obstructions in the waterway that may cause marine casualties; collisions among vessels maneuvering at a high speed within a channel; the explosive dangers involved in pyrotechnics and hazardous cargo; and flaming/falling debris into the water that may cause injuries. The Coast Guard proposes this rulemaking under authority in 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

This proposed rule would consistently apprise the public in a timely manner through permanent publication in Title 33 of the Code of Federal Regulations. The table in this proposed rule would list each annual recurring event requiring a safety zone as administered by the Coast Guard.

III. Discussion of Proposed Rule

The purpose of this rulemaking is to combine all of the Captain of the Port Detroit Zones safety zones from 33 CFR 165.941 into one table under § 165.941. This table will ensure accuracy of times, dates, and dimensions for various marine events that are expected to be conducted within the Captain of the Port Detroit Zone throughout the year. We propose to remove § 165.941(a)(1) through § 165.941(60)(f) replacing these regulations with a table.

Additionally, this proposed rule adds 3 new safety zones to table 165.941 for annually recurring events in the Captain of the Port Detroit Zone. These 3 zones were approved and published in the **Federal Register** as temporary safety zones in 2018 and were added in order to protect the public from the safety hazards previously described.

The Captain of the Port Detroit has determined that the safety zones in this proposed rule are necessary to ensure the safety of vessels and people during annual marine or triggering events in the Captain of the Port Detroit zone. Although this proposed rule will be effective year-round, the safety zones in this proposed rule will be enforced only immediately before, during, and after events that pose a hazard to the public and only upon a notice of enforcement by the Captain of the Port Detroit.

The Captain of the Port Detroit will notify the public that the zones in this proposal are or will be enforced by all appropriate means to the affected segments of the public, including publication in the **Federal Register**, as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners.

All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port Detroit or his or her designated representative. Entry into, transiting, or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port or his or her designated representative. The Captain of the Port or his or her designated representative may be contacted 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, duration, and time of day of the safety zones. The safety zones created by this rule will be relatively small and effective during the time to ensure safety of spectator and participants for the listed triggering or marine events. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard 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 contact 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this 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 Management Directive 023–01, which guides 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 the establishment yearly triggering and marine events on and around Lake Erie, Lake Huron, St. Clair River, and the Detroit River. Normally such actions are categorically excluded from further review under paragraph L[60a] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

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 *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact 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 *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://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 proposes 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, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165. 941 to read as follows:

§ 165.941 Safety Zones; Annual Events in the Captain of the Port Detroit Zone.

(a) *Regulations.* The following regulations apply to the safety zones listed in Table 1 to § 165.941 of this section. Coordinates listed in Table 1 to § 165.941 are North American Datum of 1983 (NAD 83).

(1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within any of the safety zones listed in this section is prohibited unless authorized by the Captain of the Port Detroit or a designated representative.

(2) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated on-scene representative.

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

(4) The enforcement dates and times for each of the safety zones listed in Table 1 to § 165.941 are subject to change, but the duration of enforcement would remain the same or nearly the same total number of hours as stated in the table. In the event of a change, the Captain of the Port Detroit will provide notice to the public by publishing a Notice of Enforcement in the **Federal Register**, as well as, issuing a Broadcast Notice to Mariners.

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

(1) Designated or on scene representative means any Coast Guard commissioned, warrant, or petty officers designated by the Captain of the Port Detroit to monitor a safety zone, permit entry into a safety zone, give legally enforceable orders to persons or vessels within a safety zone, and take other actions authorized by the Captain of the Port Detroit.

(2) Public vessel means a vessel that is owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(3) Rain date refers to an alternate date and/or time in which the safety zone would be enforced in the event of inclement weather.

(c) *Suspension of enforcement.* The Captain of the Port Detroit may suspend enforcement of any of these zones earlier than listed in this section. Should the Captain of the Port suspend any of these zones earlier than the listed duration in this section, he or she may make the public aware of this suspension by Broadcast Notice to Mariners and/or on-scene notice by his or her designated representative.

(d) *Exemption.* Public vessels, as defined in paragraph (b) of this section, are exempt from the requirements in this section.

(e) *Waiver.* For any vessel, the Captain of the Port Detroit or his or her designated representative may waive any of the requirements of this section upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of safety or security.

TABLE 1 TO § 165.941

COTP Zone Detroit		
Event	Sector Detroit Safety Zones	Date
(1) Shoreline Surrounding Belle Isle Auto Race, Detroit, MI.	All waters of the Detroit River near Belle Isle, bounded by a line extending from a point of land on the southern shore of Belle Isle located at the Dossin Museum at position 42°20.06′ N, 082°59.14′ W, to 50 yards offshore at position 42°20.04′ N, 082°59.13′ W, and continuing around the downstream (western) end of Belle Isle, maintaining a constant distance of 50 yards from the shoreline to position 42°20.25′ N, 083°00.04′ W, 50 yards NNW of the Lake Tacoma outlet on the northern side of Belle Isle, before returning to a point on shore and terminating at position 42°20.23′ N; 083°00.03′ W.	Three consecutive days between May 15 and June 15.
(2) Grosse Point War Memorial Red, White and Blue Gala Fireworks, Grosse Pointe Farms, MI.	All waters of Lake St. Clair, within a 200-yard radius of the fireworks launch site located on a barge offshore of Grosse Pointe War Memorial at approximate position 42°23.13′ N, 082°53.74′ W.	One evening in May.
(3) Bay-Rama Fish Fly Festival Fireworks, New Baltimore, MI.	All waters of Anchor Bay, Lake St. Clair, within a 300-yard radius of the fireworks launch site located on a barge offshore of New Baltimore City Park at approximate position 42°40.6′ N, 082°43.9′ W.	One evening in June.
(4) Sigma Gamma Fireworks, Grosse Pointe Farms, MI.	All waters of Lake St. Clair, within a 200-yard radius of the fireworks launch site located on a barge anchored offshore of Ford's Cove at position 42°27.2′ N, 082°51.9′ W.	One evening between June 15 and July 15.
(5) River Days Airshow, Detroit, MI	All waters of the Detroit River between the following two lines extending from 70 feet off the bank to the US/Canadian demarcation line: the first line is drawn directly across the channel at position 42°19.444′ N, 083°03.114′ W; the second line, to the north, is drawn directly across the channel at position 42°19.860′ N, 083°01.683′ W.	Four consecutive days in June or July.
(6) Detroit Fireworks, Detroit, MI	The following three areas are safety zones: (A) All U.S. waters of the Detroit River a 300-yard radius centered on a point on shore adjacent to West Riverfront Park, Detroit, MI at position 42°19.38′ N, 083°03.43′ W. (B) The second safety zone area will encompass a portion of the Detroit River bounded on the South by the International Boundary line, on the West by 083°03′ W, on the North by the City of Detroit shoreline and on the East by 083°01′ W. (C) The third safety zone will encompass a portion of the Detroit River bounded on the South by the International Boundary line, on the West by the Ambassador Bridge, on the North by the City of Detroit shoreline, and on the East by the downstream end of Belle Isle. The Captain of the Port Detroit has determined that vessels below 65 feet in length may enter this zone	Three consecutive days beginning in June.
(7) Algonac Fireworks, Algonac, MI	All waters of the St. Clair River, within a 250-yard radius of the fireworks launch site located on a barge anchored mid-channel, off of Algonac City Park at position 42°37.1′ N, 082°31.3′ W.	Two consecutive evening between June 15 and July 15.
(8) Bay City Festival, Bay City, MI ..	All waters of the Saginaw River from the Veterans Memorial Bridge, Bay City, MI, located at position 43°35.9′ N, 083°53.6′ W; south approximately 1100 yards to the River Walk Pier, located at position 43°35.3′ N, 083°53.8′ W.	Three consecutive evenings between June 15 and July 15.
(9) Caseville Fireworks, Caseville, MI.	All waters of Saginaw Bay, within a 200-yard radius of the fireworks launch site located at the end of the Caseville break wall at position 43°56.86′ N, 083°17.1′ W.	One evening between June 15 and July 15.
(10) Ecorse Fireworks, Ecorse, MI	All waters of the Detroit River, within a 200-yard radius of the fireworks launch site located at the north end of the Trenton Channel at position 42°14.53′ N, 083°08.48′ W.	One evening between June 15 and July 15.
(11) Grosse Ile Fireworks, Grosse Ile, MI.	All waters of the Detroit River within a 100-yard radius of the fireworks launch site located on the outer pier of the Grosse Ile Yacht Club at position 42°05.39′ N, 083°09.06′ W.	One evening between June 15 and July 15.

TABLE 1 TO § 165.941—Continued

COTP Zone Detroit		
Event	Sector Detroit Safety Zones	Date
(12) Grosse Pointe Farms Fireworks, Grosse Pointe Farms, MI.	All waters of Lake St. Clair, within a 200-yard radius of the fireworks launch site located on shore at the southern point of a private park at position 42°23.84′ N, 082°53.25′ W.	One evening between June 15 and July 15.
(13) Grosse Point Yacht Club Fireworks, Grosse Pointe Shores, MI.	All waters of Lake St. Clair within a 200-yard radius of the fireworks launch site located on a barge offshore of the Grosse Pointe Yacht Club break wall at position 42°26.05′ N, 082°52.05′ W.	One evening between June 15 and July 15.
(14) Harbor Beach Fireworks, Harbor Beach, MI.	All waters of Lake Huron within a 200-yard radius of the fireworks launch site located on shore at the end of the DTE Power Plant at position 43°50.77′ N, 082°38.63′ W.	One evening in June or July.
(15) Belle Maer Harbor Fireworks, Harrison Twp, MI.	All waters of Lake St. Clair within a 300-yard radius of the fireworks launch site located on a barge offshore of the Belle Maer Harbor break wall at position 42°36.55′ N, 082°47.55′ W.	One evening between June 15 and July 15.
(16) Harrisville Fireworks, Harrisville, MI.	All waters of Lake Huron within a 200-yard radius of the fireworks launch site located at the end of the Harrisville Harbor break wall at position 44°39.40′ N, 083°17.03′ W.	One evening between June 15 and July 15.
(17) Lexington Fireworks, Lexington, MI.	All waters of Lake Huron within a 200-yard radius of the fireworks launch site located at the end of the Lexington break wall at position 43°16.00′ N, 082°31.36′ W.	One evening between June 15 and July 15.
(18) Oscoda Fireworks, Oscoda, MI	All waters of Lake Huron within a 200-yard radius of the fireworks launch site located at the end of the Oscoda Beach Park pier at position 44°25.27′ N, 083°19.48′ W.	One evening between June 15 and July 15.
(19) Port Austin Fireworks, Port Austin, MI.	All waters of Lake Huron within a 200-yard radius of the fireworks launch site located on the Port Austin break wall at position 44°03.08′ N, 082°59.40′ W.	One evening between June 15 and July 15.
(20) Port Sanilac Fireworks, Port Sanilac, MI.	All waters of Lake Huron within a 200-yard radius of the fireworks launch site located on the south break wall of Port Sanilac Harbor at position 43°25.84′ N, 082°32.15′ W.	One evening between June 15 and July 15.
(21) St. Clair Fireworks, St. Clair, MI.	All waters of the St. Clair River, within a 200-yard radius of the fireworks launch site located on a barge offshore of St. Clair, MI, at position 42°49.38′ N, 082°29.0′ W.	One evening between June 15 and July 15.
(22) St. Clair Shores Fireworks, St. Clair Shores, MI.	All waters of Lake St. Clair within a 250-yard radius of the fireworks launch site located on a barge anchored offshore of Veterans Memorial Park at approximate position 42°31.6′ N, 082°52.0′ W.	One evening between June 15 and July 15.
(23) Tawas Fireworks, Tawas, MI ..	All waters of Lake Huron within a 200-yard radius of the fireworks launch site located on a barge offshore of East Tawas City Park at approximate position 44°16.4′ N, 083°29.7′ W.	One evening between June 15 and July 15.
(24) Arenac Fireworks, Au Gres, MI	All waters of Saginaw Bay within a 700-foot radius of the fireworks launch site located at position 44°1.4′ N, 083°40.4′ W. This area is located at the end of the pier near the end of Riverside Drive in Au Gres, MI.	One evening between June 15 and July 15.
(25) Port Huron Fireworks, Port Huron, MI.	All waters of the Black River within a 300-yard radius of the fireworks barge located at position 42°58′ N, 082°25′ W. This position is located 300 yards east of 223 Huron Ave., Black River.	One evening between June 15 and July 15.
(26) Old Club Fireworks, Harsens Island, MI.	All waters of Lake St. Clair within an 850-foot radius of the fireworks launch site located at position 42°32.4′ N, 082°40.1′ W. This area is located near the southern end of Harsens Island, MI.	One evening between June 15 and July 15.
(27) Port Huron Blue Water Festival Fireworks, Port Huron, MI.	All waters of the St. Clair River within a 200-yard radius of the fireworks launch site located on shore at the northern point of Kiefer Park at approximate position 42°58.84′ N, 082°25.20′ W.	One evening in July.
(28) Detroit Symphony Orchestra Fireworks, Grosse Pointe Shores, MI.	All waters of Lake St. Clair, within a 200-yard radius of the fireworks launch site located on a barge anchored offshore of Ford's Cove at position 42°27.25′ N, 082°51.95′ W.	Two consecutive evenings between July 1 and July 31.
(29) Trenton Fireworks, Trenton, MI	All waters of the Detroit River within a 300-yard radius of the fireworks barge located at position 42°09′ N, 083°10′ W. This position is located 200 yards east of Trenton in the Trenton Channel near Trenton, MI.	One evening between July 1 and July 31.
(30) Venetian Festival Fireworks	All waters of Lake St. Clair within a 300-yard radius of the fireworks barge located at position 42°28′ N, 082°52′ W. This position is located 600 yards off Jefferson Beach Marina, Lake St, Clair.	One evening in August.
(31) Cheeseburger Festival Fireworks, Caseville, MI.	All waters of Lake Huron within a 300-foot radius of the fireworks launch site located at position 43°56.9′ N, 083°17.2′ W. This area is located near the break wall located at Caseville County Park, Caseville, MI.	One evening in August.
(32) Roostertail Fireworks, Detroit, MI.	All waters of the Detroit River within a 200-yard radius of the fireworks launch site located on a barge anchored offshore of Roostertail at position 42°21.27′ N, 082°58.36′ W.	Three separate evenings between June 15 and September 31.
(33) Marine City Maritime Days Fireworks, Marine City, MI.	All waters of the St. Clair River within a 200-yard radius of the fireworks launch site located on a barge offshore of Marine City Park at position 42°43.15′ N, 082°29.2′ W.	One evening between July 15 and August 15.

TABLE 1 TO § 165.941—Continued

COTP Zone Detroit		
Event	Sector Detroit Safety Zones	Date
(34) Detroit International Jazz Festival Fireworks, Detroit, MI.	All waters of the St. Clair River within a 100 yard radius of the fireworks launch site located at position 42°42.9′ N, 082°29.1′ W. This area is located east of Marine City.	One evening between August 15 and September 15.
Event	Marine Safety Unit Toledo Safety Zones	Date
(35) Washington Township Summerfest Fireworks, Toledo, OH.	All waters of the Ottawa River within a 600-foot radius of the fireworks launch site located on the Fred C. Young bridge at position 41°43.29′ N, 083°28.47′ W.	One evening between June 15 and July 15.
(36) Put-In-Bay 4th of July Fireworks, Put-In-Bay, OH.	All waters of Lake Erie within a 1000-foot radius of the fireworks launch site located in Put-In-Bay Harbor at position 41°39.7′ N, 082°48.0′ W.	One evening between June 15 and July 15.
(37) Toledo Country Club Memorial Celebration and Fireworks, Toledo, OH.	All waters of the Maumee River within a 250-yard radius of the fireworks launch site located on shore on the Toledo Country Club's 18th Green at position 41°35.37′ N, 083°35.5′ W.	One evening between May 15 and May 31.
(38) Freedom Festival, Luna Pier, MI.	All waters of Lake Erie within a 300-yard radius of the fireworks launch site located on the Clyde E. Evens Municipal Pier at position 41°48.39′ N, 083°26.20′ W.	One evening between June 15 and July 15.
(39) Toledo Country Club 4th of July Fireworks, Toledo, OH.	All waters of the Maumee River within a 250-yard radius of the fireworks launch site located on shore on the Toledo Country Club's 18th Green at position 41°35.37′ N, 083°35.5′ W.	One evening between June 15 and July 15.
(40) Lakeside July 4th Fireworks, Lakeside, OH.	All waters of Lake Erie within a 200-yard radius of the fireworks launch site located on the Lakeside Association Dock at position 41°32.52′ N, 082°45.03′ W.	One evening between June 15 and July 15.
(41) Catawba Island Club Fireworks, Catawba Island, OH.	All waters of Lake Erie within a 300-yard radius of the fireworks launch site located on the northwest end of the Catawba Cliffs Harbor Light Pier at position 41°34.18′ N, 082°51.18′ W.	One evening between June 15 and July 15.
(42) Red, White and Blues Bang Fireworks, Huron, OH.	All waters of the Huron River within a 300-yard radius of the fireworks launch site located on the Huron Ore Docks at position 41°23.29′ N, 082°32.55′ W.	One evening in July.
(43) Huron Riverfest Fireworks, Huron, OH.	All waters of the Huron River within a 350-yard radius of the fireworks launch site located on the Huron Ore Docks at position 41°23.38′ N, 082°32.59′ W.	One evening in July.
(44) End of Season Fireworks, Lakeside, OH.	All waters of Lake Erie within a 200-yard radius of the fireworks launch site located on the Lakeside Association Dock at position 41°32.52′ N, 082°45.03′ W.	One evening between September 1 and September 15.
(45) Annual Labor Day Weekend Fireworks Show, Catawba Island, OH.	All waters of Lake Erie within a 300-yard radius of the fireworks launch site located on the northwest end of the Catawba Cliffs Harbor Light Pier at position 41°34.3′ N, 082°51.3′ W.	One evening between September 1 and September 15.
(46) Toledo July 4th Fireworks, Toledo, OH.	All waters of the Maumee River within a 300-yard radius of the fireworks launch site located in International Park, Toledo, OH, at position 41°38.44′ N, 083°31.49′ W.	One evening between June 15 and July 15.
(47) Memorial Day Weekend Fireworks Show, Catawba Island, OH.	All waters of Lake Erie within a 300-yard radius of the fireworks launch site located on the northwest end of the Catawba Cliffs Harbor Light Pier at position 41°34.18′ N, 082°51.18′ W.	One evening between May 15 and May 31.
(48) Put-In-Bay Chamber of Commerce Fireworks, Put-In-Bay, OH.	All waters of Lake Erie within a 350-yard radius of the fireworks launch site located in Put-In-Bay Harbor at position 41°39.3′ N, 082°49.0′ W.	Two separate evenings between June 15 and June 31, and two separate evenings between September 1 and September 15.
(49) Bay Point Fireworks Display, Marblehead, OH.	All waters of Lake Erie within a 250-yard radius of the fireworks launch site located on shore in the vicinity of Bay Point, Marblehead, OH, at position 41°30.3′ N, 082°43.1′ W.	One evening between June 15 and July 15.
(50) LAZ Trommler Fireworks, Marblehead, OH.	All waters of the Sandusky Bay within a 500 foot radius of the fireworks launch site located at position 41°30′16″ N, 083°48′08″ W.	One evening between June 15 and July 15.
(51) Downtown Sandusky Fireworks, Sandusky, OH.	All waters of the Sandusky Bay within a 280-foot radius of the fireworks launch site located at position 41°27′32.74″ N, 082°42′52.02″ W.	One evening between December 31 and January 1.

Dated: March 19, 2019.

Jeffrey W. Novak,

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

[FR Doc. 2019–05607 Filed 3–22–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0123]

RIN 1625–AA00

Safety Zone; Lower Mississippi River, Ohio River, and Upper Mississippi River, Bird's Point-New Madrid Floodway

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for all navigable waters of the Lower Mississippi River from mile marker (MM) 953.8 to MM 887.0, the Upper Mississippi River from MM 0.0 to MM 3.0, and the Ohio River from MM 981.5 to MM 978.5. This action is necessary to protect persons, property, and infrastructure from potential damage and the safety hazards associated with the demolition of federal levees on the Lower Mississippi River and utilization of the Bird's Point-New Madrid Floodway. This proposed rulemaking would prohibit the entry of vessels or persons into this temporary safety zone unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before April 24, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0123 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 MST2 Dylan Caikowski, MSU Paducah, U.S. Coast Guard; telephone 270–442–1621 ext. 2120, email *STL-SMB-MSUPaducah-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Ohio Valley
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

The purpose of this rulemaking is to ensure the safety of vessels on the navigable waters of the Lower Mississippi River, Upper Mississippi River, and Ohio River during high water event. The United States Army Corps of Engineers may deem it necessary to demolish certain federal levees on the Lower Mississippi River and utilize the Bird's Point-New Madrid Floodway, to maintain the integrity of the Lower Mississippi River, Upper Mississippi River, Ohio River, and all associated tributaries. During this time, a temporary safety zone on the Lower Mississippi River, Upper Mississippi River, and Ohio River would be necessary to protect persons, property, and infrastructure from potential damage and safety hazards associated with the demolition of federal levees on the Lower Mississippi River and utilization of the Bird's Point-New Madrid Floodway. The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the demolition of the federal levees on the Lower Mississippi River and re-stabilization of the waterway would be a safety concern for anyone in the vicinity of the Lower Mississippi River from mile marker (MM) 953.8 to MM 887.0, the Upper Mississippi River from MM 0.0 to MM 3.0, and the Ohio River from MM 981.5 to MM 978.5. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP proposes to establish a temporary safety zone on all navigable waters of the Lower Mississippi River from MM 953.8 MM 887.0, the Upper Mississippi River from MM 0.0 to MM 3.0, and the Ohio River from MM 981.5 to MM 978.5, in the event of the demolition of the federal levees on the Lower Mississippi River and utilization of the Bird's Point-New Madrid Floodway. The COTP or a designated representative would inform the public of the enforcement date and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone through Local Notices to Mariners (LNMs), and/or actual notice.

No vessels or persons would be permitted to enter the proposed safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

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, duration, and time-of-day of the temporary safety zone. The safety zone would only impact a relatively small portion of the waterway and would only be in effect during the demolition process and approximately 36 hours after to allow for stabilization of the waterway. After approximately 36 hours, vessels would be allowed to transit. Additionally, the safety zone would be limited to the high water event if the U.S. Army Corps of Engineers deems it necessary to demolish the federal levees on the Lower Mississippi River and utilize the Bird's Point-New Madrid Floodway.

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 temporary 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 contact 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this 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 and Commandant Instruction M16475.1D, 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 on all waters of the Lower Mississippi River from MM 953.8 to MM 887.0, the Upper Mississippi River from MM 0.0 to MM 3.0, and the Ohio River from MM 981.5 to MM 978.5, during demolition of the federal levees on the Lower Mississippi River and utilization of the Bird's Point-New Madrid Floodway. 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. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

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 *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact 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 the docket, visit *https://www.regulations.gov/privacyNotice.*

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 record keeping 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.T846 to read as follows:

§ 165.T846 Safety Zone; Lower Mississippi River, Ohio River, and Upper Mississippi River, Bird's Point-New Madrid Floodway

(a) *Location.* The temporary safety zone will encompass all waters of the Lower Mississippi River from mile marker (MM) 953.8 to MM 887.0, the

Upper Mississippi River from MM 0.0 to MM 3.0, and the Ohio River from MM 981.5 to MM 978.5.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this temporary safety zone is prohibited unless authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

(2) To seek permission to enter, contact the Captain of the Port Sector Ohio Valley or a designated representative by radio VHF–FM Channel 16 or via phone at 502–779–5422. Those in the safety zone must comply with all lawful orders or directions given to them by the Captain of the Port Sector Ohio Valley or a designated representative.

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

Dated: March 14, 2019.

M.B. Zamperini,

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

[FR Doc. 2019–05560 Filed 3–22–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 38

RIN 2900–AQ35

Committal Services, Memorial Services and Funeral Honors

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations to address committal or memorial services and funeral honors. The proposed rule would reflect current VA practices relative to respecting the expressed wishes of the personal representative when making arrangements for the committal or memorial service. We would clarify the process for requesting committal or memorial services when requesting interment at VA national cemeteries and we would address access to public areas at VA national cemeteries. The proposed rule would also address when committal services may be conducted at a gravesite rather than in a committal shelter. We also propose measures to implement the statutory requirement that VA notify the personal representative of the funeral honors available to the deceased veteran.

DATES: Written comments must be received on or before May 24, 2019.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov*; by mail or hand-delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW, Room 1063B, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AQ35—Committal services, memorial services and funeral honors.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Melvin Gerrets, Office of the Director of Cemetery Operations, National Cemetery Administration (NCA), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420. Telephone: (202) 461–9646 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA national cemeteries are maintained as national shrines, places of honor and memory where veterans and visitors can sense the serenity, historic sacrifice and nobility of purpose of those who have served the Nation in the military. VA provides burial (also called interment) in VA national cemeteries to eligible persons identified in section 2402 of title 38 of the United States Code (U.S.C.). Section 2404(h) of 38 U.S.C. requires VA to respect the expressed wishes of the decedent's next-of-kin and give them appropriate deference when evaluating whether the proposed interment, funeral, memorial service, or ceremony affects the safety and security of the national cemetery and visitors. In addition, section 2404(h) provides that, to the extent possible, all appropriate public areas of the cemetery be made available to the family of the deceased veteran for mourning, prayer, contemplation or reflection, as well as to funeral honors providers. VA must also ensure that the family of the deceased veteran is able to display any religious or other symbols during such interment, memorial service, or ceremony.

VA proposes to amend its regulations by adding a new section 38.619 to address committal services, memorial services and funeral honors, as required in 2404(h). In addition, because a request for such services, particularly a request for a committal service, is normally received as part of a request for interment, we propose to request that the decedent's personal representative provide certain necessary information at the time that the request for interment is made.

As a preliminary matter, we clarify two points regarding language differences between the statutory authority and this proposed regulation. First, while § 2404(h) refers to ''next of kin or other agent of the deceased veteran,'' we propose to use the term ''personal representative'' when referring to the person from whom VA receives a request for interment or services. VA has previously defined ''personal representative'' at 38 CFR 38.600 as ''a family member or other individual who has identified himself or herself to the National Cemetery Administration as the person responsible for making decisions concerning the interment . . . or memorialization of a deceased individual.'' VA believes that use of this broad term eliminates the need to use the phrase ''next of kin or other agent[.]'' We note in particular that ''next of kin'' is defined in various ways in numerous state or federal laws or regulations, and may therefore lead to confusion. In addition, we note that the phrase ''agent of the deceased'' would generally be a legal contradiction in terms, because any agency relationship the decedent may have had with another person is extinguished upon death, and any individual making arrangements for a committal or memorial service would not be acting in the capacity of agent of the deceased individual. Under the existing regulatory definition, we do not require that a personal representative have any prior relationship to the deceased. This would allow for funeral directors or unrelated individuals to act as a personal representative for a decedent when they have custody of the remains, including for interment of unclaimed remains.

The second language issue is in regard to the use of the term ''funeral.'' Although Section 2404(h) of 38 U.S.C. refers to ''funeral,'' we do not propose to use this term in the regulation because generally VA national cemeteries do not conduct or perform funerals. A funeral is generally held at a funeral home or religious facility prior

to transporting the remains of the decedent to a cemetery. The committal service is a brief ceremony that provides families and friends the opportunity to remember and honor their deceased loved one before the remains are interred or placed in a columbarium. Alternatively, if remains are not available for interment, VA national cemeteries may allow a personal representative to request a memorial service which provides the same opportunity for families and friends to honor the deceased. For this reason, VA regulations refer to committal services or memorial services, but not funerals. VA believes Congress simply utilized the term ''funeral'' in section 2404(h) because that term is part of common parlance, but that Congress did not intend to fundamentally alter the character of VA committal or memorial services.

We also point out that, while the focus of 38 U.S.C. 2404(h) is on committal or memorial services and funeral honors for deceased veterans, under 38 U.S.C. 2402, individuals other than veterans are eligible for interment in a VA national cemetery. While a committal or memorial service could be held for such person, if requested, and therefore most provisions proposed here would be applicable, a committal or memorial service for such individuals would not include funeral honors, because funeral honors are available only to honor the military service of a deceased individual. VA would respect the expressed wishes of the decedent's personal representative for the committal or memorial service for a deceased eligible non-veteran and give appropriate deference to those wishes in scheduling and planning the interment, memorial service, or committal service. However, paragraph (f) of proposed section 38.619, regarding funeral honors, would apply only to a committal or memorial service in a VA national cemetery for a deceased veteran or other eligible individual who served in the U.S. armed forces.

Although requests for burial in a VA national cemetery are claims for benefits, not unlike other claims received by VA for health care or other benefits provided under Title 38, because interment related services are a time-sensitive matter, VA accepts requests for burial by telephone, rather than requiring submission of a claim form. The process for requesting interment has been communicated widely by VA, and is efficient and effective, but has not been established in regulation. This regulation would establish in regulation provisions that reflect VA's current procedures for requesting interment in a VA national cemetery.

We propose to establish in section 38.619(a) that a decedent's personal representative may request interment in a VA national cemetery by contacting the National Cemetery Scheduling Office (NCSO). Contacting the NCSO is the most efficient method for scheduling interments at VA national cemeteries. VA established the NCSO in 2007 to improve the process for requesting interment in the national cemeteries. NCSO is able to determine eligibility and schedule committal and memorial services at any open VA national cemetery.

VA requires certain critical information at the time of the request for interment, prior to scheduling. This information is necessary to establish eligibility and decrease potential delays in scheduling, so that the cemetery may plan the committal or memorial service. In paragraph (a)(1), we propose to provide that VA will request of the decedent's personal representative certain information, including documentation, at the time of the request for interment, with or without a committal service or memorial service. VA proposes in paragraph (a)(1)(i) to require submission of documentation at the time of the request for interment necessary to establish the decedent's eligibility for national cemetery interment. We also propose to include language noting that VA will comply with its obligation, under the Veterans Claims Assistance Act (see 38 U.S.C. 5103, 5103A), to advise a claimant of the necessary documentation needed to support a claim for burial, and to make reasonable efforts to assist the claimant (or in this case, the personal representative) in obtaining that documentation, especially information such as military service documents, which may already be available to the Agency. VA must have this documentation to establish eligibility of the decedent before scheduling national cemetery interment, or a committal or memorial service.

VA proposes in paragraph (a)(1)(ii) to request that the personal representative provide a preferred time and date for the interment, or for the committal or memorial service, so that VA may schedule the requested service and, if necessary, provide logistical information to funeral honors providers. In proposed paragraph (a)(1)(iii), VA would request whether a committal service will be conducted before the interment. Committal services are not mandatory, and the personal representative of a decedent eligible for national cemetery interment may opt for interment without additional services. We discuss the content and conduct of committal services further in reference to paragraphs (c), (d), and (f) below.

In proposed (a)(1)(iv), VA would request that the personal representative provide information on whether the remains are in a casket or urn so that logistics for the interment or memorial service may be coordinated, including the placement of the decedent's remains in a gravesite designed for the type of container. In addition, for cremated remains VA would require that a certificate of cremation or other documentation sufficient to identify the decedent also be submitted at the time of interment for cemetery administration and recordkeeping. This would help VA ensure that interment is of an eligible decedent and to maintain its internal records.

In proposed paragraph (a)(1)(v), VA would request information on size of the casket or urn, if the request is for interment. This physical information is essential for logistical planning, primarily to ensure the size of the grave or columbarium niche is sufficient to accommodate the container, and for casketed remains, any outer burial receptacle or grave liner provided by the family or the Government. In proposed paragraph (a)(1)(vi), VA would request contact information for the personal representative so that VA may provide any changes in scheduling or logistical concerns prior to interment timely to the appropriate contact.

In proposed paragraph (a)(1)(vii), VA would request information on whether the personal representative will provide a private vault for casketed remains, or whether a government-furnished grave liner is required. This information is necessary for the cemetery to determine if a government-furnished outer burial receptacle must be ordered and may affect the section of the cemetery where the interment will take place. VA ''pre-places'' outer burial receptacles in most of its national cemeteries. If a family has privately-purchased a grave liner or outer burial receptacle, the interment would need to be scheduled in a location without a pre-placed outer burial receptacle.

In proposed paragraph (a)(1)(viii), VA would request information on whether the decedent's personal representative intends to have funeral honors included in the requested committal or memorial service, if the decedent is a veteran. VA requires this information for logistical and resource planning purposes and to assist in coordinating, as necessary, with the funeral honors provider(s) at the scheduled time of the committal or memorial service. The NCSO would

provide a list of funeral honors providers at the selected cemetery, based on the list of providers maintained by the cemetery director. We discuss funeral honors, including the list of available funeral honors providers, below in the discussion of paragraph (f).

Because each request for interment is unique, VA proposes, in paragraph (a)(1)(ix), to alert requesters that additional information may be requested to establish or confirm eligibility or for cemetery logistical purposes. Additional information could include information relevant to confirming the military service of the deceased veteran to determine eligibility, or information regarding the relationship of the decedent to a veteran to ensure the decedent is an eligible dependent under section 2402.

In proposed paragraph (b), VA proposes that the personal representative may request memorial services for the decedent when remains are unrecoverable or otherwise will not be interred (such as scattering of cremated remains). We propose to include this provision to ensure that families are not dissuaded from requesting a memorial service in a national cemetery when the family does not have the remains of an eligible decedent for burial, or has made other arrangements for disposition of the remains. Additional circumstances under which a memorial service may be requested include deaths in which remains are not recovered, or when a decedent's body is donated for research, or if the remains have been cremated and scattered. If the decedent would have been eligible for burial in the national cemetery, VA seeks to ensure that the family is allowed to have a memorial service to honor the decedent, even when there are no remains to inter. Under proposed (b)(1), we would require information sufficient to confirm that the decedent would have been eligible for burial in a national cemetery. VA does not provide memorial services for individuals who would not be eligible for burial. In proposed paragraphs (b)(2) through (b)(5), we indicate other information VA would request of the personal representative in order for VA to schedule a memorial service. This information is similar to that requested under proposed (a)(1), and is similarly necessary for VA to confirm and schedule the requested services.

Proposed paragraph (c) would codify the statutory mandate to respect and defer to expressed wishes regarding the content and conduct of a committal or memorial service. We propose to provide that VA will respect and defer to the expressed wishes of the personal representative on the display of religious or other symbols chosen by the family, the use of all appropriate public areas, and selection of funeral honors providers, provided that the safety and security of the national cemetery and its visitors are not adversely affected. This paragraph would reaffirm VA's continuing commitment to allowing the family of the deceased veteran to display any religious or other symbols during such interment, memorial service, or ceremony, while in the committal shelter or at the gravesite if the committal service is held at a gravesite. Although VA is committed to respecting a family's wishes for the content of a committal or memorial service, we note that conduct in VA national cemeteries outside of the committal or memorial service, including displays of religious or other symbols, would be subject to VA's security and law enforcement regulations, found at 38 CFR 1.218, which prohibit unauthorized demonstrations. VA is committed to respecting individual rights; however, VA national cemeteries are non-public fora, and VA has established rules of conduct to maintain order and protect the solemnity and dignity of the national cemeteries so that they remain national shrines dedicated to honoring the memory of those who served. The provisions in § 1.218 also ensure the safety and security of the national cemetery and its visitors.

In paragraph (d), we propose to codify current practices that committal and memorial services in a VA national cemetery generally will be held in committal shelters located away from the gravesite. Committal shelters are located away from the actual gravesite to ensure accessibility and visitor safety and to offer a private and quiet area in which to hold a service while minimizing the distraction to families from other cemetery operations. A committal shelter may be temporary or permanent, and consists of a roofed structure for the use of the committal or memorial service attendees. A committal shelter is also the preferred venue for a committal service in a national cemetery because it allows for a greater degree of accessibility for the family and friends of the decedent, particularly those who may find walking difficult. A committal shelter also affords a greater level of safety to visitors by reducing the risk of trips and falls or other potential hazards on the cemetery interment grounds. However, VA cemetery directors have the discretion to hold a committal or memorial service at a gravesite in order to effectively manage cemetery resources and to address unexpected circumstances that may occur in regular cemetery operations, such as a prior committal service that runs longer than scheduled, or when the arrival of a funeral party is delayed. In addition, a personal representative may present significant reasons for preferring that the committal service be held at the gravesite. VA accommodates these wishes to the extent possible, and a cemetery director may approve a committal service at a gravesite, providing certain conditions, set forth in proposed (d)(1) through (d)(4), are met. In proposed (d)(1), we would require that the personal representative make a request that is based on religious practices. As indicated above, VA respects the religious practices of those who wish to bury eligible decedents in VA national cemeteries and this includes requests to hold services at the gravesite. However, VA also seeks to protect the safety of families and VA staff, so proposed (d)(2) through (d)(4) would establish other conditions that must be met before a cemetery director may approve a gravesite service. In proposed (d)(2), we would require that the request be made sufficiently prior to the scheduled service to ensure accessibility of the gravesite. VA must have sufficient time to prepare the area surrounding the gravesite for non-cemetery personnel, who may not be familiar with the safety hazards inherent in cemetery operations. Under proposed (d)(3), the cemetery director would be required to determine that he or she has sufficient resources to accommodate the gravesite service. Because of the number of interments conducted at VA national cemeteries daily, scheduling of interments and committal services is often accomplished with a high degree of precision often unnoticed by cemetery visitors. Accommodating exceptions to the normal scheduling at a committal shelter may divert resources needed for other cemetery operations. The determination whether a request can be accommodated can only be determined by the cemetery director based on the circumstances at the time. Similarly, the condition of the cemetery on a particular day may impact VA's ability to accommodate a request for a gravesite service. For example, although a gravesite service may be approved and scheduled in advance, weather conditions may make access by the funeral party too hazardous. Under proposed (d)(4), we would require that

the site be safely accessible on the day of the service.

VA also recognizes that there are instances where the decedent's family or personal representative may want only to have the decedent's remains interred without conducting additional services, but the decedent's family or personal representative may want to observe the actual interment of the remains. We propose, at paragraph (e), to allow this option of witnessing the interment without additional services. We distinguish this option from a gravesite service under proposed paragraph (d), in that an interment under proposed paragraph (e) would allow the decedent's family or personal representative to witness interment of the remains in a gravesite or inurnment in a columbarium without a committal service. Because the safety of all cemetery visitors is a priority for VA and timely notice is necessary to ensure the gravesite is prepared to safely accommodate those witnessing the interment, this option is available at the cemetery director's discretion when he or she finds that the conditions of proposed (e)(1) and (e)(2), regarding timing and safety of the site, are met. Under proposed (e)(2), we would also note that the cemetery director may enforce other restrictions to ensure safety of the visitors and cemetery staff.

Funeral honors are a time-honored tradition, providing a grateful nation an opportunity to pay final tribute to individuals who, in times of war and peace, have dedicated their loyal service to the United States of America. Proposed paragraph (f) codifies the actions that VA would take to meet the statutory mandate contained in 2402(h)(3) that VA notify the personal representative of the funeral honors available to the decedent.

VA proposes, in paragraph (f)(1), that each cemetery director will maintain a list of organizations that are available to provide funeral honors at the cemetery at no cost to the family. These organizations may also be available to augment Department of Defense (DoD) funeral honors providers. Section 2404(h)(3) requires VA to notify the personal representative ''of funeral honors available to the deceased veteran, including such honors provided by any military or volunteer veterans honor guard.'' We interpret the phrase ''volunteer veterans honor guard'' to mean that the services provided are without cost to the family. Therefore, we propose that the list include only those groups, including DoD funeral honors providers, that will provide funeral honors without cost to the family. Every cemetery director's list will include the contact information for DoD funeral honors coordinators for the specific branches of service. VA proposes that non-DoD funeral honors providers who want to be included on the funeral honors provider lists must make a request to be on the list and must meet certain requirements enumerated in (f)(5), which are discussed below.

In proposed (f)(2), VA proposes that funeral honors will be provided at a committal or memorial service only if the personal representative requests them. VA would ask the personal representative who is scheduling an interment and committal service under proposed paragraph (a)(1), or memorial service under proposed paragraph (b)(4), whether funeral honors will be included in the services. If so, the NCSO staff would make available to the personal representative the list of funeral honors providers for the cemetery where the interment or services are to be scheduled. We note that providing the names and contact information of funeral honors providers to a personal representative is for information purposes only and should not be viewed as an endorsement of any organization by VA. The personal representative is not required to accept the list, or to use the list to select a funeral honors provider. Under proposed paragraph (f)(2), the personal representative may choose any funeral honors provider(s) on the list, and/or may select other organizations to provide the honors.

As with other aspects of a committal or memorial service, the choice to include funeral honors during the committal or memorial service, and which funeral honors provider should render such services, lies solely with the personal representative. VA proposes in (f)(3) that any agreement to provide funeral honors would be exclusively between the organization(s) providing funeral honors and the personal representative, to ensure that the decedent's personal representative is aware that, should any issues arise between the personal representative and the funeral honors provider regarding the content or conduct of funeral honors, VA would not be involved in resolving the issue. This includes agreements with volunteer organizations that provide funeral honors. This provision applies to the agreement regarding the composition of a funeral honors detail, as well as the specific content of the ceremony provided during a committal or memorial service, which may be dependent on available resources of the providing organization(s). We would also note that while DoD funeral honors may be requested by the personal representative, they are available at the discretion of DoD, and based on eligibility requirements established by DoD. DoD funeral honors denotes funeral honors provided by uniformed military service personnel under the authority of 10 U.S.C. 1491 and is distinguished from funeral honors provided by non-DoD personnel, such as a funeral honors squad comprised of volunteers from a local veterans service organization.

Although the agreement to provide funeral honors is between the personal representative and the funeral honors provider, VA is responsible for the safety of cemetery visitors and maintaining the honor and dignity of VA national cemeteries. Therefore, VA proposes at (f)(4) certain requirements regarding conduct in the national cemeteries by all funeral honors providers, including DoD funeral honors details and providers not on the list maintained by the cemetery director, that would apply without regard to the agreement between the personal representative and the funeral honors provider. Under proposed (f)(4)(i), all funeral honors providers, would be required to designate and provide contact information for a representative of their organization accountable for funeral honors activities. The funeral honors provider's point of contact would have responsibility for communicating with national cemetery director and staff. The designation of a funeral honors provider's single point of contact would facilitate VA's resource planning and cemetery administration, and ensue that cemetery staff have the ability to quickly communicate information to, or obtain information from, an accountable representative from the organization(s) providing funeral honors for a particular committal or memorial service.

VA proposes in (f)(4)(ii) to require that all funeral honors providers be required to be in compliance with VA security, safety, and law enforcement regulations, to ensure the protection of decedent's families and other cemetery visitors and to maintain the honor and dignity of the national cemeteries. VA proposes at (f)(4)(iii) to require that equipment used by the all funeral honors details during a committal or memorial service be maintained and operated in a safe manner consistent with relevant VA policies and regulations, as well as DoD policy, because most weapons and ammunition used by funeral honors providers are issued by DoD. Equipment would include rifles and ammunition used during the rifle salute. We would

impose this requirement to ensure the safety and security of national cemetery visitors and staff.

Under proposed (f)(4)(iv), all funeral honors providers would be required to not solicit or accept donations on VA property, except as authorized under 38 CFR 1.218(a)(8). This is a VA-specific regulation that prohibits soliciting contributions, commercial solicitation, vending of all kinds, displaying or distributing commercial advertising, or collecting private debts in or on VA property. Restricting solicitation by all individuals, including all funeral honors providers, helps maintain the dignity and solemnity of the national cemeteries, and protects families from disturbances during a particularly vulnerable and emotional time.

In addition to the requirements in paragraph (f)(4)(i) thru (f)(4)(iv) that would apply to all funeral honors providers, VA proposes to include in paragraph (f)(5) additional requirements for non-DoD funeral honors providers, including providers selected by a personal representative but not on the cemetery director's list. Under proposed (f)(5)(i), the non-DoD funeral honors providers would be required to certify that they will comply with the requirements presented in paragraph (f)(4). This additional requirement for certification would be necessary to raise awareness of VA standards and to increase the accountability of these organizations performing activities on VA property. VA would not require this additional assurance of compliance from DoD funeral honors providers because VA has a long-established relationship with DoD and is confident that DoD funeral providers would abide by these requirements without additional certification. VA proposes at (f)(5)(ii) to require funeral honors providers to certify that they are conducting activities on federal property as an independent entity, not as an agent or employee of VA, unless they are registered as a VA volunteer. This requirement would ensure that non-DoD funeral honors providers understand that they may be liable for any injuries or damages that could occur while providing funeral honors on VA-property. DoD funeral honors details, and funeral honors providers who are registered as VA volunteers, would be exempt from this requirement because authorized action of federal employees would be subject to the Federal Tort Claims Act.

Under proposed (f)(5)(iii), non-DoD funeral honors providers would be required to certify that members of the funeral honors detail have completed training on assigned funeral honors tasks and the safe use of equipment. Funeral honors providers' equipment and activities are capable of causing harm to the user as well as people in close proximity and therefore anyone who uses such equipment or performs such tasks must be trained to safely use the equipment and perform assigned tasks correctly. We would not specify the level of training required because funeral honors providers are aware of the importance of funeral honors and have experience in performing funeral honors for the grieving family of a deceased veteran. VA believes that funeral honors providers should be able to determine the degree of training required to perform any particular funeral honors task competently and safely. DoD funeral honors details are exempt from this requirement because military members of DoD funeral honors details are highly trained individuals and expert at accomplishing funeral honors duties, which eliminates uncertainty regarding their ability to safely and effectively carry out funeral honors functions.

VA proposes at (f)(5)(iv) to require that non-DoD funeral honors providers certify that they will provide funeral honors services in accordance with the agreement between the provider and the personal representative. As discussed above regarding proposed (f)(3), VA is not a party to the agreement between the funeral honors provider and the personal representative. However, VA affirms its commitment to ensure deference to the wishes of the personal representative in planning the content of a committal or memorial service and expects those providing funeral honors as part of those services to similarly respect the choices made by the personal representative.

A VA national cemetery, like other federal property, contains areas that may be accessed by the public as well as areas that are not publicly accessible. Areas that are not considered public areas may include private offices, storage rooms, or maintenance shops. In paragraph (g), we propose that all appropriate public areas of the cemetery, which include committal shelters, chapels, and benches, may be used by national cemetery visitors and funeral honors providers for service preparations, contemplation, prayer, mourning, or reflection so long as the safety and security of the national cemetery and cemetery operations are not adversely affected. This paragraph is intended to clearly state current VA practices and procedures, and does not reflect any change in policy. VA allows funeral honors providers, to the maximum extent practicable, to access appropriate public areas of a national cemetery if such access is requested. We believe that the funeral honors providers should have access to public areas to ensure that the funeral honors detail has adequate space to prepare for the committal or memorial service, and to receive any instructions or requests from the decedent's family.

VA occasionally receives queries on whether organizations or individuals may offer a gift or token to the bereaved family before, after, or during a committal or memorial service in appreciation of a veteran's service or in recognition of the family's grief. VA is not aware of any statutory prohibition against this practice, and we believe the gesture could be meaningful to the surviving family. In paragraph (h), we would state that nothing in this section prohibits or constrains a funeral honors provider, Veterans Service Organization, or the public from offering a gift or token to a family member of the deceased or someone attending a committal or memorial service, provided that no compensation is requested, received, or expected in exchange for such gift or token, and the safety and security of the national cemetery and visitors is not adversely affected in doing so. Committal or memorial service attendees may accept or decline any such gift or token, and may also request that the offeror refrain from any offers to the service attendees.

Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521), requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. This proposed rule contains provisions constituting collection of information at 38 CFR 38.619(a) and (b), and at 38 CFR 38.619(f)(5).

The information collection at § 38.619(a) and (b) is necessary to

establish eligibility for national cemetery burial and to schedule and plan interments. This information collection is currently approved by OMB and has been assigned OMB control number 2900–0232. The burden of this information collection would remain unchanged.

This proposed rule also contains a provision constituting a new collection of information at 38 CFR 38.619(f)(5). Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking to OMB for review.

OMB assigns control numbers to collections of information it approves. VA 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. If OMB does not approve the collection(s) of information as requested, VA will immediately remove the provision(s) containing a collection of information or take such other action as is directed by OMB.

Comments on the collection of information contained in this rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1063B, Washington, DC 20420; fax to (202) 273–9026 (This is not a toll-free no.); or through *www.Regulations.gov*. Comments should indicate that they are submitted in response to ''RIN 2900–AQ35 Committal services, memorial services and funeral honors.''

OMB is required to make a decision concerning the collections of information contained in this rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule. VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections 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.

The collection of information contained in regulatory section 38 CFR 38.619(f)(5) is described immediately following this paragraph.

Title: Certification requirements for non-DoD funeral honors providers.

OMB Control No.: XXXX–XXXX.

Summary of collection of information: To ensure the safety of cemetery visitors and staff and to maintain the decorum of the national cemeteries, non-DoD funeral honors providers that perform funeral honors activities at VA national cemeteries must certify to VA that they will comply with certain requirements proposed in these regulations. These requirements include providing contact information for a representative for the organization, abiding by VA security, safety, and law enforcement regulations, maintaining and operating any equipment in a safe manner consistent with VA and DoD policies and regulations, and not soliciting for or accepting donations on VA property except as authorized under 38 CFR 1.218(a)(8). In addition, they must certify that they are conducting activities on federal property as an independent entity, not as an agent or employee of VA, unless registered as a VA volunteer; that members of the organization who will conduct the funeral honors have completed training on funeral honors tasks and the safe use of funeral honors equipment. Finally, the non-DoD funeral honors provider must certify that the funeral honors will be provided in accordance with the agreement between the decedent's personal representative and the funeral honors provider.

Description of the need for information and proposed use of information: The information is needed to ensure that funeral honors activities performed on VA property maintain the honor and dignity of the national cemetery and do not negatively impact the safety of cemetery visitors.

Description of likely respondents: Representatives are non-DoD funeral honors providers performing funeral honors activities at VA national cemeteries. Non-DoD funeral honors providers are unpaid volunteers.

Estimated number of respondents per month/year: 380 annually.

Estimated frequency of responses per month/year: One response total.

Estimated average burden per response: 5 minutes/.08 hours.

Estimated total annual reporting and recordkeeping burden: 31.7 hours.

Estimated cost to respondents per year: NCA estimates the total cost to all respondents to be $771.58 per year (31.7 burden hours × $24.34 per hour). The respondent population for the information collected is composed of individuals representing organizations who provide funeral honors duties for VA national cemetery visitors during committal or memorial services. The funeral honors providers may represent a component of DoD or may represent a non-profit Veteran Service Organization (VSO). The individuals representing VSOs are volunteers and are not paid for performing funeral honors services. Since funeral honors providers consist of unpaid volunteers, the hourly equivalent wage is the value of the volunteers' time, based on the mean hourly wage of all workers, so the volunteers will incur the costs as an opportunity cost, rather than having the non-profits incur the cost. Therefore, NCA used general wage data to estimate the respondents' costs associated with completing the information collection.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Even to the extent some veterans service organizations that provide funeral honors could be viewed as ''small entities'' as defined in 5 U.S.C. 601(4), (6), this proposed rule would not have a significant economic impact on them because it concerns only the standards of conduct those groups must abide by when conducting funeral honors in national cemeteries. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking would be exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages;

distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action and determined that the action is not a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm* by following the link for VA Regulations Published from FY 2004 through FYTD. This proposed rule is not expected to be an E.O. 13771 regulatory action because this proposed rule is not significant under E.O. 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.201 National Cemeteries; 64.202 Procurement of Headstones and Markers and/or Presidential Memorial Certificates; and, 64.203 State Cemetery Grants.

Signing Authority

The Secretary of Veterans Affairs approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on January 2, 2019, for publication.

List of Subjects in 38 CFR Part 38

Administrative practice and procedure, Cemeteries, Veterans, Claims, Crime, Criminal offenses.

Dated: March 18, 2019.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 38 as follows:

PART 38—NATIONAL CEMETERIES OF THE DEPARTMENT OF VETERANS AFFAIRS

■ 1. The authority citation for part 38 continues to read as follows:

Authority: 38 U.S.C 107, 501, 512, 2306, 2402, 2403, 2404, 2407, 2408, 2411, 7105.

■ 2. Add § 38.619 to read as follows:

§ 38.619 Requests for interment, committal services or memorial services, and funeral honors.

(a) *Interment requests.* A personal representative, as defined in § 38.600, may request interment of an eligible decedent in a national cemetery by contacting the National Cemetery Scheduling Office (NCSO) at 1–800–535–1117.

(1) *Required Information.* VA will request the following information from the decedent's personal representative at the time of the request for interment to allow VA to schedule the interment for the decedent:

(i) Documentation of the decedent's eligibility for national cemetery interment. If needed, VA will make reasonable efforts to assist the personal representative in obtaining such documentation;

(ii) Preferred date and time for the interment;

(iii) Whether a committal service is requested (a committal service is not required);

(iv) Whether the remains are in a casket or urn. For cremated remains, the personal representative will be advised to present a certificate of cremation or other documentation sufficient to identify the decedent at the time of interment.

(v) The size of the casket or urn.

(vi) The contact information for the personal representative.

(vii) Whether a private vault will be provided to the national cemetery or a government-furnished grave liner is required.

(viii) Whether the personal representative intends to have funeral honors during the committal service, if the decedent is a veteran.

(ix) Other relevant information necessary to establish or confirm eligibility of the decedent and/or for cemetery logistics and planning.

(2) [Reserved].

(b) *Memorial services requests.* The personal representative may request a memorial service for a decedent who is eligible for interment in a VA national cemetery. Memorial services may be conducted if the decedent's cremated remains will be scattered and will not be interred, or if the remains of the eligible individual are otherwise not available for interment, or were previously interred without a committal service. The personal representative may request the memorial service by contacting the National Cemetery Scheduling Office (NCSO) at 1–800–535–1117 and providing the following required information:

(1) Documentation of the decedent's eligibility for national cemetery interment. If needed, VA will make reasonable efforts to assist the personal representative in obtaining such documentation;

(2) Preferred date and time for the memorial service;

(3) The contact information for the personal representative;

(4) Whether the personal representative intends to have funeral honors services during the memorial service, if the decedent is a veteran;

(5) Other relevant information necessary to establish or confirm eligibility of the decedent and/or for cemetery logistics and planning.

(c) *Content of committal or memorial services.* VA will respect and defer to the expressed wishes of the personal representative for the content and conduct of a committal or memorial service, including the display of religious or other symbols chosen by the family, the use of all appropriate public areas, and the selection of funeral honors providers, provided that the safety and security of the national

cemetery and its visitors are not adversely affected.

(d) *Location of services.* Committal or memorial services at VA national cemeteries will be held in committal shelters located away from the gravesite to ensure accessibility and visitor safety, unless the cemetery director determines that a committal shelter is not available for logistical reasons, or the cemetery director approves a request from the personal representative for a gravesite service. A request for a gravesite service may be approved by the cemetery director if:

(1) The service is requested by the decedent's personal representative for religious reasons; and

(2) The request is made sufficiently prior to the scheduled committal service to ensure the gravesite is accessible; and

(3) The cemetery director has sufficient staffing resources for the gravesite service, and

(4) The site can be safely accessed on the day of the service.

(e) *Witnessing interment without additional services.* When scheduling the interment, the decedent's personal representative may request to witness the interment of the decedent's remains without additional services at the committal shelter. Approval of a request for witness-only interment is at the discretion of the cemetery director, and may be made only if:

(1) The timing of the request provides sufficient time to ensure the gravesite is accessible, and;

(2) The site can be safely accessed on the day of the interment. This determination may require limiting the number of individuals who may witness the interment and other logistics, such as distance from the gravesite, as the cemetery director finds necessary.

(f) *Funeral honors.* (1) *List of organizations providing funeral honors.* Each cemetery director will maintain a list of organizations that will, upon request, provide funeral honors at the cemetery at no cost to the family. Each list must include DoD funeral honors contacts. Non-DoD funeral honors providers who want to be included on the list must make a request to the cemetery director and meet the requirements of paragraph (f)(5) of this section.

(2) *Request required.* Funeral honors will be provided at a committal or memorial service for an eligible individual only if requested by the decedent's personal representative. When scheduling a committal or memorial service for a veteran or other eligible individual who served in the U.S. armed forces, the NCSO will make available to the personal representative the list of available funeral honors providers, as described in paragraph (f)(1) of this section, for the cemetery where interment or services are to be scheduled. The decedent's personal representative may choose any funeral honors provider(s) on the list provided by VA, and/or any other organization that provides funeral honors services.

(3) *Agreement.* Any agreement to provide funeral honors is exclusively between the organization(s) providing funeral honors and the decedent's personal representative. The composition of a funeral honors detail, as well as the specific content of the ceremony provided during a committal or memorial service is dependent on available resources of the providing organization(s). The Department of Defense (DoD) is responsible for determining eligibility for funeral honors provided by a DoD funeral honors detail. If funeral honors are provided by a combined detail that includes one or more funeral honors providers, all providers must provide services as requested by the personal representative.

(4) *Requirements for all funeral honors providers.* All organizations performing funeral honors at VA national cemeteries, including DoD organizations and any provider selected by the personal representative that is not on the list of providers provided by VA under paragraph (f)(1) of this section, must:

(i) Provide to the cemetery director the name and contact information of a representative for the organization who is accountable for funeral honors activities; and

(ii) Comply with VA security, safety, and law enforcement regulations under 38 CFR 1.218; and

(iii) Maintain and operate any equipment in a safe manner consistent with VA and DoD policies and regulations; and

(iv) Not solicit for or accept donations on VA property except as authorized under 38 CFR 1.218(a)(8).

(5) *Additional requirements for non-DoD funeral honors providers.* Non-DoD funeral honors providers, including any provider selected by the personal representative that is not on the list of providers provided by VA under paragraph (f)(1) of this section, must certify that:

(i) They will comply with the requirements in paragraph (f)(4) of this section;

(ii) They are conducting activities on federal property as an independent entity, not as an agent or employee of VA, unless registered as a VA volunteer;

(iii) Members of the organization who will conduct the funeral honors have completed training on funeral honors tasks and the safe use of funeral honors equipment; and

(iv) The funeral honors will be provided in accordance with the agreement in paragraph (f)(3) of this section between the personal representative and the funeral honors provider.

(g) *Public areas.* The cemetery director and cemetery staff will allow access to and use of appropriate public areas of the national cemetery by national cemetery visitors, as well as to families and funeral honors providers for service preparations, contemplation, prayer, mourning, or reflection, so long as the safety and security of the national cemetery and cemetery operations are not adversely affected. Appropriate public areas include, but are not limited to, committal shelters, rest areas, chapels, and benches. The cemetery director will ensure that signs adequately identify restricted or non-public areas in the national cemetery.

(h) *Gifts.* Nothing in this section prohibits or constrains any member of a funeral honors provider, a Veterans Service Organization, or the public from offering a gift or token to a family member of the decedent or any person at a committal or memorial service, provided that no compensation is requested, received, or expected in exchange for such gift or token. Committal or memorial service attendees may accept or decline any such gift or token, and may request that the offeror refrain from making any such offers to the service attendees.

(Authority: 38 U.S.C. 2402, 2404)

[FR Doc. 2019–05454 Filed 3–22–19; 8:45 am]

BILLING CODE 8320–01–P

Notices

Federal Register
Vol. 84, No. 57
Monday, March 25, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Senior Executive Service: Membership of Performance Review Board

ACTION: Notice.

SUMMARY: This notice lists approved candidates who will comprise a standing roster for service on the Agency's 2019 SES Performance Review Board. The Agency will use this roster to select SES Performance Review Board members. The standing roster is as follows:

Allen, Colleen
Bader, Harry
Barnhart, Matthew
Bertram, Robert
Broderick, Deborah
Buckley, Ruth
Chan, Carol
Collins, Gregory
Crumbly, Angelique
Davis, Thomas
Detherage, Maria Price
Ehmann, Claire
Feinstein, Barbara
Foley, Jason
Fox, Mary Louise
Girod, Gayle
Gressett, Donald
Jenkins, Robert
Johnson, Mark
Harvey, Adriel
Koek, Irene
Kuyumjian, Kent
Leavitt, William
Lennon, Stephen
Lewis, Kimberly
Longi, Maria
Mahanand, Vedjai
Mitchell, Reginald
Moore, David
Ohlweiler, John
Pascocello, Susan
Peters, James
Schmitt, Tricia
Sokolowski, Alexander
Staley, Kenneth
Steele, Gloria
Vera, Mauricio
Voorhees, John
Walther, Mark
Whyche-Shaw, Oren

FOR FURTHER INFORMATION CONTACT: Karen Baquedano at 202–712–0695 or *kbaquedano@usaid.gov.*

Karen Baquedano,

Director, Center for Performance Excellence.

[FR Doc. 2019–05589 Filed 3–22–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 20, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) 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) the accuracy of the agency's estimate of burden 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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 24, 2019 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Foreign Agricultural Service

Title: Technical Assistance for Specialty Crops Program.

OMB Control Number: 0551–0038.

Summary of Collection: The Technical Assistance for Specialty Crops (TASC) program was authorized by Section 3205 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171). Regulations governing the program appear at 7 CFR part 1487. Section 3205 provides that the Secretary of Agriculture shall establish a program to address unique barriers that prohibit or threaten the export of U.S. specialty crops. The program was reauthorized by the Agricultural Improvement Act of 2018 (section 3201), which became effective on December 20, 2018. The Foreign Agricultural Service (FAS) will administer the program for the Commodity Credit Corporation.

Need and Use of the Information: FAS collects data for fund allocation, program management, planning and evaluation. FAS will collect information from applicant desiring to receive grants under the program to determine the viability of requests for funds. The program could not be implemented without the submission of project proposals, which provide the necessary information upon which funding decisions are based.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; Federal Government.

Number of Respondents: 50.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Annually.

Total Burden Hours: 1,600.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–05597 Filed 3–22–19; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 20, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) 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) the accuracy of the agency's estimate of burden 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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 24, 2019 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: FNS Generic Clearance for Pre-Testing, Pilot, and Field Testing Studies.

OMB Control Number: 0584–0606.

Summary of Collection: The Food and Nutrition Service (FNS) is requesting approval from the Office of Management and Budget (OMB) to conduct pre-testing of surveys using a generic clearance that will allow FNS to conduct a variety of data-gathering activities aimed at improving the quality and usability of information collection instruments associated with research and analysis activities. The procedures utilized to this effect include but are not limited to experiments with levels of incentives for study participants, tests of various types of survey operations, focus groups, pilot testing, exploratory interviews, experiments with questionnaire design, and usability testing of electronic data collection instruments. The authorizing statutes for data collections submitted under this generic clearance are: The Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111–296, Sec 305), and Section 17 (7 U.S.C. 2026) (a)(1) of the Food and Nutrition Act of 2008.

Need and Use of the Information: The information collected will be used to pre-test, evaluate and improve the quality of surveys instruments and provide reassessments before they are conducted. This generic testing clearance is a helpful vehicle for evaluating questionnaires/assessments and various data collection procedures. It will allow FNS to take advantage of a variety of methods to identify questionnaire/assessment and procedural problems, suggest solutions, and measure the relative effectiveness of alternative solutions. The quality and timeliness of data collections will be improved by conducting pre-testing in advance of full surveys.

Description of Respondents: Individual or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 6,600.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 4,500.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–05585 Filed 3–22–19; 8:45 am]

BILLING CODE 3410–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0004]

Importation of Fresh Jujube Fruit From China Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a pest risk analysis that evaluates the risks associated with the importation of fresh jujube fruit from China into the continental United States. Based on the analysis, we have determined that the application of one or more phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh jujube fruit from China. We are making the pest risk analysis available to the public for review and comment.

DATES: We will consider all comments that we receive on or before May 24, 2019.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0004.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0004, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0004* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Roman, Senior Regulatory Policy Specialist, RCC, IRM, PHP, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1236; (301) 851–2242.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart L—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations) the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 contains a performance-based process for approving the importation of certain fruits and vegetables that, based on the findings of a pest risk analysis, can safely be imported into the United States subject to one or more of the five designated phytosanitary measures listed in paragraph (b) of that section.

APHIS received a request from the national plant protection organization (NPPO) of China to allow the importation of fresh jujube fruit (*Ziziphus jujuba* Miller (Rhamnaceae)) from China into the continental United States. As part of our evaluation of China's request, we have prepared a pest risk assessment (PRA) to identify the pests of quarantine significance that could follow the pathway of the importation of fresh jujube fruit into the continental United States from China. Based on the PRA, a risk management document (RMD) was prepared to identify phytosanitary measures that could be applied to the fresh jujube fruit to mitigate the pest risk.

We have concluded that fresh jujube fruit can be safely imported from China into the continental United States using one or more of the five designated phytosanitary measures listed in § 319.56–4(b). The NPPO of China would have to enter into an operational workplan with APHIS that spells out the daily procedures the NPPO of China will take to implement the measures identified in the RMD. These measures are summarized below:

- Importation in commercial consignments only.
- Registration of places of production and packinghouses with the NPPO of China.
- Limiting registered places of production to locations north of the 33rd parallel (APHIS considers China to be free of *Bactrocera* spp. fruit flies above this parallel), or alternatively, requiring phytosanitary treatment for *Bactrocera correcta, B. cucurbitae,* and *B. dorsalis* in accordance with 7 CFR part 305, which contains APHIS' phytosanitary treatment regulations.[1]
- The NPPO maintaining a national fruit fly monitoring program.
- Grove sanitation and trapping for fruit flies in places of production that are located in a province in which *Carpomyia vesuviana* (Ber fruit fly) is known to be present.
- Recordkeeping of fruit fly detections in registered places of production.
- Pre-export inspection by the NPPO of China and issuance of a phytosanitary certificate.
- Port of entry inspections.
- Importation under a permit issued by APHIS.

Each of the pest risk mitigation measures that would be required, along with evidence of their efficacy in removing pests of concern from the pathway, are described in detail in the RMD.

Therefore, in accordance with § 319.56–4(c)(3), we are announcing the availability of our PRA and RMD for public review and comment. Those documents, as well as a description of the economic considerations associated with the importation of fresh jujube fruit from China, may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of these documents by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the import status of fresh jujube fruit from China in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will authorize the importation of fresh jujube fruit from China into the continental United States subject to the requirements specified in the RMD.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, March 19, 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–05566 Filed 3–22–19; 8:45 am]

BILLING CODE 3410–34–P

[1] Irradiation at 400 Gy is currently the only approved phytosanitary treatment for these three species of fruit flies. Cold treatment is currently being evaluated as an alternate treatment.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service, an agency of the United States Department of Agriculture's (USDA), invites comments on this information collection for which the Agency intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by May 24, 2019.

FOR FURTHER INFORMATION CONTACT: Thomas P. Dickson, Regulatory Division Team 2, Rural Development Innovation Center, U.S. Department of Agriculture, 1400 Independence Ave. SW, Stop 1522, Washington, DC 20250. Phone: 202–690–4492. *Thomas.Dickson@usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that the Agency is submitting to OMB for an extension.

Comments are invited on (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques on other forms and information technology. Comments may be sent to Thomas P. Dickson, Regulatory Division Team 2, Rural Development Innovation Center, U.S. Department of Agriculture, 1400 Independence Ave. SW, Stop 1522, Washington, DC 20250. Phone: 202–690–4492. *Thomas.Dickson@usda.gov.*

Title: Special Evaluation Assistance for Rural Communities and Household Program (SEARCH).

OMB Control Number: 0572–0146.

Type of Request: Revision of currently approved package.

Abstract: The Food, Conservation and Energy Act of 2008, Public Law 110–246 (Farm Bill) amended Section 306(a)(2) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1926 (a)(2)). The amendment created a grant program to make Special Evaluation Assistance for Rural Communities and Households (SEARCH) Program grants.

Under the SEARCH program, the Secretary may make predevelopment and planning grants to public or quasi-public agencies, organizations operated on a not-for-profit basis or Indian tribes on Federal and State reservations and other federally recognized Indian tribes. The grant recipients shall use the grant funds for feasibility studies, design assistance, and development of an application for financial assistance to financially distressed communities in rural areas with populations of 2,500 or fewer inhabitants for water and waste disposal projects as authorized in Sections 306(a)(1), 306(a)(2) and 306(a)(24) of the CONACT.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2 hours per responses.

Respondents: Public Bodies; Indian Tribes; Not-for-Profit Organizations.

Estimated Number of Respondents: 111.

Estimated Number of Responses per Respondent: 19.

Estimated Total Annual Burden on Respondents: 3,380.

Copies of this information collection can be obtained from MaryPat Daskal, Regulatory Team 2, Rural Development Innovation Center, U.S. Department of Agriculture, 1400 Independence Ave. SW., Stop 1522, Washington, DC 20250. Telephone: (202) 720–7853. Email: *MaryPatDaskal@usda.gov.*

All responses to this information collection and recordkeeping notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: March 19, 2019.

Bette B. Brand,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2019–05635 Filed 3–22–19; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–15–2019]

Foreign-Trade Zone (FTZ) 163—Ponce, Puerto Rico; Notification of Proposed Production Activity; Puerto Rico Steel Products Corporation (Construction and Fencing Products), Coto Laurel, Puerto Rico

Puerto Rico Steel Products Corporation (Puerto Rico Steel) submitted a notification of proposed production activity to the FTZ Board for its facility in Coto Laurel, Puerto Rico. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 12, 2019.

The Puerto Rico Steel facility is located within Subzone 163L. The facility will be used for production of construction and fencing products. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Puerto Rico Steel from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Puerto Rico Steel would be able to choose the duty rates during customs entry procedures that apply to the following steel products: Bright common nails; chain link fence; wire mesh; rebar; tubes; roll forming panels for roofing; and, snap ties (duty-free). Puerto Rico Steel would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Various galvanized steel components (coil, strip, or wire); various steel components (rebar, wire, wire rod, or black annealed wire); aluminum zinc coated steel coils; cold deformed steel rebar in coils; and, concrete reinforcement steel bars in coils (duty-free). The request indicates that certain materials/components are subject to special duties under Section 232 of the Trade Expansion Act of 1962 (Section 232), depending on the country of origin. The applicable Section 232 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 6, 2019.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Juanita Chen at *juanita.chen@trade.gov* or 202–482–1378.

Dated: March 19, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–05648 Filed 3–22–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Special Priorities Assistance

AGENCY: Bureau of Industry and Security.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before May 24, 2019.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, 1401 Constitution Avenue NW, Room 6616, Washington, DC 20230 (or via the internet at *docpra@doc.gov.*)

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Mark Crace, BIS ICB Liaison, (202) 482–8093 or at *mark.crace@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collected from defense contractors and suppliers on Form BIS–999, Request for Special Priorities Assistance, is required for the enforcement and administration of special priorities assistance under the Defense Production Act, the Selective Service Act and the Defense Priorities and Allocation System regulation. Contractors may request Special Priorities Assistance (SPA) when placing rated orders with suppliers, to obtain timely delivery of products, materials or services from suppliers, or for any other reason under the DPAS, in support of approved national programs. The Form BIS–999 is used to apply for such assistance.

II. Method of Collection

Submitted electronically or on paper.

III. Data

OMB Control Number: 0694–0057.

Form Number(s): BIS–999.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,200.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 600.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Title I of the Defense Production Act.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–05609 Filed 3–22–19; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–805]

Stainless Steel Bar From Spain: Final Results of Antidumping Duty Administrative Review; 2017–2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that Sidenor Aceros Especiales S.L. (Sidenor) sold subject merchandise in the United States at prices below normal value (NV) during the period of review (POR) March 1, 2017, through August 8, 2017.

DATES: Applicable March 25, 2019.

FOR FURTHER INFORMATION CONTACT: Trenton Duncan or 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) 482–3539 or (202) 482–2593, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of this administrative review on stainless steel bar (SSB) from Spain on December 10, 2018.[1] We invited interested parties to comment on the *Preliminary Results*; however, no interested party submitted comments. Commerce conducted this administrative review of the antidumping duty order on SSB from Spain in accordance with sections 751(a)(1) and (2) of the Tariff Act of 1930, as amended (the Act).[2] When the review was initiated, the period of review (POR) was March 1, 2017, through Febrary 28, 2018. However, on October 3, 2018, as a result of a five-year (sunset) review, Commerce revoked the antidumping duty order on imports of stainless steel bar (SSB) from Spain, effective August 9, 2017.[3] As a result, the POR was revised to March 1, 2017, through August 8, 2017.[4]

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[5] If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results of this review is now May 20, 2019.

Scope of the Order

The merchandise covered by the order is Stainless Steel Bar. The merchandise subject to this order is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7222.10.00, 7222.11.00, 7222.19.00, 7222.20.00, and 7222.30.00.[6] Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[7]

Changes Since the Preliminary Results

As no parties submitted comments on the *Preliminary Results,* we made no changes in the final results of this review.

Final Results of the Review

As there are no changes from, or comments upon, the *Preliminary Results,* Commerce has not modified its analysis or calculations. Accordingly, no decision memorandum accompanies this **Federal Register** notice. We continue to find that Sidenor made sales of subject merchandise at less than normal value during the POR.

Commerce determines that the following weighted-average dumping

[1] *See Stainless Steel Bar from Spain: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018,* 83 FR 63478 (December 10, 2018) (*Preliminary Results*).

[2] *See Amended Final Determination and Antidumping Duty Order: Stainless Steel Bar from Spain,* 60 FR 11656 (March 2, 1995) (*Order*).

[3] *See Stainless Steel Bar from Brazil, India, Japan, and Spain: Continuation of Antidumping Duty Order (India) and Revocation of Antidumping Duty Orders (Brazil, Japan, and Spain),* 83 FR 49910 (October 3, 2018) (*Revocation Notice*).

[4] *Id.*

[5] *See* memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Pai1ial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[6] For a full description of the scope of the order, see Memorandum, ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Bar from Spain; 2017–2018,'' dated December 3, 2018.

[7] The HTSUS numbers provided in the scope changed since the publication of the order. *See Amended Final Determination and Antidumping Duty Order: Stainless Steel Bar from Spain,* 60 FR 11656 (March 2, 1995).

margin exists for the period March 1, 2017, through August 8, 2017:

Exporter/producer	Weighted-average dumping margin (percent)
Sidenor Aceros Especiales, S.L	1.76

Assessment Rates

Commerce will determine, 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). Commerce intends to issue assessment instructions directly to CBP 15 days after publication of these final results of review.

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by Sidenor for which it did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit Requirements

In the *Revocation Notice,* Commerce stated that it intends to issue instructions to CBP to terminate the suspension of liquidation and to discontinue the collection of cash deposits on entries of subject merchandise, entered or withdrawn from warehouse, on or after August 9, 2017.[8] Furthermore, because the antidumping duty order on SSB from Spain has been revoked as a result of the *Revocation Notice,* Commerce does not intend to issue cash deposit instructions at the conclusion of this administrative review.

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 POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

[8] *See Stainless Steel Bar from Brazil, India, Japan, and Spain: Continuation of Antidumping Duty Order (India) and Revocation of Antidumping Duty Orders (Brazil, Japan, and Spain),* 83 FR 49910 (October 3, 2018) (*Revocation Notice*).

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (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. Failure to comply with the regulations and the terms of an APO is subject to sanction.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: March 20, 2019.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–05644 Filed 3–22–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–911]

Circular Welded Carbon Quality Steel Pipe From the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of this sunset review, the Department of Commerce (Commerce) finds that revocation of the countervailing duty order would be likely to lead to the continuation or recurrence of a countervailable subsidy at the levels indicated in the ''Final Results of Review'' section of this notice.

DATES: Applicable March 25, 2019.

FOR FURTHER INFORMATION CONTACT: Ian Hamilton, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4798.

SUPPLEMENTARY INFORMATION:

Background

On July 22, 2008, Commerce published its countervailing duty order on circular welded carbon quality steel pipe from China.[1] On August 21, 2012, Commerce implemented its revised countervailable subsidy rates pursuant to the findings in the section 129 proceeding of the Uruguay Round Agreements Act (URAA).[2] On November 1, 2018, Commerce published the notice of initiation of the second sunset review of the countervailing duty order on circular welded carbon quality steel pipe from China, pursuant to section 751(c) of the Tariff Act of 1930, as amended, (the Act).[3] On November 15, 2018, within the deadline specified in 19 CFR 351.218(d)(1)(i) and section 771(9)(C) of the Act, Commerce received a notice of intent to participate from Zekelman Industries,[4] and from Bull Moose Tube Company, EXLTUBE, TMK IPSCO and Wheatland Tube.[5] On November 16, 2018, also within the deadline, Commerce received a notice of intent to participate from Independence Tube Corporation (Independence), a Nucor company, and Southland Tube, Incorporated (Southland), a Nucor company.[6] Each of the companies claimed to be a domestic interested party as producers of a domestic like product (circular welded carbon quality steel pipe) in the United States.

On November 29, 2018, Commerce received complete substantive responses to the notice of initiation from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[7] We received no

[1] *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order,* 73 FR 42545 (July 22, 2008) (*Order*).

[2] *See Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube from the People's Republic of China,* 77 FR 52683 (August 30, 2012 (*Section 129 Implementation*).

[3] *See Initiation of Five-Year (Sunset) Reviews,* 83 FR 54915 (November 1, 2018).

[4] *See* Letter from Zekelman ''Circular Welded Carbon Quality Steel Pipe from The People's Republic of China: Domestic Industry Notice Of Intent To Participate In Sunset Reviews,'' dated November 24, 2018.

[5] *See* Letter from Bull Moose Tube Company, EXLTUBE, TMK IPSCO and Wheatland Tube ''Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Intent to Participate in Sunset Reviews,'' dated November 15, 2016).

[6] *See* Letter from Independence and Southland ''*Circular Welded Carbon Quality Steel Pipe From the People's Republic of China:* Notice of Intent to Participate in Sunset Review,'' dated November 16, 2018.

[7] *See* Letter from Bull Moose Tube Company, EXLTUBE, TMK IPSCO, Wheatland Tube, Zekelman Industries, Independence Tube Corporation and Southland Tube Incorporated (collectively, domestic interested parties) ''Circular Welded Carbon Quality Steel Pipe from The

substantive responses from respondent interested parties or from the Government of China with respect to the order covered by this sunset review.

On December 18, 2018, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.[8] 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 countervailing duty order on circular welded carbon quality steel pipe.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[9] If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the expedited final results of this sunset review is now April 10, 2019.

Scope of the Order

The scope of this order covers certain welded carbon quality steel pipes and tubes, of circular cross-section, and with an outside diameter of 0.372 inches (9.45 mm) or more, but not more than 16 inches (406.4 mm), whether or not stenciled, regardless of wall thickness, surface finish (*e.g.,* black, galvanized, or painted), end finish (*e.g.,* plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.,* ASTM, proprietary, or other), generally known as standard pipe and structural pipe (they may also be referred to as circular, structural, or mechanical tubing).

The pipe products that are the subject of this order are currently classifiable in the Harmonized Tariff Schedule of the United States statistical reporting numbers 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90, 7306.50.10.00, 7306.50.50.50, 7306.50.50.70, 7306.19.10.10, 7306.19.10.50, 7306.19.51.10, and 7306.19.51.50. For a full description of the scope of this order, *see* the accompanying Issues and Decision Memorandum.[10]

Analysis of Comments Received

All issues raised in this sunset review are addressed in the Issues and Decision Memorandum,[11] 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 and the net countervailable subsidy rates 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,* and to all in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines that revocation of the countervailing duty order on circular welded carbon quality steel pipe from China would be likely to lead to the continuation or recurrence of a countervailable subsidy at the rates listed below: [12]

Producer/exporter	Net subsidy rate (percent)
Weifang East Steel Pipe Co., Ltd. (East Pipe)	29.83
Zhejiang Kingland Pipeline and Technologies Co., Ltd., Kingland Group Co., Ltd, Beijing Kingland Century Technologies Co., Zhejiang Kingland Pipeline Industry Co., Ltd., and Shanxi Kingland Pipeline Co., Ltd. (collectively, Kingland Companies)	48.18
Tianjin Shuangjie Steel Pipe Co., Ltd.; Tianjin Shuangjie Steel Pipe Group Co., Ltd.; Tianjin Wa Song Imp. & Exp. Co., Ltd.; and Tianjin Shuanglian Galvanizing Products Co., Ltd. (collectively, Shuangjie)	620.08
All other producers and exporters	39.01

Notification to Interested Parties

This notice also serves as the only 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. Timely notification of the return or 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.

We are issuing and publishing the final results and this notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: March 20, 2019.

James Maeder,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the duties of Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–05646 Filed 3–22–19; 8:45 am]

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People's Republic of China: Domestic Industry Substantive Response,'' dated November 29, 2018 (Domestic Industry Substantive Response).

[8] *See* Letter to the ITC re: ''Sunset Reviews Initiated on November 1, 2018,'' dated December 18, 2018.

[9] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[10] *See* Memorandum, ''Issues and Decision Memorandum for the Expedited Second Sunset Review of the Countervailing Duty Order on Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,'' dated concurrently with this notice (Issues and Decision Memorandum).

[11] *Id.*

[12] *See Section 129 Implementation,* 77 FR at 52685.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–953]

Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that Yama Ribbons and Bows Co., Ltd (Yama), an exporter/producer of narrow woven ribbons with woven selvedge from the People's Republic of China (China), received countervailable subsidies during the period of review (POR) January 1, 2016, through December 31, 2016.

DATES: Applicable March 25, 2019.

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova or Maria Tatarska AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1280 or (202) 482–1562, respectively.

SUPPLEMENTARY INFORMATION:

Background

The events that occurred since Commerce published the *Preliminary Results*[1] on October 10, 2018, are discussed in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2]

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[3] If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results of this administrative review is now March 19, 2019.

Scope of the Order

The merchandise covered by the order is narrow woven ribbons with woven selvedge from China.[4] The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 5806.32.1020, 5806.32.1030, 5806.32.1050, 5806.32.1060, 5806.31.00, 5806.32.20, 5806.39.20, 5806.39.30, 5808.90.00, 5810.91.00, 5810.99.90, 5903.90.10, 5903.90.25, 5907.00.60, 5907.00.80, 5806.32.1080, 5810.92.9080, 5903.90.3090, and 6307.90.9889. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum, which is hereby adopted by this notice.

Analysis of Comments Received

All issues raised in interested parties' briefs are addressed in the Issues and Decision Memorandum accompanying this notice. A list of the issues raised by interested parties and to which we responded in the Issues and Decision Memorandum is provided in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be access directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on the comments received from the interested parties, we made no changes to our subsidy rate calculations. For a discussion of these issues, see the Issues and Decision Memorandum.

Final Results of Administrative Review

In accordance with 19 CFR 351.221(b)(5), we calculated a countervailable subsidy rate for the producer/exporter under review to be as follows:

Company	Subsidy rate (percent)
Yama Ribbons and Bows Co., Ltd	23.70

Assessment Rates

Consistent with 19 CFR 351.212(b)(2), we intend to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these final results of review. Commerce will instruct CBP to liquidate shipments of subject merchandise produced and/or exported by the company listed above, entered, or withdrawn from warehouse, for consumption, from January 1, 2016, through December 31, 2016, at the *ad valorem* rate listed above.

Cash Deposit Instructions

Commerce intends also to instruct CBP to collect cash deposits of estimated countervailing duties in the amount shown above for Yama, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, Commerce will instruct CBP to continue to collect cash deposits at the most recent company-specific or all-others rate applicable to the company, as appropriate. Accordingly, the cash deposit requirements that will be applied to companies covered by this order, but not examined in this administrative review, are those established in the most recently completed segment of the proceeding for each company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

[1] *See Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review*; 2016, 83 FR 50891 (October 10, 2018) (*Preliminary Results*).

[2] See Memorandum, ''Decision Memorandum for the Final Results of 2016 Countervailing Duty Administrative Review: Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] See memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[4] For a complete description of the scope of the order, see Preliminary Results and accompanying Preliminary Decision Memorandum.

Dated: March 20, 2019.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2019–05645 Filed 3–22–19; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–864]

Certain Corrosion-Resistant Steel Products From India: Final Results of Countervailing Duty Administrative Review; 2015–2016

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/exporters of certain corrosion-resistant steel products (CORE) from India for the period of review November 6, 2015, through December 31, 2016.

DATES: Applicable March 25, 2019.

FOR FURTHER INFORMATION CONTACT: Justin Neuman or Matthew Renkey, 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) 482–0486 and 202 (482)-2312, respectively.

Background

Commerce published the preliminary results of the administrative review of the CVD order on CORE from India on August 10, 2018.[1] On December 6, 2018, we fully extended postponed the deadline for the final results of this review until March 18, 2019.[2] Our post-preliminary analysis was released on December 19, 2018.[3] In this review we examined JSW Steel Limited and JSW Steel Coated Products Limited (collectively, JSW), as well as Uttam Galva Steels Limited and Uttam Value Steels Limited (collectively, Uttam), the only companies for which a review was requested. Based on an analysis of the comments received, Commerce has made certain changes to the subsidy rates published in the *Preliminary Results.* The final subsidy rate is listed in the ''Final Results of Administrative Review'' section below.

Scope of the Order

The products covered by the order are certain corrosion-resistant steel products from India. For a full description of the scope, see the Issues and Decision Memorandum.[4]

Analysis of Comments Received

The issues raised by the Government of India (GOI), JSW, Uttam, and the petitioners [5] in their case and rebuttal briefs are addressed in the Issues and Decision Memorandum. The issues are identified in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *https://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on comments received from interested parties, we have made revisions to some of our subsidy rate calculations for JSW and Uttam. For a discussion of these issues, *see* the Issues and Decision Memorandum.

Methodology

We conducted this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find 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] For a full description of the methodology underlying our conclusions, including any determination that relied upon the use of adverse facts available pursuant to sections 776(a) and (b) of the Act, *see* the Issues and Decision Memorandum.

Final Results of the Review

In accordance with section 777A(e) of the Act and 19 CFR 351.221(b)(5), we find that the following net countervailable subsidy rate exists for the mandatory respondents, JSW and Uttam, for the period November 6, 2015, through December 31, 2016:

[1] *See Certain Corrosion-Resistant Steel Products from India: Preliminary Results of the Countervailing Duty Administrative Review; 2015–2016,* 83 FR 39670 (August 10, 2018) and accompanying Preliminary Decision Memorandum.

[2] *See* Commerce Memorandum, ''Certain Corrosion-Resistant Steel Products from India: Extension of Deadline for Final Results of the First Countervailing Duty Administrative Review,'' dated December 6, 2018.

[3] *See* Commerce Memorandum, ''Administrative Review of the Countervailing Duty Order on Certain Corrosion-Resistant Steel Products from India: Post-Preliminary Analysis,'' dated December 19, 2018.

[4] *See* Commerce Memorandum, ''Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review; 2015–2016: Certain Corrosion-Resistant Steel Products from India,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] The petitioners are United States Steel Corporation, Nucor Corporation, Steel Dynamics Inc., California Steel Industries, ArcelorMittal USA LLC, and AK Steel Corporation. California Steel Industries, Inc. and Steel Dynamics, Inc. are the two petitioners who have actively participated in this review.

[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.

Manufacturer/exporter	Subsidy rate (percent *ad valorem*)
JSW Steel Limited and JSW Steel Coated Products Limited[7]	11.30
Uttam Galva Steels Limited and Uttam Value Steels Limited[8]	588.43

Assessment Rates

In accordance with 19 CFR 351.212(b)(2), we intend to issue appropriate instructions to Customs and Border Protection (CBP) 15 days after the date of publication of the final results of this review. We will instruct CBP to liquidate shipments of subject merchandise produced and/or exported by the company listed above, entered, or withdrawn from warehouse, for consumption, from November 6, 2015, through December 31, 2016, at the *ad valorem* rates listed above.

Cash Deposit Requirements

We intend also to instruct CBP to collect cash deposits of estimated countervailing duties in the amount shown above for JSW and Uttam, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, Commerce will instruct CBP to continue to collect cash deposits at the most recent company-specific or all-others rate applicable to the company, as appropriate. Accordingly, the cash deposit requirements that will be applied to companies covered by this order, but not examined in this administrative review, are those established in the most recently completed segment of the proceeding for each company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibilities 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 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.

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 20, 2019.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2019–05647 Filed 3–22–19; 8:45 am]

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[7] Cross-owned affiliates are: JSW Steel Coated Products Limited (a producer and exporter of subject merchandise), Amba River Coke Limited, JSW Steel (Salav) Limited, and JSW Steel Processing Centers Limited.

[8] Cross-owned affiliates are: Uttam Value Steels Limited (a producer and exporter of subject merchandise) and Uttam Galva Metallics Limited.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Fisheries Certificate of Origin

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 24, 2019.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Will Stahnke, (562) 980–4088, or *william.stahnke@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a current information collection.

The information required by the International Dolphin Conservation Program Act, amendment to the Marine Mammal Protection Act, is needed to: (1) Document the dolphin-safe status of tuna import shipments; (2) verify that

import shipments of fish were not harvested by large-scale, high seas driftnets; and (3) verify that tuna was not harvested by an embargoed nation or one that is otherwise prohibited from exporting tuna to the United States. Forms are submitted by importers and processors.

II. Method of Collection

Importing respondents are required to submit the form electronically to U.S. Customs and Border Protection before or at the time of importation via the Automated Commercial Environment. Domestic processors submit the forms monthly via email.

III. Data

OMB Control Number: 0648–0335.

Form Number(s): NOAA Form 370.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 530.

Estimated Time per Response: 25 minutes.

Estimated Total Annual Burden Hours: 5,417.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–05587 Filed 3–22–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG889

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council's (Council) will hold a meeting of its Scientific and Statistical Committee (SSC) and Socio-Economic Panel (SEP) in Charleston, SC. See **SUPPLEMENTARY INFORMATION.**

DATES: The SEP will meet on Monday, April 8, 2019, from 1:30 p.m. to 5:30 p.m.; and Tuesday, April 9, 2019, from 8:30 a.m. to 12 noon. The SSC will meet on Tuesday, April 9, 2019, from 1:30 p.m. to 5:30 p.m.; Wednesday, April 10, 2019, from 8:30 a.m. to 5:30 p.m.; and Thursday, April 11, 2019, 8:30 a.m. to 3 p.m.

ADDRESSES:

Meeting address: The meeting will be held at the Town & Country Inn and Suites, 2008 Savannah Hwy., Charleston, SC 29407; phone: (800) 334–6660 or (843) 571–1000; fax: (843) 766–9444.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The following agenda items will be addressed by the SEP during the meeting:

1. Update on recent Council actions.
2. Discussion of the System Management Plan scorecard.
3. Discussion of social and economic risk tolerance for the Acceptable Biological Catch (ABC) Control Rule Amendment.
4. Review of the Southeast Fisheries Science Center report on the economics of the commercial snapper grouper fishery.
5. Discussion of the social and economic components of the Council's Fishery Performance Reports.
6. Recreational reporting and MyFishCount survey results.

The following agenda items will be addressed by the SSC during the meeting:

1. Updates on Southeast Data, Assessment and Review (SEDAR) projects and the effect of the government shutdown.
2. Presentation on the South Atlantic Ecosystem Model with examples of practical uses. The SSC will provide guidance on future steps and provide direction to staff.
3. Update on ongoing research from NOAA Fisheries' Southeast Fisheries Science Center.
4. Update on the Southeast Reef Fish Survey results from the 2018 sampling year.
5. Review and comment on the ABC Control Rule Amendment and analyses; including preliminary Risk Analysis evaluation and results; Only Reliable Catch Stocks (ORCS) Risk Tolerance scalars; and the guidance from NMFS on Phase-In and Carry Over provisions.
6. Continue discussion on use of the revised MRIP data. Provide guidance and terms of reference for an SSC workshop on vetting and incorporating the revised Marine Recreational Information Program (MRIP) data into future assessments and catch level recommendations for all Council managed stocks.
7. Review and comment on Coral Amendment 10/Shrimp Amendment 11/Golden Crab Amendment 10 and Snapper Grouper Regulatory Amendment 29 addressing Best Fishing Practices and use of powerhead gear by divers.
8. Review the recommendations from the SEP meeting.
9. Review the Council research and monitoring plan.
10. Receive updates and progress reports on ongoing Council amendments and activities.

The SEP and SSC will provide guidance to staff and recommendations for Council consideration as necessary. The meeting is open to the public and will also be available via webinar as it occurs. Webinar registration is required. Information regarding webinar registration will be posted to the Council's website at: *http://safmc.net/safmc-meetings/scientific-and-statistical-committee-meetings/* as it becomes available. The meeting agenda, briefing book materials, and online comment form will be posted to the Council's website two weeks prior to the meeting. Written comment on SEP and SSC agenda topics is to be distributed to the Committee through the Council

office, similar to all other briefing materials. Written comment to be considered by the SEP and SSC shall be provided to the Council office no later than one week prior to an SSC meeting. For this meeting, the deadline for submission of written comment is 12 p.m., Monday, April 1, 2019.

Multiple opportunities for comment on agenda items will be provided during SSC meetings. Open comment periods will be provided at the start of the meeting and near the conclusion. Those interested in providing comment should indicate such in the manner requested by the Chair, who will then recognize individuals to provide comment. Additional opportunities for comment on specific agenda items will be provided, as each item is discussed, between initial presentations and SSC discussion. Those interested in providing comment should indicate such in the manner requested by the Chair, who will then recognize individuals to provide comment. All comments are part of the record of the meeting.

Although non-emergency issues not contained in the meeting agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 19, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–05569 Filed 3–22–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG902

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council and its Committees.

DATES: The meetings will be held Monday, April 8, 2019 through Thursday, April 11, 2019. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES:

Meeting address: The meeting will be held at the Icona Avalon Resort, 7849 Dune Dr., Avalon, NJ 08202 telephone: (609) 368–5155.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's website, *www.mafmc.org* also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, though agenda items may be addressed out of order (changes will be noted on the Council's website when possible.)

Monday, April 8, 2019

Law Enforcement, HMS, and Tilefish Committees

Review recommendations from the Law Enforcement/For-Hire Workshop (November 13–14, 2018) and develop recommendations on further Council actions.

NEFMC Listening Session for the Recreational Groundfish (Northeast Multispecies) Party/Charter Fishery

The NEFMC may develop an amendment to the Fishery Management Plan for Northeast Multispecies and is seeking public input on the possibility of developing a limited access program for the recreational groundfish party and charter fishery.

Tuesday, April 9, 2019

Atlantic Surfclam and Ocean Quahog Excessive Shares Amendment

Approve Public Hearing Document

Atlantic Surfclam 2019 and 2020 Specifications

Review and possibly revise 2019 and 2020 specifications based on SSC revision of OFL/ABC.

Atlantic Surfclam and Ocean Quahog Catch Share Program Review

Presentation of final report (Northern Economics, Inc.) and initiate public comment period.

Blueline Tilefish 2020 Specifications

Review SSC, Advisory Panel, Monitoring Committee, and staff recommendations for 2020 specifications.

Golden Tilefish 2020 Specifications

Review SSC, Advisory Panel, Monitoring Committee, and staff recommendations for 2020 specifications.

Wednesday, April 10, 2019

Commercial eVTR Omnibus Framework

Framework Meeting 1.

Mid-Atlantic State of the Ecosystem Report

EAFM Updates

2019 Risk Assessment Report and Summer Flounder Conceptual Model update.

Update on Habitat Activities

Update on Northeast Regional Fish Habitat Assessment and update on projects of interest in region.

Illex Permitting and Mackerel, Squid, and Butterfish Fishery Management Plan Goals Amendment

Additional scoping hearing.

Thursday, April 11, 2019

RODA Update and Meeting with UK Fisherman

Updates regarding regional science and monitoring for offshore wind energy and fisheries interactions and discussion with UK fishermen regarding British offshore wind experiences.

Business Session

Committee Reports (SSC and Law Enforcement/HMS/Tilefish Committees); Executive Director's Report; Organization Reports; and, Liaison Reports.

Continuing and New Business

Although non-emergency issues not contained in this agenda may come

before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: March 19, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–05570 Filed 3–22–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG828

Pacific Fishery Management Council; Public Meetings; Correction

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice; correction.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) and its advisory entities will hold public meetings. The document listed on the agenda, under the heading, ''Schedule of Ancillary Meetings'', for Day 2, Wednesday, April 10, 2019, that the Groundfish Electronic Monitoring Policy Advisory Committee, 8 a.m. and the Groundfish Electronic Monitoring Technical Advisory Committee, 8 a.m. are meeting, but these meetings have been cancelled. The agenda for the meetings has removed these topics and are corrected as set out in this document.

DATES: The Pacific Council and its advisory entities will meet April 9–16, 2019. The Pacific Council meeting will begin on Thursday, April 11, 2019 at 9 a.m. Pacific Daylight Time (PDT), reconvening at 8 a.m. each day through Monday, April 16, 2019. All meetings are open to the public, except a closed session will be held from 8 a.m. to 9 a.m., Thursday, April 11 to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings of the Pacific Council and its advisory entities will be held at the Doubletree by Hilton Sonoma, One Doubletree Drive, Rohnert Park, CA; telephone: (707) 584–5466.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

Instructions for attending the meeting via live stream broadcast are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Executive Director; telephone: (503) 820–2280 or (866) 806–7204 toll-free; or access the Pacific Council website, *http://www.pcouncil.org* for the current meeting location, proposed agenda, and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The original notice published in the **Federal Register** on February 21, 2019 (84 FR 5421).

The April meeting of the Pacific Council will be streamed live on the internet. The broadcasts begin initially at 9 a.m. PDT Thursday, April 11, 2019 and continue at 8 a.m. daily through Tuesday, April 16, 2019. Broadcasts end daily at 5 p.m. PDT or when business for the day is complete. Only the audio portion and presentations displayed on the screen at the Pacific Council meeting will be broadcast. The audio portion is listen-only; you will be unable to speak to the Pacific Council via the broadcast. To access the meeting online, please use the following link: *http://www.gotomeeting.com/online/webinar/join-webinar* and enter the April Webinar ID, 634–645–459, and your email address. You can attend the webinar online using a computer, tablet, or smart phone, using the GoToMeeting application. It is recommended that you use a computer headset to listen to the meeting, but you may use your telephone for the audio-only portion of the meeting. The audio portion may be attended using a telephone by dialing the toll number 1–562–247–8422 (not a toll-free number), audio access code 532–691–006, and entering the audio pin shown after joining the webinar.

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as ''Final Action'' refer to actions requiring the Council to transmit a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional detail on agenda items, Council action, advisory entity meeting times, and meeting rooms are described in Agenda Item A.4, Proposed Council Meeting Agenda, and will be in the advance April 2019 briefing materials and posted on the Pacific Council website at *www.pcouncil.org* no later than Friday, March 22, 2019. These agenda items correct the original meeting notice.

A. Call to Order
1. Opening Remarks
2. Roll Call
3. Executive Director's Report
4. Approve Agenda

B. Open Comment Period
1. Comments on Non-Agenda Items

C. Habitat
1. Current Habitat Issues

D. Administrative Matters
1. National Marine Sanctuaries Coordination Report
2. Saltonstall-Kennedy Grant Program Review
3. Legislative Matters
4. Allocation Review Procedures—Preliminary
5. Fiscal Matters
6. Membership Appointments, Statement of Organization, Practices and Procedures and Council Operating Procedures
7. Future Council Meeting Agenda and Workload Planning

E. Coastal Pelagic Species Management
1. National Marine Fisheries Service Report
2. 2019 Exempted Fishing Permits (EFPs)—Final Approval
3. Pacific Sardine Assessment, Harvest Specifications, and Management Measures—Final Action
4. Central Subpopulation of Northern Anchovy Management Update
5. Central Subpopulation of Northern Anchovy Litigation Response

F. Salmon Management
1. Tentative Adoption of 2019 Management Measures for Analysis
2. Clarify Council Direction on 2019 Management Measures
3. Southern Resident Killer Whale Endangered Species Act Consultation Reinitiation Update
4. Methodology Review Preliminary Topic Selection
5. Salmon Rebuilding Plan Update
6. Further Direction on 2019 Management Measures
7. Final Action on 2019 Management Measures

G. Groundfish Management
1. National Marine Fisheries Service Report

2. Endangered Species Act Mitigation Measures for Seabirds—Preliminary Preferred Action
3. Endangered Species Act Mitigation Measures for Salmon
4. Amendment 26: Blackgill Rockfish—Final Action
5. Science Improvements and Methodology Review Report
6. Electronic Monitoring: Implementation Update
7. Vessel Movement Monitoring Update
8. Cost Recovery Report
9. Final Inseason Management, Including Shorebased Carryover and Salmon Caps for Midwater Trawl Exempted Fishing Permits (EFP)—Final Action

H. Pacific Halibut Management

1. Incidental Catch Limits for 2019 Salmon Troll Fishery—Final Action
2. Commercial Directed Fishery Workshop Planning

Advisory Body Agendas

Advisory body agendas will include discussions of relevant issues that are on the Pacific Council agenda for this meeting, and may also include issues that may be relevant to future Council meetings. Proposed advisory body agendas for this meeting will be available on the Pacific Council website *http://www.pcouncil.org/council-operations/council-meetings/current-briefing-book/* no later than Friday, March 22, 2019. These schedule of ancillary meetings correct the original meeting notice.

Schedule of Ancillary Meetings

Day 1—Tuesday, April 9, 2019

Coastal Pelagic Species Management Team, 8 a.m.

Day 2—Wednesday, April 10, 2019

Coastal Pelagic Species Advisory Subpanel, 8 a.m.
Coastal Pelagic Species Management Team, 8 a.m.
Habitat Committee, 8 a.m.
Salmon Advisory Subpanel, 8 a.m.
Salmon Technical Team, 8 a.m.
Scientific and Statistical Committee, 8 a.m.
Budget Committee, 10 a.m.
Model Evaluation Workgroup, 10 a.m.
Tribal Policy Group, Ad Hoc
Tribal and Washington Technical Group, Ad Hoc

Day 3—Thursday, April 11, 2019

California State Delegation, 7 a.m.
Oregon State Delegation, 7 a.m.
Washington State Delegation, 7 a.m.
Coastal Pelagic Species Advisory Subpanel, 8 a.m.
Coastal Pelagic Species Management Team, 8 a.m.
Salmon Advisory Subpanel, 8 a.m.
Salmon Technical Team, 8 a.m.
Scientific and Statistical Committee, 8 a.m.
Enforcement Consultants, 3 p.m.
Tribal Policy Group, Ad Hoc
Tribal and Washington Technical Group, Ad Hoc

Day 4—Friday, April 12, 2019

California State Delegation, 7 a.m.
Oregon State Delegation, 7 a.m.
Washington State Delegation, 7 a.m.
Groundfish Advisory Subpanel, 8 a.m.
Groundfish Management Team, 8 a.m.
Salmon Advisory Subpanel, 8 a.m.
Salmon Technical Team, 8 a.m.
Tribal Policy Group, Ad Hoc
Tribal and Washington Technical Group, Ad Hoc
Enforcement Consultants, Ad Hoc
Saltonstall-Kennedy Grant Feedback Session, 7 p.m.

Day 5—Saturday, April 13, 2019

California State Delegation, 7 a.m.
Oregon State Delegation, 7 a.m.
Washington State Delegation, 7 a.m.
Groundfish Advisory Subpanel, 8 a.m.
Groundfish Management Team, 8 a.m.
Salmon Advisory Subpanel, 8 a.m.
Salmon Technical Team, 8 a.m.
Tribal Policy Group, Ad Hoc
Tribal and Washington Technical Group, Ad Hoc
Enforcement Consultants, Ad Hoc

Day 6—Sunday, April 14, 2019

California State Delegation, 7 a.m.
Oregon State Delegation, 7 a.m.
Washington State Delegation, 7 a.m.
Groundfish Advisory Subpanel, 8 a.m.
Groundfish Management Team, 8 a.m.
Salmon Advisory Subpanel, 8 a.m.
Salmon Technical Team, 8 a.m.
Tribal Policy Group, Ad Hoc
Tribal and Washington Technical Group, Ad Hoc
Enforcement Consultants, Ad Hoc

Day 7—Monday, April 15, 2019

California State Delegation, 7 a.m.
Oregon State Delegation, 7 a.m.
Washington State Delegation, 7 a.m.
Groundfish Advisory Subpanel, 8 a.m.
Groundfish Management Team, 8 a.m.
Salmon Advisory Subpanel, 8 a.m.
Salmon Technical Team, 8 a.m.
Tribal Policy Group, Ad Hoc
Tribal and Washington Technical Group, Ad Hoc
Enforcement Consultants, Ad Hoc

Day 8—Tuesday, April 16, 2019

Salmon Technical Team, 8 a.m.

Although non-emergency issues not contained in this agenda may come before the Pacific Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Pacific Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2411 at least 10 business days prior to the meeting date.

Dated: March 20, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–05651 Filed 3–22–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 180628590–8590–01]

RIN 0648–XG333

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List the Cuvier's Beaked Whale in the Gulf of Mexico as Threatened or Endangered Under the Endangered Species Act

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

ACTION: Notice; 90-Day petition finding.

SUMMARY: We (NMFS) announce a negative 90-day finding on a petition to list the Cuvier's beaked whale (*Ziphius cavirostris*) in the Gulf of Mexico (GOM) as a threatened or endangered distinct population segment (DPS) under the Endangered Species Act (ESA). As an alternative to listing a DPS, the petition requests that we list the Cuvier's beaked whale because it is threatened or endangered in a significant portion of its range (SPOIR). The petitioner also requests that we designate critical habitat. We find that the petition and information in our files do not present substantial scientific or commercial information indicating that the Cuvier's beaked whale in the GOM qualifies as a DPS, eligible for listing under the ESA. Similarly, we find that the petition and information readily available in our files do not present substantial scientific or commercial information indicating that listing Cuvier's beaked whale as threatened or endangered in a SPOIR may be warranted.

ADDRESSES: Copies of the petition and related materials are available upon request from the Assistant Regional Administrator, Protected Resources

Division, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701, or online at: *https://www.fisheries.noaa.gov/national/endangered-species-conservation/negative-90-day-findings.*

FOR FURTHER INFORMATION CONTACT: Calusa Horn, NMFS Southeast Region, 727–824–5312, or Maggie Miller, NMFS Office of Protected Resources, 301–427–8457.

SUPPLEMENTARY INFORMATION:

Background

On October 11, 2017, we received a petition from the Center for Biological Diversity to list the Cuvier's beaked whale (*Ziphius cavirostris*) population in the GOM as an endangered or threatened DPS or, alternatively, list the Cuvier's Beaked whale because it is threatened or endangered in a SPOIR, under the ESA. The petitioner also requested designation of critical habitat. The petitioner asserts that the Cuvier's beaked whale population in the GOM qualifies as a DPS because the population: (1) Is physically separated from other populations of the eastern Caribbean and northwestern Atlantic Ocean, (2) exhibits high site fidelity to the GOM, (3) is delimited by international governmental boundaries within which there are differences in management and regulations, (4) occurs in an ecological setting that is unique to the species, and (5) is likely a genetically distinct species. The petitioner also states the Marine Mammal Protection Act (MMPA) stock designation supports the proposed DPS listing under the ESA. Copies of this petition are available from us (see **ADDRESSES**, above).

ESA Statutory and Regulatory Provisions and Evaluation Framework

Section 4(b)(3)(A) of the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish such finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When it is found that substantial scientific or commercial information in a petition indicates the petitioned action may be warranted (a ''positive 90-day finding''), we are required to promptly commence a review of the status of the species concerned during which we will conduct a comprehensive review of the best available scientific and commercial information. In such cases, we conclude the review with a finding as to whether, in fact, the petitioned action is warranted within 12 months of receipt of the petition. Because the finding at the 12-month stage is based on a more thorough review of the available information, as compared to the narrow scope of review at the 90-day stage, a ''may be warranted'' finding does not prejudge the outcome of the status review.

Under the ESA, a listing determination must address a species, which is defined to also include subspecies and, for any vertebrate species, any distinct population segment (DPS) that interbreeds when mature (16 U.S.C. 1532(16)). A joint NMFS–U.S. Fish and Wildlife Service (USFWS) (jointly, ''the Services'') policy clarifies the agencies' interpretation of the phrase ''distinct population segment'' for the purposes of listing, delisting, and reclassifying a species under the ESA (61 FR 4722; February 7, 1996). A species, subspecies, or DPS is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range, and ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA Sections 3(6) and 3(20), respectively, 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, we determine whether species are threatened or endangered based on any one or a combination of the following five section 4(a)(1) factors: The present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms to address identified threats; or any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by the Services (50 CFR 424.14(h)(1)(i)) define ''substantial scientific or commercial information'' in the context of reviewing a petition to list, delist, or reclassify a species as ''credible scientific or commercial information in support of the petition's claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted.'' Conclusions drawn in the petition without the support of credible scientific or commercial information will not be considered ''substantial information.''

Our determination as to whether the petition provides substantial scientific or commercial information indicating that the petitioned action may be warranted will depend in part on the degree to which the petition: (1) Clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (2) contains detailed narrative justification for the recommended measure that contains an analysis of the information presented; (3) is accompanied by literature citations that are specific enough for the Services to readily locate the information cited in the petition, and, to the extent permitted by U.S. copyright law, electronic or hard copies of supporting materials; and, (4) for a petition to list, delist, or reclassify a species, information to establish whether the subject entity is a ''species'' as defined in the Act. *See* 50 CFR 424.14(c). Because this is a petition to list a species, we also evaluate the degree to which the petition includes the following types of information: (1) Information on current population status and trends and estimates of current population sizes and distributions, both in captivity and the wild, if available; (2) identification of the factors under section 4(a)(1) of the ESA that may affect the species and where these factors are acting upon the species; (3) whether and to what extent any or all of the factors alone or in combination identified in section 4(a)(1) of the ESA may cause the species to be an endangered species or threatened species (*i.e.,* the species is currently in danger of extinction or is likely to become so within the foreseeable future), and, if so, how high in magnitude and how imminent the threats to the species and its habitat are; (4) information on adequacy of regulatory protections and effectiveness of conservation activities by States as well as other parties, that have been initiated or that are ongoing, that may protect the species or its habitat; and (5) a complete, balanced representation of the relevant facts, including information that may contradict claims in the petition. *See* 50 CFR 424.14(d).

If the petitioner provides supplemental information before the initial finding is made and states that it is part of the petition, the new information, along with the previously submitted information, is treated as a new petition that supersedes the original petition, and the statutory timeframes will begin when such supplemental information is received. *See* 50 CFR 424.14(g). We may also consider information readily available at

the time the determination is made. *See* 50 CFR 424.14(h)(1)(ii). We are not required to consider any supporting materials cited by the petitioner if the petitioner does not provide electronic or hard copies, to the extent permitted by U.S. copyright law, or appropriate excerpts or quotations from those materials (*e.g.,* publications, maps, reports, letters from authorities). *See* 50 CFR 424.14(c)(6) and 424.14(h)(1)(ii).

The ''substantial scientific or commercial information'' standard must be applied in light of any prior reviews or findings we have made on the listing status of the species that is the subject of the petition. Where we have already conducted a finding on, or review of, the listing status of that species (whether in response to a petition or on our own initiative), we will evaluate any petition received thereafter seeking to list, delist, or reclassify that species to determine whether a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted despite the previous review or finding. Where the prior review resulted in a final agency action—such as a final listing determination, 90-day not-substantial finding, or 12-month not-warranted finding—a petitioned action will generally not be considered to present substantial scientific and commercial information indicating that the action may be warranted unless the petition provides new information or analysis not previously considered. 50 CFR 424.14(h)(iii).

At the 90-day finding stage, we evaluate the petitioner's request based on the information in the petition, including its references, and information readily available to us. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioners' sources and characterizations of the information presented if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person conducting an impartial scientific review would conclude it supports the petitioners' assertions. In other words, conclusive information indicating the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone necessitates a negative 90-day finding if a reasonable person conducting an impartial scientific review would conclude that the unknown information itself suggests the species may be at risk of extinction presently or within the foreseeable future.

To make a 90-day finding on a petition to list a species, we evaluate whether the petition presents substantial scientific or commercial information indicating the subject species may be either threatened or endangered, as defined by the ESA. First, we evaluate whether the information presented in the petition, in light of the information readily available in our files, indicates that the petitioned entity constitutes a ''species'' eligible for listing under the ESA. Next, we evaluate whether the information indicates that the species faces a degree of extinction risk such that listing, delisting, or reclassification may be warranted; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We evaluate any information on specific demographic factors pertinent to evaluating extinction risk for the species (*e.g.,* population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate the potential links between these demographic risks and the causative impacts and threats identified in section 4(a)(1).

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information indicating that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Many petitions identify risk classifications made by nongovernmental organizations, such as the International Union on the Conservation of Nature (IUCN), the American Fisheries Society, or NatureServe, as evidence of extinction risk for a species. Risk classifications by such organizations or made under other Federal or state statutes may be informative, but such classification alone will not alone provide sufficient basis for a positive 90-day finding under the ESA. For example, as explained by NatureServe, their assessments ''have different criteria, evidence requirements, purposes, and taxonomic coverage than official lists of endangered and threatened species'' and, therefore, these two types of lists ''do not necessarily coincide'' (*http://explorer.natureserve.org/ranking.htm*). Additionally, species classifications under IUCN and the ESA are not equivalent; data standards, criteria used to evaluate species and treatment of uncertainty are also not necessarily the same. Thus, when a petition cites such classifications, we will evaluate the source of information that the classification is based upon in light of the standards on extinction risk and impacts or threats discussed above.

Cuvier's Beaked Whale Species Description

Cuvier's beaked whales are members of the beaked whale family (*Ziphiidae*) and are odontocetes (toothed whales). They can reach lengths of about 15–23 ft (4.5–7 m) and weigh 4,000–6,800 lbs (1,845–3,090 kg). Body size does not differ significantly between males and females. These medium-sized whales have round and robust bodies, with a triangular ''falcate'' dorsal fin located far down the whale's back. Their coloration varies from dark gray to a reddish-brown, with a paler counter-shaded underside (Jefferson *et al.,* 1994; Baird 2016).

The Cuvier's beaked whale has one of the most extensive distributions of all beaked whale species, occurring in deep waters worldwide and ranging from equatorial tropical to cold-temperate waters; they are not known to occur in the high latitude polar waters (Dalebout *et al.,* 2005; Heyning and Mead 2009). In the Northern Hemisphere, they are known to occur near the Aleutian Islands, Bay of Biscay, British Columbia, Gulf of California, GOM, Hawaii, Mediterranean Sea, the Shetlands, and the U.S. East and West Coasts. In the Southern Hemisphere, they are known to occur near New Zealand, South Africa, and Tierra del Fuego. They have also stranded in tropical environments such as the Bahamas, Caribbean Sea, and the Galapagos Islands. Genetic evidence suggests that Cuvier's beaked whales may exhibit seasonal latitudinal migrations, similar to humpback whales (Dalebout *et al.,* 2005).

Beaked whales appear to have a habitat preference for deep (usually greater than 3,300 ft (1,000 m)), complex topographic features such as the continental slope and edge, or steep underwater geological features like banks, seamounts, and submarine canyons (Whitehead *et al.,* 1997; Hooker and Baird, 1999, 2002; Frantzis *et al.,* 2003; MacLeod and Zuur, 2005, cited in Smith 2010 thesis). Studies on beaked whales have been carried out in a number of locations including the Northwest Atlantic (Hooker and Baird, 1999), Bahamas (MacLeod and Zuur, 2005), the Ligurian Basin (D'Amico *et al.,* 2003; Moulins *et al,* 2007), Hawaii (Baird *et al.,* 2004; 2006) and Greece (Frantzis *et al.,* 2002). The Cuvier's beaked whale is one of the more frequently observed species of beaked whale, and is considered widespread and cosmopolitan (Heyning, 1989).

Cuvier's beaked whales mature slowly and can live up to 60 years. Females reach sexual maturity at 7–11 years of age, have a gestation period of about 1 year, and give birth to a single calf every 2–3 years. Although few stomach contents have been examined, they appear to feed mostly on deep-sea squid, but also sometimes take fish and crustaceans (MacLeod *et al.,* 2003; West *et al.,* 2017). Cuvier's beaked whales likely forage between approximately 600 m to nearly 3,000 m in depth (Baird *et al.,* 2006, 2008, Tyack *et al.,* 2006, Schorr *et al.,* 2014). Dive data indicates that Cuvier's beaked whale routinely conduct some of the deepest and longest dives of any marine mammal (Baird *et al.,* 2006; Tyack *et al.,* 2006). Cuvier's beaked whales off the coast of Southern California were recorded diving to depths of 2,992 m and lasting 137.5 minutes (Schorr *et al.,* 2014).

The Cuvier's beaked whale is among the most common and abundant of all the beaked whales, and their abundance worldwide is likely over 100,000 individuals (Taylor *et al.,* 2008, downloaded October 9, 2017). Under the MMPA, we prepare stock assessment reports for several Cuvier's beaked whale stocks that occur in waters under U.S. jurisdiction. We currently evaluate Cuvier's beaked whale using six geographically defined stocks: The Alaska Stock (n = unknown), the California/Oregon/Washington stock (n = 3,274), the Hawaiian stock (n = 723), the Northern GOM stock (n = 74), the Puerto Rico and U.S. Virgin Island stock (n = unknown) and the Western North Atlantic stock (n = 6,532). The stock assessment reports with population estimates are available online (*https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-species-stock*). Our stock assessment reports for the Northern GOM stock and Western North Atlantic stock do not include a correction factor for detection probability and therefore may miscalculate actual abundance.

Beaked whales are deep divers that spend little time at the surface (Reeves *et al.,* 2002), and, therefore, their detection probabilities with traditional visual survey methods are low (Barlow and Gisiner, 2006; Barlow *et al.,* 2006). Thus, reliance on shipboard and aerial surveys can result in an underestimate of density if corrections are not applied for missed animals (Barlow 2015). The Cuvier's beaked whales are long diving animals and remain under the water's surface for extended periods, resulting in high availability and perception biases. Cuvier's beaked whale detection probability is estimated at 0.23 for shipboard surveys and 0.074 for aerial surveys (Barlow 1999). Roberts *et al.* (2016) used a correction factor to account for detection probability and estimates the abundance of beaked whales in the Northern GOM at n = 2,910. We note that the Robert's *et al.* (2016) estimate of 2,910 Cuvier's beaked whales in the Northern GOM substantially exceeded our previous stock assessment report estimate for this reason. The previous stock assessment report assumed that all animals were seen and recorded (*i.e.,* g(0) = 1) while Robert's *et al.* (2016) estimated detection probabilities by applying a g(0) = 0.23 for shipboard sightings and a g(0) = 0.074 aerial sightings. The application of the correction factor to account for detection probability results in a higher abundance estimate for the Northern GOM Cuvier's beaked whale stock than that in the previous stock assessment report (Robert's *et al.,* 2016). Under the MMPA, the Cuvier's beaked whale Northern GOM stock is not considered ''strategic'' because we assume that average annual human-caused mortality and serious injury does not exceed potential biological removal (Waring *et al.,* 2012).

Analysis of the Petition

We first evaluated whether the petition presented the information indicated in 50 CFR 424.14(c) and 424.14(d). The petition contains information on the Cuvier's beaked whale, including the species description, distribution, habitat, population status and trends, and factors contributing to the status of Cuvier's beaked whale status in the GOM. The petitioner asserts that the Cuvier's beaked whale in the GOM qualifies as a DPS, meeting both the discreteness and significance requirements, is impacted by habitat degradation by oil spills, potential prey reduction due to fisheries, entanglement in fishing gear, vessel strikes, noise pollution, water pollution, and climate change, and that the loss of this population would represent a significant loss for the species' diversity. Alternatively, the petition states that the Cuvier's beaked whale is threatened or endangered in a SPOIR, which the petition identifies as the GOM.

DPS Analysis

The petition requests that we list the Cuvier's beaked whales in the GOM as a threatened or endangered DPS, and presents arguments that Cuvier's beaked whales in the GOM meet the Services' requirements for identifying a DPS eligible for listing. Our joint NMFS–USFWS DPS policy (61 FR 4722; February 7, 1996) identifies two elements to be considered when identifying a DPS: (1) The discreteness of the population segment in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the significance of the population segment to the species to which it belongs. A population segment of a vertebrate species may be considered discrete if it satisfies either one of the following conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the ESA. If a population segment is considered discrete under either of the above conditions, its biological and ecological significance will then be considered in light of Congressional guidance (see Senate Report 151, 96th Congress, 1st Session) that the authority to list DPSs be used ''sparingly'' while encouraging the conservation of genetic diversity. In carrying out this examination, the Services consider available scientific evidence of the discrete population segment's importance to the taxon to which it belongs.

In evaluating this petition, we first looked for information to suggest that the Cuvier's beaked whale in the GOM may qualify as a DPS. We evaluated the information provided in the petition and readily available in our files to see if the data suggest that the Cuvier's

beaked whale in the GOM is discrete, meaning that the population is markedly separated as a consequence of physical, physiological, ecological, or behavioral factors from other populations of the Cuvier's beaked whale.

According to the petitioner, the Cuvier's beaked whale in the GOM is physically and ecologically separated from other Cuvier's beaked whale populations, and is delimited by international governmental boundaries within which there are differences in management and regulations, thereby qualifying the GOM population as discrete under the DPS policy. Further, the petitioner states that the Cuvier's beaked whale Northern GOM stock designation under the MMPA is based on distribution data that supports their conclusion that the population is delimited by international boundaries.

The petitioner asserts that Cuvier's beaked whales in the GOM are physically separated from populations in the Caribbean and North Atlantic. The petition describes the GOM as being semi-enclosed by land on all sides, with an opening to the Caribbean Sea through the Yucatan Channel and another opening to the North Atlantic Ocean through the Straits of Florida. According to the petition, the population occurs along the continental shelf and deep-water canyons in the northern GOM (Roberts *et al.,* 2016). The petition states that sightings have occurred almost exclusively in the northern GOM, but notes a limited number of unconfirmed sightings in the Yucatan Channel (Nino-Torres *et al.,* 2015) and in the Straits of Florida off northern Cuba (Jefferson and Lynn 1994; Whitt *et al.,* 2014).

We do not find that the information presented in the petition and in our files supports the conclusion that Cuvier's beaked whales in the GOM are physically isolated from other Cuvier's beaked whale populations. While the GOM is a semi-enclosed sea, no information suggests that Cuvier's beaked whales in the GOM are unable to travel through the Yucatan Channel or Straits of Florida. As the petitioner acknowledges, there are confirmed and unconfirmed sightings data of the species potentially from the Yucatan channel and Straits of Florida. The petitioner provided information on a confirmed sighting of four Cuvier's beaked whales in the Straits of Florida offshore of Havana Cuba (Jefferson and Lynn, 1994, as cited in Whitt *et al.,* 2014). Additionally, data on other cetacean species that prefer similar habitats (slopes, canyons, and escarpments in the northern GOM) and have similar foraging niches (undertaking long, deep dives to hunt for mesopelagic squid and fish) to the Cuvier's beaked whale suggests individuals can travel out of the GOM and into the North Atlantic Ocean and Caribbean Sea. For example, opportunistic tracking data from two rehabilitated short-finned pilot whales showed that the animals released off the Florida Keys traveled through the Straits of Florida to the Blake Plateau in the North Atlantic Ocean (offshore North and South Carolina) (Wells *et al.,* 2013). Similar movement patterns have been observed in a rehabilitated and released Risso's dolphin. In that case, tracking data from an animal released offshore of Sarasota, Florida, in the GOM, traveled more than 3,300 km into the North Atlantic Ocean off Delaware (Wells *et al.,* 2009). In addition, male sperm whales are known to move in and out of the GOM from the Atlantic Ocean and Caribbean Sea (Best 1979; Rice 1989; Whitehead 1993; and Englehaupt *et al.,* 2009). The GOM is connected to the Caribbean Sea via the Yucatan Channel, a relatively deep (2,000 m) channel, and to the Atlantic Ocean through the Straits of Florida, a channel with a depth of about 860 m (Davis and Fargion, 1996). These channels likely allow cetaceans, like Cuvier's beaked whale, to migrate to and from the North Atlantic Ocean and Caribbean Sea. No information in the petition or readily available in our files supports the conclusion that the channels are an impediment to their movement. The limited information available suggests that cetaceans that occur in deep water habitat along the continental slope similar to Cuvier's beaked whales, including the short-finned pilot whale, Risso's dolphin, and sperm whale, can move into the North Atlantic Ocean and Caribbean Sea from the GOM. This, in combination with the confirmed and unconfirmed sightings data of Cuvier's beaked whales in the Yucatan channel and Straits of Florida, indicates that Cuvier's beaked whales in the GOM can travel freely outside of the GOM. As such, we find that the petition does not present substantial information indicating that the Cuvier's beaked whale in the GOM are markedly separated as a consequence of physical factors from Cuvier's beaked whale populations worldwide.

The petitioner also asserts that the GOM Cuvier's beaked whales are ecologically separated from neighboring Cuvier's beaked whale populations and bases this conclusion on data from other regions of the world where Cuvier's beaked whale populations exhibit long-term site fidelity behavior. Specifically, the petition cites McSweeney *et al.* (2007), who studied site fidelity, patterns of association, and movements of Cuvier's beaked whales (n=35) off Hawaii using a 21- year photographic data set, which included re-sightings of 14 individuals over the course of 15 years. The mean distance between re-sightings ranged from 2.88 km to 88.75 km, which the petitioner states is relatively small. The petition also states that Cuvier's beaked whales are year-round residents off Cape Hatteras, North Carolina, and cite to Baird *et al.* (2016), McLellan *et al.* (2015), and unpublished data. Specifically, Baird *et al.,* (2016) found that satellite tagged individuals (n=9) remained in the study area off Cape Hatteras, where the Gulf Stream crosses the continental shelf, for up to two months. According to the petitioner, photo identification studies (A. Read unpublished data) and aerial surveys also confirm long-term site fidelity in this area (McLellan *et al.,* 2015). The petitioner references a publication abstract (McLellan *et al.,* 2015) that states that aerial surveys found Cuvier's beaked whale to be the most commonly encountered species, observed in every month of the year off Cape Hatteras. Based on these studies, the petitioner asserts that it is reasonable to infer that Cuvier's beaked whales in the GOM exhibit similar site fidelity, and, as a result, are ecologically isolated from Cuvier's beaked whale populations in the North Atlantic and Caribbean. The petition did not provide the reference for ''A. Read unpublished data,'' and we were unable to locate it within our files.

We evaluated the information provided in the petition and readily available in our files to determine if it presented substantial information indicating that Cuvier's beaked whale populations exhibit long-term site fidelity in other locations and whether Cuvier's beaked whales in the GOM would exhibit a similar behavior that could suggest ecological separation. First, we evaluated if information provided in the petition supports the assertion that Hawaii's population of Cuvier's beaked whale exhibits long-term site fidelity. McSweeney *et al.* (2007) is the primary source cited by the petitioner to support this claim. This study described site fidelity and movement patterns using photographic data for Cuvier's and Blainville's beaked whales off Hawaii's west coast. A total of 4,611 photographs of Cuvier's beaked whales were obtained from 35 encounters (23 directed, 12 opportunistic) from 1986 to 2006. The authors determined that the photographs represented 35 individuals.

Of the 35 individuals, 21 (60 percent) were seen only once and 14 (40 percent) were seen on two or more occasions (McSweeney *et al.,* 2007). Five adult males and nine adult females (n=14) were seen more than once. The interval between the first and last sighting of adult males ranged from 3 to 728 days (median = 11 day). The interval between the first and last sighting of adult females ranged from 16 to 5,676 days (median = 737 days). Re-sighting intervals (*i.e.,* duration between sightings) were significantly longer for adult females (median = 432 days, range = 16 to 5,676 days) than for adult males (median = 11 days, range = 3 to 728 days). McSweeney *et al.* (2017) acknowledge that, depending on the species, male cetaceans often travel long distances in search of mating opportunities, whereas females will remain in an area or return to an area if prey are abundant or reliably concentrated (Cluttton-Brock, 1989). Of the 14 individuals re-sighted, there were 13 within year re-sightings and 8 across year re-sightings. While some individual whales were re-sighted during the 21-year data set, the intervals between re-sightings spanned multiple years. It is unknown whether the whales remained in the area or moved out of the area in the years between sightings. McSweeney *et al.* (2007) acknowledge that these Cuvier's beaked whales have a broader range and that the study area does not represent their full range. While McSweeney *et al.* (2007) suggest long-term repeated use of an area off Hawaii's west coast by some Cuvier's beaked whales (n=14), the full range of those individuals is unknown. The movements of those 14 individuals during long gaps between re-sightings (sometimes spanning years) are unknown and it is likely that their movements extended beyond the study area, as noted by the study's authors. In addition, 60 percent of the Cuvier's beaked whales recorded in McSweeney *et al.* (2017) exhibited no site fidelity. Thus, McSweeney *et al.,* (2007) does not present substantial evidence indicating that Cuvier's beaked whales exhibit long-term population level site fidelity.

Next, we evaluated the information in the petition and readily available in our files to determine whether it supports the petitioner's assertion that Cuvier's beaked whales in the northwest Atlantic exhibit high site fidelity, in support of their claim that Cuvier's beaked whales in the GOM would exhibit similar behavior. Baird *et al.* (2016) provided information on the movements and habitat use of Cuvier's beaked whales tagged off Cape Hatteras, North Carolina. Six Cuvier's beaked whales were tagged in 2015 and three animals were tagged in 2014. During 2 to 59 days of tracking, all of the tagged Cuvier's beaked whales remained on or near the continental slope off Cape Hatteras, which the authors suggest provide more evidence of a resident population than an oceanic population. Similarly, using sighting data from aerial surveys and strandings records, McLellan *et al.* (2018) concluded that the waters off Cape Hatteras provide important year-round habitat for multiple species of beaked whales. The waters off Cape Hatteras, at the convergence of two major currents, the Labrador Current and the Gulf Stream, are an area of high biological productivity (Schaff *et al.,* 1992). Roberts *et al.* (2016) also identified a high level of marine mammal biodiversity and beaked whale abundance off Cape Hatteras. These studies indicate the waters offshore Cape Hatteras are an area of high productivity and an important habitat for marine mammals, including several species of beaked whales. However, these studies do not demonstrate that individual Cuvier's beaked whales are year-round residents of the Cape Hatteras area. Rather, the limited tracking studies and sightings data only demonstrate that Cuvier's beaked whales can regularly be found in this area of high biological productivity, likely for foraging purposes, for a period of up to 59 days. Given that the duration of the available tracking study was limited to a maximum of about 2 months, the data do not comprise substantial information indicating that any individual whale—much less any population of whales—resides exclusively in that area.

Finally, we did not find any information in the petition or readily available in our files indicating that Cuvier's beaked whales in the GOM exhibit long-term site fidelity. Site fidelity is the tendency for individuals to return to the same area repeatedly or remain in an area for an extended period, and may occur at both breeding and feeding areas. Site fidelity, in and of itself, does not necessarily mean that a population is distinct as it is possible that individuals are emigrating or migrating within the population. We found no information in the petition or readily available in our files addressing site fidelity of Cuvier's beaked whales in the GOM.

We conclude that the available information does not suggest that the Cuvier's beaked whales generally exhibit site fidelity to a degree that would result in the ecological separation of Cuvier's beaked whales in the GOM. The studies cited by the petitioner do not present substantial information that Cuvier's beaked whale off the west coast of Hawaii or off Cape Hatteras, North Carolina, are distinct from other populations of the same taxon because of site fidelity. The majority of individuals studied by McSweeney *et al.* (2007) did not show repeated use of steep and isolated Hawaiian shelf waters, and those that were re-sighted had long intervals of time between encounters to move and mix with a broader population. Similarly, although McLellan *et al.* (2018) suggest the productive mixing zone off Cape Hatteras is an important year-round habitat for Cuvier's beaked whales, their tracking data were of insufficient duration to suggest individual whales do not mix with a broader population to an extent that would imply a markedly separate population. In addition, the GOM is a very different ecosystem from the Hawaiian shelf or the Cape Hatteras convergence zone, characterized by more broadly distributed resources, more ephemeral upwelling current patterns, and a more gradual continental slope. It is reasonable to assume that different oceanic features can influence prey availability, which can drive beaked whale distributions or preferences for particular foraging areas.

Thus, after examining the petition's references and information readily available in our files, we conclude there is not sufficient information to indicate that the Cuvier's beaked whales in the GOM are behaviorally or ecologically separated from other Cuvier's beaked whale populations. The spatial and temporal movement patterns throughout this species' range are largely unknown and no information was presented for the putative GOM DPS. Although some studies have suggested that individual Cuvier's beaked whales may exhibit some site-fidelity and repeated use of waters off Hawaii's west coast and Cape Hatteras, those findings do not support the petitioner's conclusion that the Cuvier's beaked whales in the GOM are markedly separate from other neighboring areas.

Additionally, no information in our files or in the petition indicates that Cuvier's beaked whales in the GOM are functioning independent of other populations through ecological or behavioral processes such as reproduction, communication, or foraging. Although the referenced studies provide evidence of repeated use of certain areas by Cuvier's beaked whales, they do not provide substantial evidence indicating that Cuvier's beaked whale individuals exhibit long-term

site-dependency that might lead to the separation of Cuvier's beaked whales in the GOM. The available information indicates that Cuvier's beaked whales have extensive ranges with substantial mixing, which is further supported by genetic evidence confirming that Cuvier's worldwide represent a single independent genetic entity (Dalebort *et al.,* 2005). As such, the available information does not constitute substantial information indicating that Cuvier's beaked whales in the GOM are discrete from Cuvier's beaked whales worldwide because of ecological or behavioral factors. No other information on other physical, physiological, ecological, or behavioral factors for the GOM population that would suggest marked separation from other populations was in the petition or readily available in our files.

While the petitioner did not describe the genetic information in their evaluation of the discreteness criteria, we have included this information here because quantitative measures of genetics can provide evidence of separation from other populations. Although there are few samples available for genetic investigation of population structure of Cuvier's beaked whale, the data suggest limited gene flow among ocean basins. Daleboat *et al.* (2005) presented the first description of phylogeographic structure among Cuvier's beaked whales worldwide using mitochondrial DNA (mtDNA) control sequences obtained from strandings (n = 70), incidental fisheries takes (n =11), biopsy (n = 1) and whale-meat markets (n = 5). Specimens were grouped in ocean basins and regions within ocean basins as follows: Southern Hemisphere, n = 25 (South Pacific, n = 19; Indian Ocean, n = 6); North Pacific, n = 31 (Eastern-Central, n = 22; Western, n = 9); North Atlantic, n = 31 (Eastern, n = 5; Mediterranean, n = 12; Western-Tropical, n = 14). Strong mtDNA differentiation was observed among Cuvier's beaked whales worldwide, with over 42 percent of the total molecular variance attributed to variation between the three ocean basins (*i.e.,* Southern Hemisphere, North Atlantic, and North Pacific). Phylogenetic reconstruction revealed strong frequency differences among ocean basins, but no reciprocal monophyly or fixed character differences. The estimated rates of female migration among ocean basins are low (≤ 2 individuals per generation or 15 years). These results revealed that there is little movement of female Cuvier's beaked whales among the three ocean basins. The authors note that regional sample size was too small to detect subdivisions within ocean basins except in the Mediterranean region (n =12) where the Cuvier's beaked whale population was highly differentiated from those whales in the North Atlantic Ocean basin. The phylogeographic pattern revealed that the population in the Mediterranean differed significantly from eastern Atlantic and western-tropical Atlantic, but the latter two did not differ significantly from one another (Dalebout *et al.,* 2005). The authors note that few conclusions can be drawn about the possible existence of regional divisions within other basins until more comprehensive sampling is conducted.

While mtDNA evidence shows some population structuring indicating differences between Cuvier's beaked whale populations in the Southern Hemisphere, North Pacific and North Atlantic, it does not indicate that the Cuvier's beaked whales in the GOM are genetically separated from neighboring populations. In fact, while limited in sample size, the mtDNA samples from the GOM (n = 1) were not significantly different from those samples from the eastern Atlantic (n = 5) and western tropical Atlantic (n = 13). Thus, the available mtDNA evidence does not suggest population structuring between the GOM and North Atlantic samples. In addition, because mtDNA is maternally inherited, differences in mtDNA haplotypes between populations do not necessarily mean that the populations are substantially reproductively isolated from each other because they do not provide any information on males. In some cases, mtDNA may indicate discreteness if female and male movement patterns are the same, but for species in which male and female movements differ, mtDNA is not sufficient to evaluate the discreetness in a population (see *e.g.,* loggerhead sea turtle, 68 FR 53947, September 15, 2003 at 53950–51 and Conant *et al.,* 2009, at 18, 22, 25–28; southern resident killer whale, Krahn *et al.,* 2002, at 23–30). The intermediate levels of mtDNA diversity observed in Cuvier's beaked whale samples suggest that social groups are unlikely to be strongly matrifocal (Dalebout *et al.,* 2005). Additionally, the mtDNA evidence for Cuvier's beaked whales is not coupled with nuclear DNA evidence and, at this time, it is unknown if male Cuvier's beaked whales take seasonal migrations or whether sexes differ temporally or spatially in their distribution. As such, the available genetic evidence does not provide substantial information indicating that Cuvier's beaked whales in the GOM are markedly separated from Cuvier's beaked whales worldwide. We therefore conclude that the information available in our files does not provide substantial information that Cuvier's beaked whales in the GOM are markedly separate from other populations of Cuvier's beaked whales as a consequence of quantitative measures of genetics.

Finally, the petitioner asserts that international boundaries and differences in the control of exploitation, habitat management, and regulatory mechanisms among the United States, Mexico, and Cuba qualify Cuvier's beaked whales in the GOM as discrete under the DPS policy. The petitioner states that these differences are highly significant in light of Section 4(a)(1)(D) of the ESA. In support, the petition states that Cuvier's beaked whales in the GOM are partly delineated by the international boundaries of Mexico and Cuba and therefore are subject to different management mechanisms that are limited in comparison to those in the United States. The only existing foreign or international regulations cited in the petition are the International Whaling Commission (IWC) and Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES). The petition states that these regulations do not address current threats to the GOM population.

We examined whether a delineation of a DPS could be made based on international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the ESA. The petition provides no information regarding Mexico or Cuba's regulatory mechanisms and does not discuss how they differ from those in the United States. In the United States, the Cuvier's beaked whale is protected by the MMPA (16 U.S.C. 1361 *et seq.*). The MMPA includes a general moratorium on the ''taking'' of marine mammals by any person subject to the jurisdiction of the United States within the United States, its territorial waters, the U.S. exclusive economic zone (EEZ), or on the high seas, which include for purposes of the MMPA, foreign EEZs (16 U.S.C. 1371). The MMPA also contains certain import restrictions and sets forth a national policy to prevent marine mammal species or population stocks from diminishing to the point where they are no longer a significant functioning element of their ecosystem.

While the petition asserts that the regulatory mechanisms in Mexico and Cuba are limited and are markedly different from those in the U.S., the

petition fails to include any discussion related to the existing regulatory mechanisms for those countries to support its assertion. The information readily available in our files indicates that in Cuba all marine mammals are afforded protections under the Environmental Law 81, the Fishery Decree-Law 164, and the Protected Areas Decree-Law 201. The Ministry of Science Technology and Environment enacted Resolution 160/2011, listing all marine mammals as 'Species with Special Significance' for the country. The information readily available in our files also indicates that the government of Mexico has several environmental laws and statutes that offer protections for marine mammals, including the General Law on Ecological Equilibrium and Environmental Protection, the General Law on Wildlife, and Fisheries Law. Neither the petition nor the information in our files provide information supporting the petitioner's claim that control of exploitation, management of habitat, conservation status, or regulatory mechanisms for the Cuvier's beaked whale in the Gulf of Mexico differ significantly across international boundaries.

With regard to international regulatory mechanisms, the U.S., Mexico, and Cuba are all parties to the CITES. The Cuvier's beaked whale is listed on CITES Appendix I, which means, aside from exceptional circumstances, commercial trade of products of Cuvier's beaked whale across international borders of member countries is prohibited. Lastly, the IWC was established under the International Convention for the Regulation of Whaling, signed in 1946. The IWC established an international moratorium on commercial whaling for all large whale species in 1982, effective in 1986. This moratorium affected all member nations (IWC 2009), including Mexico and numerous other nations within the range of Cuvier's beaked whale. Based on the above, we have no information from which to conclude that the GOM population of Cuvier's beaked whale is discrete from other populations due to differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms that are significant in light of Section 4(a)(1)(D) of the ESA.

The Relationship Between ''Stock'' and DPS

The petition notes that the Northern GOM Cuvier's beaked whale is managed as a stock under the MMPA (*https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-species-stock*)). The petitioner states that the Cuvier's beaked whale Northern GOM stock designation under the MMPA included distribution information, which supports their assertion that the GOM whales are delimited by international boundaries, meeting the discreteness criteria under the DPS. Under the MMPA, we divided all marine mammal species into management units (stocks) based on distinct oceanographic regions (Barlow *et al.,* 1995; Wade and Angliss 1997). These stocks include Cuvier's beaked whales in Alaska, California- Oregon-Washington, Hawaii, Puerto Rico and U.S. Virgin Islands, Western North Atlantic, and Northern GOM. We consider a number of different factors when identifying marine mammal stocks under the MMPA including: (1) Distribution and movements; (2) population trends; (3) morphological differences; (4) differences in life history; (5) differences in genetics; (6) contaminant and natural isotope loads; (7) parasite differences; and (8) oceanic habitat differences (NMFS 2005).

As the petitioner acknowledges, a stock under the MMPA is not equivalent to a DPS under the ESA. As discussed in the Northern GOM Cuvier's beaked whale stock assessment report (Waring *et al.,* 2012), there is no stock differentiation between Cuvier's beaked whales in the GOM and those in nearby waters. In the absence of information, a species' range in an ocean can be divided into defensible management units (Waring *et al.,* 2012) and examples of stock areas include oceanographic regions *(e.g.,* GOM, Gulf of Alaska, California Current) (Wade and Angliss, 1997; Barlow *et al.,* 1995). Thus, we considered the Cuvier's beaked whales in the Northern GOM as a separate stock for management purposes under the MMPA (Blaylock *et al.,* 1995). However, as described above, our DPS policy contains different criteria for identifying a population as a DPS. The DPS policy requires that a population be both discrete from other populations and significant to the taxon to which it belongs. While in most circumstances we evaluate some or all of the same evidence in determining whether a population of marine mammals should be considered a stock under the MMPA or a DPS for purposes of the ESA, our determination will not always be the same for both purposes. In this case, we do not find that the distribution information for the Cuvier's beaked whale in the GOM satisfies either of the conditions for discreteness under the DPS policy. The available information does not suggest that the Cuvier's beaked whale in the GOM is markedly separate from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors, nor is it limited by international governmental boundaries within which difference in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the ESA. At this time, we find that the information in the petition and in our files, including that information which was considered in identifying the stock for management purposes under the MMPA, do not suggest that the Cuvier's beaked whale in the GOM may be discrete under the DPS policy.

Conclusion Regarding DPS

Overall, based on the information in the petition and readily available in our files, and guided by the DPS Policy criteria, we are unable to find evidence to suggest that the GOM population of Cuvier's beaked whale may be discrete. Because the data do not suggest that the Cuvier's beaked whales in the GOM may be discrete from other Cuvier's beaked whale populations, we are not required to determine whether the Cuvier's beaked whales in the GOM may be significant to the global taxon of Cuvier's beaked whales, per the DPS policy. Therefore, based upon the information from the petitioner and the information readily available in our files, we conclude that the petition does not present substantial information to indicate that the GOM population of Cuvier's beaked whale may qualify as a DPS under the DPS Policy.

Other Information Provided by the Petitioner

The petitioner provided information on the general life history and biology of the Cuvier's beaked whale, a global abundance estimate, abundance estimates for the northern GOM stock, and threats (*e.g.,* oil spills, oil and gas exploration, vessel strike, acoustic impacts, fishery entanglement etc.) to Cuvier's beaked whales in the GOM. Because we conclude that the petition does not present substantial information to indicate that the GOM population may qualify as a DPS under the DPS Policy, the petitioned entity does not constitute a ''species'' that is eligible for listing under the ESA. Thus, we do not need to evaluate whether the information in the petition indicates that this population faces an extinction risk that is cause for concern.

Significant Portion of Its Range

As an alternative to listing the GOM Cuvier's beaked whale as a DPS, the petitioner requests the Cuvier's beaked whale be listed because the species is threatened or endangered in a SPOIR, which the petition identifies as the GOM.

The petitioner states that NMFS incorrectly interprets SPOIR in the NMFS/FWS SPOIR Policy (79 FR 37578; July 1, 2014), and recommends that NMFS should interpret the phrase ''significant portion if its range'' as a portion of a species' range that faces high extinction risk (threatened or endangered) and that is biologically significant based on the principles of conservation biology using the concepts of redundancy, resilience, and representation (the three Rs) (Shaffer & Stein 2000). Such concepts can also be expressed in terms of the four population viability characteristics commonly used by NMFS: Abundance, spatial distribution, productivity, and diversity of the species. While the petitioner requests we apply their alternative interpretation of SPOIR, the petition does not include any specific explanation or analysis addressing how the GOM is ''biologically significant'' based on the concepts of redundancy, resilience, and representation.

We acknowledge that the SPOIR Policy's definition of ''significance'' has been invalidated in recent litigation involving FWS. *See Desert Survivors* v. *DOI,* No. 16-cv-01165–JCS, 2018 WL 2215741 (N.D. Cal. May 15, 2018); *Ctr. for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d 946 (D. Ariz. 2017). While we do not apply that definition in this finding, we note that the remainder of the SPOIR Policy remains valid and binding, including the provision that any listings made as a consequence of being threatened or endangered in a SPOIR must be rangewide.

For purposes of reviewing this particular petition, but without adopting a standard for other decisions, we analyzed the data provided in the petition and information readily available in our files to see if there is any basis to conclude that the GOM population of Cuvier's beaked whales is ''significant.'' As previously discussed, the Cuvier's beaked whale is among the most common and abundant of all the beaked whales, and their abundance worldwide is likely over 100,000 individuals (Taylor *et al.,* 2008). Cuvier's beaked whales in the GOM comprise only a very small portion of this relatively large global population (Daleabout *et al.,* 2005; Taylor *et al.,* 2008). The more recent abundance estimate (n = 2,910, in Roberts *et al.,* 2016) for the Cuvier's beaked whales in the GOM indicates that those whales comprise less than 3 percent of the taxon's global abundance. Additionally, the species has an extensive distribution, with Cuvier's beaked whales found throughout the world's oceans, ranging from equatorial tropical to cold temperate waters (Heyning and Mead 2009), and no available information suggests that the Cuvier's beaked whales in the GOM are physically isolated from other Cuvier's beaked whale populations (Best 1979; Rice 1989; Whitehead 1993; Englehaupt *et al,.* 2009; and Wells *et al.,* 2009, 2013). The available genetic evidence also does not provide substantial information indicating that Cuvier's beaked whales in the GOM are markedly differentiated from Cuvier's beaked whale worldwide (Dalebout *et al.,* 2005) that may indicate genetic significance. The available genetic evidence indicates the Cuvier's beaked whale is a single global species (monotypic genus) that is relatively abundant and widely distributed throughout the world's oceans (Daleabout *et al.,* 2005). There is no evidence of genetic differentiation between Cuvier's beaked whales in the GOM and neighboring populations, and thus no information to suggest that the loss of the GOM would result in a significant loss in genetic diversity to the species as a whole or affect the species' ability to adapt to changes in its environment.

Based on the information presented in the petition and readily available in our files, we do not find substantial information to suggest that the GOM population may be ''biologically significant'' to the taxon as a whole based on the concepts of redundancy, resilience, and representation. We therefore conclude that the petition does not present substantial information that the GOM population may be ''significant,'' nor that it is of such significance that would be commensurate with the SPOIR Policy's direction that the listing be rangewide. Because the petition does not provide evidence or discussion as to how the GOM qualifies as a SPOIR, and the information in the petition and our files do not support such a conclusion, we conclude that the petition does not present substantial information indicating that listing Cuvier's beaked whale as endangered or threatened in a SPOIR may be warranted.

Petition Finding

After reviewing the information contained in the petition, as well as information readily available in our files, we conclude the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted.

References Cited

A complete list of all references is available upon request from the Protected Resources Division of the NMFS Southeast Regional Office (see **ADDRESSES**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 20, 2019.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG506

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to In-Water Demolition and Construction Activities Associated With a Harbor Improvement Project in Statter Harbor, Alaska

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

ACTION: Notice; Issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the City of Juneau to incidentally harass, by Level A and Level B harassment, marine mammals during construction activities associated with harbor improvements at Statter Harbor in Auke Bay, Alaska

DATES: This authorization is effective from October 1, 2019 to September 30, 2020.

FOR FURTHER INFORMATION CONTACT: Sara Young, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/national/*

marine-mammal-protection/incidental-take-authorizations-construction-activities. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization was provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

The NDAA (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity.'' The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On February 12, 2018, NMFS received a request from the City of Juneau for an IHA to take marine mammals incidental to harbor improvement projects in Statter Harbor, Alaska. The original application covered three years of potential work and was revised to one year of work on March 9, 2018. A series of exchanges regarding acoustic analyses continued until a meeting was held on June 21, 2018. An additional revision was received on August 8, 2018. The application was deemed adequate and complete on September 18, 2018. The City of Juneau's request is for take of a small number of harbor seal, harbor porpoise, humpback whale, and Steller sea lion by Level B harassment and Level A harassment. Neither the City of Juneau nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Activity

The harbor improvements described in the application include demolition and disposal of the existing boat launch ramp and timber haulout pier, dredging of the planned harbor basin with offshore disposal, excavation of bedrock within the basin by blasting from a temporary fill pad, and construction of a mechanically stabilized earth wall. In our notice of proposed IHA, we stated work was expected to begin in April. Due to administrative delays and other permitting needs, we were notified by the City of Juneau that work is now expected to occur between October 1, 2019 and September 30, 2020. The expected allocation of days for each activity is as follows: Two to ten days of vibratory pile removal, 30–45 days of dredging and dredge disposal, 15 days of in-water fill placement and removal, and two days of blasting. To be conservative, 12-hour work days were used to analyze construction noise. The daily construction window for blasting and dredging will begin no sooner than 30 minutes after sunrise to allow for initial marine mammal monitoring to take place and will end 30 minutes before sunset to allow for post-activity monitoring.

The activities will occur at Statter Harbor in Auke Bay, Alaska which is in the southeast portion of the state. See Figures 1 and 4 in the application for detailed maps of the project area. Statter Harbor is located at the most northeasterly point of Auke Bay.

A detailed description of the planned harbor improvements project is provided in the **Federal Register** notice for the proposed IHA (83 FR 52394; October 17, 2018). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for detailed description of the specified activity.

Comments and Responses

A notice of NMFS's proposal to issue an IHA to the City of Juneau was published in the **Federal Register** on October 17, 2018 (83 FR 52394). That notice described, in detail, the City's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission. For full details of the comments, please see the Commission's letter, which is available online at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities#active-authorizations*. The comments and our response are provided below.

Comment: The Commission recommends that NMFS estimate and ultimately authorize takes of marine mammals by Level B harassment during all activities involving explosives, including single detonation events, for this and all future IHAs.

Response: NMFS believes that the best scientific evidence available indicates that it is appropriate to use a behavioral onset threshold for multiple detonations and to consider detonations with microdelays between them as a single detonation. The two blasts conducted by Statter Harbor are confined blasts with charge detonations separated by microdelays, constituting a single detonation event per day with blasts occurring for a total of two days.

Comment: The Commission recommends that NMFS require the City of Juneau to conduct hydroacoustic monitoring of blasting activity and provide data from the first blast event to NMFS for review prior to the second blasting event. The Commission also states that NMFS should adjust Level A and B harassment zones if necessary prior to the second blasting event.

Response: NMFS disagrees with the Commission that hydroacoustic monitoring of the two blasts conducted at Statter Harbor should be required. The blasts are considered single detonation events with only two total blasts proposed, occurring on two separate days. It is still unknown how close together the two blasting days would occur, and is likely not enough time to analyze data and develop a hydroacoustic monitoring report, submit to NMFS for review, and make adjustments accordingly. Additionally, the City plans to conduct blasting as quickly and efficiently as possible so as not to overlap with the beginning of harbor seal pupping season, as harbor seals are resident in the area. Therefore, this requirement may result in more severe impacts to local harbor seals through delay of the second blast.

Comment: The Commission states that if NMFS believes that authorization for taking marine mammals incidental to vessel transit by tug is not warranted, that NMFS should find that authorization for take of marine mammals incidental to dredging is also not warranted. Furthermore, the Commission recommends that NMFS determine which activities warrant incidental take authorizations under the MMPA and apply that approach consistently for all actions.

Response: NMFS makes determinations on whether take should be authorized for specific activities on a case by case basis while factoring in project-specific considerations. While NMFS does not generally think noise generated from dredging is likely to result in take, the dredging that is planned for this action occurs directly in an area known to be habitat for a resident harbor seal population and will occur for an extended period. This project constitutes a grouping of activities in a small geographic area, where marine mammals are known to be resident, and the presence of these activities could disrupt their behavioral patterns. While we do not think that dredging by itself is likely to result in take, the combination of factors presented in this specific circumstance, in conjunction with other activities in a confined harbor area that is consistently inhabited by harbor seals, leads us to conclude that dredging presents the potential to harass marine mammals.

Comment: The Commission recommends that NMFS refrain from implementing its proposed renewal process and instead use abbreviated **Federal Register** notices and reference existing documents to streamline the IHA process. If NMFS adopts the proposed renewal process, the Commission recommends that NMFS provide the Commission and the public a legal analysis supporting its conclusion that the process is consistent with section 101(a)(5)(D) of the MMPA.

Response: The notice of the proposed IHA (83 FR 52394; October 17, 2018) expressly notifies the public that under certain, limited conditions an applicant could seek a renewal IHA for an additional year. The notice describes the conditions under which such a renewal request could be considered and expressly seeks public comment in the event such a renewal is sought. Additional reference to this solicitation of public comment has recently been added at the beginning of the FR notices that consider renewals, requesting input specifically on the possible renewal itself. NMFS appreciates the streamlining achieved by the use of abbreviated FR notices and intends to continue using them for proposed IHAs that include minor changes from previously issued IHAs, but which do not satisfy the renewal requirements. However, we believe our method for issuing renewals meets statutory requirements and maximizes efficiency. However, importantly, such renewals will be limited to circumstances where: The activities are identical or nearly identical to those analyzed in the proposed IHA; monitoring does not indicate impacts that were not previously analyzed and authorized; and, the mitigation and monitoring requirements remain the same, all of which allow the public to comment on the appropriateness and effects of a renewal at the same time the public provides comments on the initial IHA. NMFS has, however, modified the language for future proposed IHAs to clarify that all IHAs, including renewal IHAs, are valid for no more than one year and that the agency will consider only one renewal for a project at this time. In addition, notice of issuance or denial of a renewal IHA will be published in the **Federal Register**, as they are for all IHAs. The option for issuing renewal IHAs has been in NMFS' incidental take regulations since 1996. We will provide any additional information to the Commission and consider posting a description of the renewal process on our website before any renewal is issued utilizing this process.

Description of Marine Mammals in the Area of Specified Activities

Seven species of marine mammal have been documented in southeast Alaska waters in the vicinity of Statter Harbor. These species are: Harbor seal, harbor porpoise, Dall's porpoise, killer whale, humpback whale, minke whale, and Steller sea lion. Of these species, only three are known to occur in Statter Harbor: Harbor seal, Steller sea lion, and humpback whale.

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 1 lists all species with expected potential for occurrence in Statter Harbor and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2017). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. Alaska Region Draft 2018 SAR (Muto *et al,* 2018). All values presented in Table 1 are the most recent available at the time of publication and are available in the Draft 2018 SAR (Muto *et al,* 2018).

TABLE 1—SPECIES WITH THE POTENTIAL TO OCCUR IN STATTER HARBOR

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenopteridae (rorquals):						
Humpback whale	Megaptera noveangliae	Central North Pacific	E, D,Y	10,103 (0.3, 7,891, 2006)	83	26
Minke whale	Balaenoptera acutorostrata	Alaska	–;N	N/A	Und	0
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Killer whale	Orcinus orca	Northern Resident	-;N	261 (N/A, 261, 2011)	1.96	0
Killer whale	Orcinus orca	Gulf of Alaska transient	-;N	587 (N/A, 587, 2012)	5.87	1
Killer whale	Orcinus orca	West Coast Transient	-;N	243 (N/A, 243, 2009)	2.4	0
Family Phocoenidae (porpoises):						
Harbor porpoise	Phocoena phocoena	Southeast Alaska	-; Y	975 (0.14, 872, 2012)	8.7	34
Dall's porpoise	Phocoenoides dalli	Alaska	-;N	83,400 (0.097, N/A, 1991).	Und	38
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
Steller sea lion	Eumetopias jubatus	Western DPS	E/D; Y	54,267 (N/A; 54,267, 2017).	326	252
Steller sea lion	Eumetopias jubatus	Eastern DPS	T/D; Y	41,638 (N/A, 41,638, 2015).	2498	108
Family Phocidae (earless seals):						
Harbor seal	Phoca vitulina	Lynn Canal	-; N	9,478 (N/A, 8,605, 2011)	155	50

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: www.nmfs.noaa.gov/pr/sars/. CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range.

Note—*Italicized species are not expected to be present and take is not authorized.*

All species that could potentially occur in the action areas are included in Table 1. It is unlikely the species italicized above in Table 1 are likely to venture far enough into the harbor to enter the acoustic isopleths where we expect take to occur. The spatial occurrence of minke whale and Dall's porpoise is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. While these species have been sighted in southeast Alaska more broadly, these sightings have been recorded for areas closer to the ocean. Auke Bay is separated from the Pacific by multiple barrier islands and Statter Harbor is located in the most inland section of the bay, making the occurrence of species infrequently sighted farther seaward even less likely. Killer whales are not known to occur frequently in Auke Bay, although they have been sighted infrequently, with no obvious temporal pattern to the sightings. While it is possible killer whales could enter Auke Bay during work, it is unlikely they would continue as far inland as Statter Harbor. If killer whales did venture into Statter Harbor to a distance where acoustic exposure would be a concern, they would be easily identifiable to observers stationed in the harbor for mitigation and monitoring purposes and a shutdown would be ordered. Therefore, take of killer whales from these activities is unlikely to occur and they are not considered further in this document. The work in Statter Harbor is in a very sheltered and inland harbor with a consistent sightings record of the three species considered further: Steller sea lion, humpback whale, and harbor seal. Harbor porpoise, while infrequently sighted near Statter Harbor, are considered further as their fast swim speeds and small size make detection to implement mitigation measures difficult.

A detailed description of the species likely to be affected by the Statter Harbor project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (83 FR 52394; October 17, 2018); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms

derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibels (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between approximately 7 hertz (Hz) and 35 kilohertz (kHz);
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera *Kogia* and Cephalorhynchus; including two members of the genus Lagenorhynchus, on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz.
- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz;
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Four marine mammal species (two cetacean and two pinniped (one otariid and one phocid) species) have the reasonable potential to co-occur with the construction activities. Please refer to Table 1. Of the cetacean species that may be present, humpback whales are classified as low-frequency cetaceans, and harbor porpoise are classified as high-frequency cetaceans.

Potential Effects of Specified Activities on Marine Mammals and their Habitat

The effects of underwater noise from blasting, vibratory pile removal, and dredging activities for the Statter Harbor project have the potential to result in behavioral harassment of marine mammals in the vicinity of the action area. The **Federal Register** notice for the proposed IHA (83 FR 52394; October 17, 2018) included a discussion of the effects of anthropogenic noise on marine mammals, therefore that information is not repeated here; please refer to the **Federal Register** notice for that information.

Anticipated Effects on Habitat

The main impact associated with the Statter Harbor improvement project will be temporarily elevated sound levels and the associated direct effects on marine mammals. The project will not result in permanent impacts to habitats used directly by marine mammals, such as haulout sites, but may have potential short-term impacts to food sources such as forage fish, etc, and minor impacts to the immediate substrate during installation and removal of piles and blasting during the project. These potential effects are discussed in detail in the **Federal Register** notice for the proposed IHA (53 FR 5394; October 17, 2018), therefore that information is not repeated here; please refer to that **Federal Register** notice for that information.

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes will primarily be by Level B harassment, as use of the explosives, vibratory pile removal, and dredging has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result from blasting, primarily for high frequency species and phocids because predicted auditory injury zones are larger than for low-frequency species and otariids. The mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable. While the zones for slight lung injury are large enough that a marine mammal could occur within the zone (45 meters), the mitigation and monitoring measures, such as delaying blasting as long as possible until animals are no longer within the PTS zone, are expected to minimize the potential for such taking to the extent practicable, such that the potential for non-auditory physical injury is considered discountable.

As described previously, no mortality is anticipated or authorized for this activity. Of the activities for which take is requested, only blasting has the potential to result in mortality. When the isopleths within which mortality could occur were calculated, the zones were sufficiently small that the risk of mortality is considered discountable. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B

harassment) or to incur permanent threshold shift (PTS) of some degree (equated to Level A harassment). Thresholds have also been developed to identify the pressure levels above which animals may incur different types of tissue damage from exposure to pressure waves from explosive detonation.

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. This threshold is not applied to single detonations as the sound is instantaneous in nature such that a behavioral harassment is not expected to result, although temporary threshold shift (TTS) may occur. A single detonation is not considered as being able to result in a disruption of behavioral patterns because the instantaneous sound is not likely to result in anything more prolonged than a brief startle response. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 micro pascal (µPa) root mean square (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 µPa (rms) for intermittent (*e.g.,* impact pile driving) sources.

The City of Juneau's activity includes the use of continuous sounds (vibratory pile removal, dredging) and therefore the 120 dB re 1 µPa (rms) threshold for behavioral harassment is applicable. While the activity also includes impulsive sounds (blasting), the 160 dB re 1 µPa (rms) threshold for behavioral harassment is not applicable, as behavioral harassment is not expected from single detonation events, although TTS is possible.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The City of Juneau's activity includes the use non-impulsive (dredging, vibratory pile removal) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 2—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 µPa, and cumulative sound exposure level (L_E) has a reference value of 1µPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Explosive sources—Based on the best available science, NMFS uses the acoustic and pressure thresholds indicated in Table 3 to predict the onset of behavioral harassment, PTS, tissue damage, and mortality.

TABLE 3—EXPLOSIVE ACOUSTIC AND PRESSURE THRESHOLDS FOR MARINE MAMMALS

Group	Level B harassment		Level A harassment	Serious injury		Mortality
	Behavioral (multiple detonations)	TTS	PTS	Gastro-intestinal tract	Lung	
Low-freq cetacean.	163 dB SEL	168 dB SEL or 213 dB SPL_{pk}.	183 dB SEL or 219 dB SPL_{pk}.	237 dB SPL.	39.1M⅓ (1+[D/10.081])½ Pa-sec where: M = mass of the animals in kg D = depth of animal in m	91.4M⅓ (1+[D/10.081])½ Pa-sec where: M = mass of the animals in kg D = depth of animal in m

TABLE 3—EXPLOSIVE ACOUSTIC AND PRESSURE THRESHOLDS FOR MARINE MAMMALS—Continued

Group	Level B harassment		Level A harassment	Serious injury		Mortality
	Behavioral (multiple detonations)	TTS	PTS	Gastro-intestinal tract	Lung	
High-freq cetacean.	135 dB SEL	140 dB SEL or 196 dB SPL_{pk}.	155 dB SEL or 202 dB SPL_{pk}.			
Phocidae	165 dB SEL	170 dB SEL or 212 dB SPL_{pk}.	185 dB SEL or 218 dB SPL_{pk}.			
Otariidae	183 dB SEL	188 dB SEL or 226 dB_{pk}.	203 dB SEL or 232 dB SPL_{pk}.			

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

Vibratory removal—The closest known measurements of vibratory pile removal similar to this project are from the Kake Ferry Terminal project for vibratory extraction of an 18-inch (in) steel pile. The extraction of 18-in steel pipe pile using a vibratory hammer resulted in underwater noise levels reaching 156.2 dB rms at 7 meters (m) (Denes *et al.* 2016). The pile diameters for this project are smaller, thus the use of noise levels associated with the pile extraction at Kake may be somewhat conservative. For timber pile removal, the Seattle Pier 62/63 sound source verification report contains an appendix with source measurements at different distances for 63 individual pile removals (WSDOT, 2015). When the data are normalized to 10 m, the median source level is 152 dB rms at 10 m.

Dredging—For dredging, sound source data was used from bucket dredging operations in Cook Inlet, Alaska (Dickerson *et al.* 2001). Dredging in that project consisted of six distinct events, including the bucket striking the channel bottom, bucket digging, winch in/out as the bucket is lowered/raised, dumping of the material on the barge and emptying the barge at the disposal site. Although the waveform of the bucket strike has a high peak sound pressure with rapid rise time and rapid decay (characteristics typical of an impulsive sound source), the duration of the source signal was longer than what is often considered for an impulsive sound source, about 50 seconds, which is the approximate duration of one continuous noise signal from the dredging equipment. The events following the initial waveform impulse were of longer duration and were non-impulsive in form and therefore dredging was analyzed as a continuous source. Dickerson *et al.* (2001) took 104 SPLrms measurements for the first five distinct phases of the dredging cycle and averaged them, including the impulse in the waveform of the dredge making contact with the substrate. These averages were distance corrected to determine an average SPL of 150.5 dB rms at 1 m for the bucket dredging process, with an assumed maximum duration of up to 50 seconds, of non-impulsive, continuous noise.

When the NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, NMFS developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources, the NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it will not incur PTS. Inputs used in the User Spreadsheet, and the resulting isopleths are reported below.

TABLE 4—NMFS USER SPREADSHEET INPUTS

Spreadsheet tab used	Timber removal	Steel removal	Dredging
	A.1: Vibratory pile driving	A.1: Vibratory pile driving	A: Stationary: Non-impulsive, continuous
Source Level (RMS SPL)	152	156.2	150.5
Weighting Factor Adjustment (kHz)	2.5	2.5	2
a) Activity Duration (h) within 24-h period	.....	.....	11
Propagation (xLogR)	15	15	15
Distance of source level measurement (m) +	10	7	1
# of piles/shots in a 24 h period	16	4	.....
Duration to drive (remove) a single pile (min)	20	20	.....

When using the inputs from Table 4, the outputs generated are summarized below in Table 5.

TABLE 5—NMFS USER SPREADSHEET GENERATED OUTPUTS

[User spreadsheet output]

Source type	PTS Isopleth (meters)			
	Low-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Timber removal	5.2	7.7	3.2	0.2
Steel Removal	2.8	4.1	1.7	0.1
Dredging	0.7	0.6	0.4	0.0
Level B Behavioral Harassment Isopleth (meters)				
Timber removal	1359.36			
Steel removal	1813.14			
Dredging	107.98			

* Impulsive sounds have a dual metric threshold (SELcum and PK). Metric producing the largest isopleth should be used.

Blasting—In our proposed IHA, historic data from an analog project were analyzed to create a conservative attenuation model for anticipated pressure levels from confined blasting in drilled shafts in underwater bedrock. Sound pressure data from the analog project were analyzed to compare source pressure levels to received impulse levels (Alaska Seismic, 2018). These models were used to predict distances to the peak level and impulse thresholds. Cumulative source levels from the analog project were used in conjunction with the NMFS 2018 updated User Spreadsheet Tool for predicting threshold shift isopleths for multiple detonations, after being corrected to a 1-m reference source level. The median of 10 measurements, consisting of detonations ranging from 19 to 78 individual holes for the detonation, resulted in a source level of 227.98 dB single shot SEL.

However, during the public comment period, the Marine Mammal Commission noted some errors in the User Spreadsheet methodology for single detonations. Following consultation with the Commission, NMFS computed cumulative sound exposure impact zones from the blasting information by the City of Juneau. Peak source levels of the confined blasts were calculated based on Hempet *et al.* (2007), using a distance of eight feet and a weight of 95 pounds for a single charge. The total charge weight is defined as the product of the single charge weight and the number of charges. In this case, the number of charges is 75. Explosive energy was then computed from peak pressure of the single maximum charge, using the pressure and time relationship of a shock wave (Urick 1983). Due to time and spatial separation of each single charge by a distance of eight feet, the accumulation of acoustic energy is added sequentially, assuming the transmission loss follows cylindrical spreading within the matrix of charges. The sound exposure level (SEL) from each charge at its source can then be calculated, followed by the received SEL from each charge. Since the charges will be deployed in a grid of 8 ft by 8 ft apart, thus the received SELs from different charges to a given point will vary depending on the distance of the charges from the receiver. Without specific information regarding the layout of the charges, the modeling assumes a grid of 8 by 9 charges with an additional three charges located in three peripheral locations. Among the various total SELs calculated, the largest value, SELtotal(max) is selected to calculate the impact range. Using the pressure versus time relationship above, the frequency spectrum of the explosion can be computed by taking the Fourier transform of the pressure (Weston, 1960). Frequency specific transmission loss of acoustic energy due to absorption is computed using the absorption coefficient, α (dB/km), summarized by François and Garrison (1982a, b). Seawater properties for computing sound speed and absorption coefficient were based on NMFS Alaska Fisheries Science Center report of mean measurements in Auke Bay (Sturdevant and Landingham, 1993). Transmission loss was calculated using the sonar equation:

$$TL = SEL_{total(m)} - SEL_{threshold}$$

where $SEL_{threshold}$ is the Level A harassment threshold. The distances, R, where such transmission loss is achieved were computed numerically by combining both geometric transmission loss, and transmission loss due to frequency-specific absorption. A spreading coefficient of 20 is assumed to account for acoustic energy loss from the sediment into the water column. The outputs from this model are summarized in Table 6 below, and replace those values given for blasting previously in Table 5 of our **Federal Register** Notice of Proposed IHA.

TABLE 6—MODEL RESULTS OF IMPACT ZONES FOR BLASTING IN METERS

[m]

Species	Mortality	Slight lung injury	GI tract	PTS: SELcum	PTS: SPLpk	TTS: SELcum	TTS: SPLpk
Low frequency ceteacean	3.9975	9.3445	26.0142	**380**	206.64	**2120**	412.3
High frequency cetacean	20.5573	48.0546	26.0142	1340	**1462.9**	**4910**	2918.8
Otariid	13.9502	32.6100	26.0142	20	* **46.261**	* **140**	92.302

TABLE 6—MODEL RESULTS OF IMPACT ZONES FOR BLASTING IN METERS—Continued

[m]

Species	Mortality	Slight lung injury	GI tract	PTS: SELcum	PTS: SPLpk	TTS: SELcum	TTS: SPLpk
Phocid	18.3762	42.9561	26.0142	180	**231.85**	**1000**	462.61

* For the dual criteria of SELcum and SPLpk, distances in **bold** are more predominant and were used in our analysis. The PTS and TTS distances for Steller sea lions resulting from the model seemed uncharacteristically small when compared to the other thresholds resulting from the model and were doubled to 93 m and 280 m respectively for take estimation, mitigation, and monitoring.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Reliable densities are not available for Statter Harbor or the Auke Bay area. Generalized densities for the North Pacific are not applicable given the high variability in occurrence and density at specific inlets and harbors. Therefore, the applicant consulted opportunistic sightings data from oceanographic surveys in Auke Bay and sightings from Auke Bay Marine Station observation pier for Statter Harbor to arrive at a number of animals expected to occur within the harbor per day. For humpback whales, it is assumed that a maximum of two animals per day are likely to occur in the harbor. For Steller sea lions, the potential maximum daily occurrence of animals is 121 individuals within the harbor. For harbor seals, the maximum daily occurrence of animals is 52 individuals.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

Because reliable densities are not available, the applicant requests take based on the above mentioned maximum number of animals that may occur in the harbor per day multiplied by the number of days of the activity. The applicant varied these calculations based on certain factors.

Humpback whale—Based on the size of the harassment zone for dredging, in combination with the Mitigation outlined below, the applicant does not expect humpback whales to approach the dredging vessel and therefore is not requesting take of humpback whales from dredging. Because of the nature of blasting, there is no behavioral threshold associated with the activity, but TTS, which is a form of Level B harassment take, may occur. With a maximum take of two animals per day, multiplied by a maximum of 10 days of pile removal and two days of blasting (TTS), the applicant requests authorization of 24 Level B harassment takes of humpback whale.

Steller sea lion—For the final IHA it is still estimated that a maximum of 121 Steller sea lions may occur in outer Statter Harbor within one day. A maximum take of 121 animals per day for 10 days of pile removal is 1,210 Steller sea lions. Given the size of the Level B harassment zone for dredging (108 m), it is possible Steller sea lions may approach the source vessel. However, given the small size of the zone, the applicant reduced the number of animals expected to be sighted daily within the Level B harassment isopleth to be 10 animals per day for 45 days of dredging. This is reduced from the 60 sea lions per day that were estimated to occur within the dredging isopleth in the proposed IHA. However, because animals would not be expected to occur so close to the source every day, we assume that takes would occur on only half of dredging days, resulting in 225 estimated exposures of Steller sea lions from dredging. This second reduction in dredging takes was incorporated based on input from the Marine Mammal Commission during the public comment period suggesting that Steller sea lions are infrequently seen in the inner harbor. For blasting, the size of the TTS zone (280 m) increased from the distance estimated in the proposed IHA (57 m). Given the size of the revised zones for blasting and the location of the blasting close to shore and harbor structures, it is expected that a maximum of 106 Steller sea lions could occur within the inner harbor where the blasts will occur. Therefore, it is assumed that 106 sea lions may occur within the zone for two days of blasting, resulting in a potential Level B harassment take (TTS only) of 212 Steller sea lions. No more than 15 Steller sea lions are assumed to be within range of the PTS blasting isopleth (46.3 m, which has been conservatively doubled to 93 m), resulting in a total of 30 potential Level A harassment takes of Steller sea lion from blasting. While it is conservative to assume this many Steller sea lions may occur close to the blast source, they are regularly seen in the area and the explosives need to be detonated within a certain number of hours after being planted. It is possible that Steller sea lions could approach the source and the detonation could no longer be delayed, exposing Steller sea lions to sound levels that may induce PTS. This adds to a total of 1,447 Level B takes and 30 Level A takes of Steller sea lion.

Harbor seal—The largest known group size to occur in Statter Harbor is 52 individuals, which is the maximum number of takes per day used here. For 10 days of pile removal, using an assumed rate of 52 individuals per day, the potential take of harbor seals is 520. For 45 days of dredging, the estimated daily take was reduced by half due to the small size of the zone (26 individuals), resulting in an estimate of 1,170 takes. For blasting, the size of the Level A harassment isopleth increased from 71 m to 232 m. Therefore, we assume an increased abundance of harbor seals potentially present within the Level A harassment zone, *i.e.,* all 52 assumed resident seals may occur within the Level A harassment zone during blasts on each of the two days of blasting for a total of 104 takes by Level A harassment. However, as these are the only harbor seals that could occur in the harbor, no additional seals are added as Level B harassment (TTS) exposures from blasting. Summed together, this would result in 1,690 Level B takes and 104 Level A takes of harbor seal.

Harbor porpoise—Very little is known about likelihood of occurrence of harbor porpoise in Statter Harbor but they are rarely observed in the area and we assume that may occur, while their cryptic nature makes it difficult to mitigate all potential for take. If it is assumed one pair could occur per day for 10 days of pile removal, this would result in potential take of 20 harbor porpoise. For 45 days of dredging, the estimated daily take was reduced by half due to the small size of the zone, which would result in take of 44 estimated takes of harbor porpoise. For two days of blasting, it is assumed three pairs of harbor porpoise (6 individuals) may occur each day in the TTS zone, for 12 total TTS takes, and two pairs on each day may appear in the PTS zone, resulting in eight Level A harassment takes of harbor porpoise. This is an

increase from the estimated take number provided in the proposed IHA, reflecting the increase in zone size for blasting.

The total number of takes authorized are summarized in Table 7 below.

TABLE 7—TAKES AUTHORIZED

	Takes from pile removal	Takes from dredging	TTS takes from blasting	PTS takes from blasting	Total Level B harassment takes	Total Level A harassment takes
Humpback whale	20	0	4	0	**24**	**0**
Steller sea lion	1,210	225	12	30	**1,447**	**30**
Harbor seal	520	1,170	0	104	**1,690**	**104**
Harbor porpoise	20	44	12	8	**76**	**8**

Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In addition to the measures described later in this section, the City of Juneau will employ the following standard mitigation measures:

- Conduct a briefing between construction supervisors and crews and the marine mammal monitoring team prior to the start of construction, and when new personnel join the work, to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures;
- For in-water and over-water heavy machinery work, if a marine mammal comes within 10 m, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions. This 10 m shutdown encompasses the Level A harassment zone for pile removal and dredging and therefore this requirement is not listed separately;
- Work may only occur during daylight hours, when visual monitoring of marine mammals can be conducted;
- For those marine mammals for which Level B harassment take has not been requested, pile removal and dredging will shut down immediately when the animals are sighted approaching the monitoring zones; and
- If take reaches the authorized limit for an authorized species, activity for which take is authorized will be stopped as these species approach the monitoring zones to avoid additional take of them.

The following measures will apply to the City of Juneau's mitigation requirements:

Establishment of Monitoring Zones for Level B—The City of Juneau will establish Level B monitoring zones or zones of influence (ZOI) which are areas where SPLs are equal to or exceed the 120 dB rms threshold during vibratory removal and dredging. Similar harassment monitoring zones will be established for the TTS isopleths associated with each functional hearing group for blasting activities. Monitoring zones provide utility for observing by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring zones enable observers to be aware of and communicate the presence of marine mammals in the project area outside the shutdown zone and thus prepare for a potential cease of activity should the animal enter the shutdown zone. The Level B monitoring zones are depicted in Table 8.

TABLE 8—SHUTDOWN AND MONITORING ZONES

Source	Monitoring zones				Shutdown zones
	High frequency cetacean	Low frequency ceteacean	Phocid	Otariid	All species
Vibratory Removal—Steel	1,820 m	1,820 m	1,820 m	1,820 m	10 m.
Vibratory Removal—Timber	1,360 m	1,360 m	1,360 m	1,360 m	10 m.
Dredging	110 m	110 m	110 m	110 m	10 m.
Blasting (PTS)	1,465 m	380 m	235 m	95 m	N/A.
Blasting (TTS)	4,910 m	2,120 m	1,000 m	280 m	N/A.

As shown, the largest Level B harassment zone is greater than 4,000 m, making it unlikely that PSOs will be able to view the entire harassment area. Due to this, Level B harassment exposures will be recorded and extrapolated based upon the number of observed take and the percentage of the Level B harassment zone that was not visible.

Pre-Activity Monitoring—Prior to the start of daily in-water activity, or whenever a break in activity of 30 minutes or longer occurs, the observer will observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone will be cleared when a marine mammal has not been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, activity cannot proceed until the animal has left the zone or has not been observed for 15 minutes. If the Level B harassment zone has been observed for 30 minutes and non-permitted species are not present within the zone, activity can commence in good visibility conditions. Work can continue even if visibility becomes impaired within the monitoring zone. When a marine mammal permitted for Level B harassment take is present in the monitoring zone, activities may begin and Level B harassment take will be recorded. As stated above, if the entire monitoring zone is not visible at the start of construction, activity can begin. If work ceases for more than 30 minutes, the pre-activity monitoring of both the monitoring zone and shutdown zone will commence.

Charges for blasting will not be laid if marine mammals are within the shutdown zone or appear likely to enter the shutdown zone. However, once charges are placed, they cannot be safely left undetonated for more than 24 hours. For blasting, the TTS zone will be monitored for a minimum of 30 minutes prior to detonating the blasts. If a marine mammal is sighted within the TTS zone, blasting will be delayed until the zone is clear of marine mammals for 30 minutes. This will continue as long as practicable within the constraints of the blasting design but not beyond sunset on the same day as the charges cannot lay dormant for more than 24 hours, which may force the detonation of the blast in the presence of marine mammals. Charges will be laid as early as possible in the morning and stemming procedures will be used to fill the blasting holes to potentially reduce the noise from the blasts. Blasting will only be planned to occur in good visibility conditions, and at least 30 minutes after sunrise and at least one hour prior to sunset. The TTS zone will also be monitored for one hour post-blasting.

Based on our evaluation of the applicant's measures, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth, requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Visual Monitoring

Monitoring will be conducted 30 minutes before, during, and 30 minutes after construction activities. In addition, observers must record all incidents of marine mammal occurrence, regardless of distance from activity, and must document any behavioral reactions in concert with distance from construction activities.

Protected Species Observers (PSO) will be land-based observers. For dredging, pile removal, and blasting, one, two, and four PSOs will be required, respectively. Observers will be stationed at locations that provide adequate visual coverage for shutdown and monitoring zones. Potential observation locations are depicted in Figures 2 and 3 of the applicant's Marine Mammal Mitigation and Monitoring Plan. A minimum of one observer will be placed at a vantage point providing total coverage of the monitoring zones and for observation zones larger than 500 m, at least one other additional observer will be placed at the outermost float or other similar vantage point in order to observe the extend observation zone. During blasting, pre-blast monitoring, and post-blast monitoring, four observers will be on duty. Optimal observation locations will be selected based on visibility and the type of work occurring. All PSOs will be trained in marine mammal identification and behaviors and are required to have no other project-related tasks while conducting monitoring. In addition, monitoring will be conducted by qualified observers, who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Monitoring of construction activities must be conducted by qualified PSOs (see below), who must have no other assigned tasks during monitoring periods. The applicant must adhere to the following conditions when selecting observers:

- Independent PSOs must be used (*i.e.,* not construction personnel);
- At least one PSO must have prior experience working as a marine mammal observer during construction activities;
- Other PSOs may substitute education (degree in biological science or related field) or training for experience;

• Where a team of three or more PSOs are required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience working as a marine mammal observer during construction; and

• The applicant must submit PSO curriculum vitaes for approval by NMFS.

The applicant must ensure that observers have the following additional qualifications:

• Ability to conduct field observations and collect data according to assigned protocols;

• Experience or training in the field identification of marine mammals, including the identification of behaviors;

• Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

• Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and

• Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

At least 24 hours prior to blasting, the City will notify the Office of Protected Resources, NMFS Alaska Regional Office, and the Alaska Regional Stranding Coordinator that blasting is planned to occur, as well as notify these parties within 24 hours after blasting that blasting actually occurred.

A draft marine mammal monitoring report will be submitted to NMFS within 90 days after the completion of construction activities. It will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

• Date and time that monitored activity begins or ends;

• Construction activities occurring during each observation period;

• Weather parameters (*e.g.,* percent cover, visibility);

• Water conditions (*e.g.,* sea state, tide state);

• Species, numbers, and, if possible, sex and age class of marine mammals;

• Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from construction activity;

• Distance from construction activities to marine mammals and distance from the marine mammals to the observation point;

• Locations of all marine mammal observations; and

• Other human activity in the area.

If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as a serious injury or mortality, The City of Juneau will immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS Alaska Regional Office, and the Alaska Regional Stranding Coordinator. The report will include the following information:

• Description of the incident;

• Environmental conditions (*e.g.,* Beaufort sea state, visibility);

• Description of all marine mammal observations in the 24 hours preceding the incident;

• Species identification or description of the animal(s) involved;

• Fate of the animal(s); and

• Photographs or video footage of the animal(s) (if equipment is available).

Activities will not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with The City of Juneau to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The City of Juneau will not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that The City of Juneau discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition as described in the next paragraph), the City of Juneau will immediately report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator. The report will include the same information identified in the paragraph above. Activities will be able to continue while NMFS reviews the circumstances of the incident. NMFS will work with the City of Juneau to determine whether modifications in the activities are appropriate.

In the event that the City of Juneau discovers an injured or dead marine mammal and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the City of Juneau will report the incident to the Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinator, within 24 hours of the discovery. The City of Juneau will provide photographs, video footage (if available), or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Coordinator.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

As stated in the mitigation section, shutdown zones equal to or exceeding Level A isopleths shown in Table 8 for all activities other than blasting will be implemented. Serious injury or mortality is not anticipated nor

authorized. Behavioral responses of marine mammals to pile removal and dredging, if any, are expected to be mild and temporary due to the short term duration of the noise produced by the source as well as the relatively low source levels when compared with ambient levels in an area with high levels of anthropogenic activity. Given the short duration of noise-generating activities per day and that pile removal and dredging would occur for 55 days, any harassment would be temporary. The blasting will only occur across two days, with one blast scheduled on each day. In addition, the project includes generally low level sound sources, such as dredging and removal of piles much smaller than those frequently used in other construction projects. In addition, for all species except humpbacks, there are no known biologically important areas near the project zone that would be impacted by the construction activities. The region of Statter Harbor where the project will take place is located in a developed harbor area with regular marine vessel traffic. Although there is a resident harbor seal population, the area of construction is not known to be of important biological significance such as used for breeding or foraging. In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- There are no known biologically important areas within the project area;
- The City of Juneau will implement mitigation measures such as shut down zones for all in-water and over-water activities;
- Monitoring reports from similar work in Alaska have documented little to no effect on individuals of the same species impacted by the specified activities;

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Table 9 below shows take as a percent of population for each of the species listed above.

TABLE 9—SUMMARY OF AUTHORIZED INSTANCES OF LEVEL A AND LEVEL B HARASSMENT

Species	DPS/stock	Number of Level B takes by stock	Number of Level A takes by stock	Stock abundance	Percent of population [1]
Steller sea lion	Eastern DPS	1,418	29	41,638	3.48
	Western DPS	29	1	53,303	0.06
Harbor seal	Lynn Canal	1,690	104	9,478	18.93
Harbor porpoise	Southeast Alaska	76	8	975	8.62
Humpback whale	Central North Pacific Stock	24	0	10,103	0.24

Table 9 presents the number of animals that could be exposed to received noise levels that may result in Level A or Level B take for the construction at Statter Harbor. Our analysis shows that less than one third of the best available population estimate of each affected stock could be taken. Therefore, the numbers of animals authorized to be taken for all species would be considered small relative to the relevant stocks or populations even if each estimated taking occurred to a new individual—an extremely unlikely scenario. For pinnipeds, especially harbor seals and Steller sea lions, occurring in the vicinity of the project site, there will almost certainly be some overlap in individuals present day-to-day, and these takes are likely to occur only within some small portion of the overall regional stock.

Based on the analysis contained herein of the activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. The project is not known to occur in an important subsistence hunting area. It is a developed area with regular marine vessel traffic and the project is one year of a multi-year harbor improvement effort that is already underway. The work at this harbor has been publicized and public input has been solicited on the overall improvement.

Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the mitigation and monitoring measures, NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses from the City of Juneau's activities.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that will preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance

of the IHA qualifies to be categorically excluded from further NEPA review.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS Alaska Regional Office, whenever we propose to authorize take for endangered or threatened species.

There are two marine mammal species (western DPS Steller sea lion; Mexico DPS humpback whale) with confirmed occurrence in the project area that are listed as endangered under the ESA. The NMFS Alaska Regional Office issued a Biological Opinion on February 22, 2019 under section 7 of the ESA, on the issuance of an IHA to the City of Juneau under section 101(a)(5)(D) of the MMPA by the NMFS Office of Protected Resources. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of western DPS Steller sea lions or the Mexico DPS of humpback whales, and is not likely to destroy or adversely modify western DPS Steller sea lion critical habitat.

Authorization

NMFS has issued an IHA to the City of Juneau for the potential harassment of small numbers of four marine mammal species incidental to the Statter Harbor improvements project in Auke Bay, Alaska, provided the previously mentioned mitigation, monitoring and reporting.

Dated: March 20, 2019.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–05668 Filed 3–22–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2018–OS–0092]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: 30-day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 24, 2019.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Federal Post Card Application (FPCA), Standard Form 76 (SF–76); OMB Control Number 0704–0503.

Type of Request: Revision.

Number of Respondents: 1,200,000.

Responses per Respondent: 1.

Annual Responses: 1,200,000.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 300,000.

Needs and Uses: The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), 52 U.S.C. 203, requires the Presidential designee (Secretary of Defense) to prescribe official forms, containing an absentee voter registration application, an absentee ballot request application and a backup ballot for use by the States to permit absent uniformed services voters and overseas voters to participate in general, special, primary and runoff elections for Federal office. The authority for the States to collect personal information comes from UOCAVA. The burden for collecting this information resides in the States. The Federal government neither collects nor retains any personal information associated with these forms.

The collected information will be used by election officials to process uniformed service members, spouses and overseas citizens who submit their information to register to vote, receive an absentee ballot or cast a write-in ballot. The collected information will be retained by election officials to provide election materials, including absentee ballots, to the uniformed services, their eligible family members and overseas voters during the form's eligibility period provided by State law. No information from the Federal Post Card Application (FPCA) is collected or retained by the Federal government.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 20, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–05608 Filed 3–22–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2018–OS–0091]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: 30-day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by April 24, 2019.

ADDRESSES: Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *oira_submission@omb.eop.gov.* Please identify the

proposed information collection by DoD Desk Officer, Docket ID number, and title of the information collection.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Federal Write-In Absentee Ballot (FWAB); Standard Form 186; OMB Control Number 0704–0502.

Type of Request: Revision.

Number of Respondents: 1,200,000.

Responses per Respondent: 1.

Annual Responses: 1,200,000.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 300,000.

Needs and Uses: The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), 52 U.S.C. 203, requires the Presidential designee (Secretary of Defense) to prescribe official forms, containing an absentee voter registration application, an absentee ballot request application and a backup ballot for use by the States to permit absent uniformed services voters and overseas voters to participate in general, special, primary and runoff elections for Federal office.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: March 20, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–05610 Filed 3–22–19; 8:45 am]

BILLING CODE 5001–06–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Notice of this meeting was published in the **Federal Register** of January 31, 2019, in FR Doc. 2019–00806, on page 678. Notice of the meeting's postponement was published in the **Federal Register** of March 20, 2019, in FR Doc. 2019–05374, on page 10302.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: March 21, 2019, 9:00 a.m.–12:00 p.m.

CHANGES IN THE MEETING: This meeting will now be held on April 23, 2019, from 1:00 p.m. to 3:00 p.m.

CONTACT PERSON FOR MORE INFORMATION: Glenn Sklar, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2901, (800) 788–4016. This is a toll-free number.

Dated: March 21, 2019.

Bruce Hamilton,

Chairman.

[FR Doc. 2019–05727 Filed 3–21–19; 4:15 pm]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0033]

Agency Information Collection Activities; Comment Request; Transition and Postsecondary Programs for Students With Intellectual Disabilities (TPSID) Evaluation Protocol

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 24, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0033. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9089, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Shedita Alston, 202–453–7090.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Transition and Postsecondary Programs for Students with Intellectual Disabilities (TPSID) Evaluation Protocol.

OMB Control Number: 1840–0825.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Private Sector *Total Estimated Number of Annual Responses:* 50.

Total Estimated Number of Annual Burden Hours: 1,110.

Abstract: In October 2015, the Institute for Community Inclusion (ICI), UMass Boston received a five-year cooperative agreement from the Office of Postsecondary Education to serve as the National Coordinating Center (NCC) for colleges and universities implementing inclusive higher education programs for students with intellectual disabilities, including 25 newly-funded model demonstration projects aimed at creating inclusive comprehensive transition and postsecondary programs for students with intellectual disabilities known as Transition and Postsecondary Programs for Students with Intellectual Disabilities (TPSIDs).

To reduce respondent burden, the NCC has streamlined and simplified the previously approved evaluation system for the TPSID programs. The NCC will enhance the collection and analyses of longitudinal follow up data from the new 25 TPSID model programs via an already developed and previously OMB approved evaluation system for the TPSID programs. The revised data collection system is part of an evaluation effort. The system will collect program data at the institutions from TPSID program staff via an online, secure data management system.

Dated: March 20, 2019.

Stephanie Valentine,

PRA Clearance Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–05638 Filed 3–22–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC19–68–000.

Applicants: Clearway Energy Group LLC, Clearway Energy, Inc.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Clearway Energy Group LLC, et al.

Filed Date: 3/18/19.

Accession Number: 20190318–5118.

Comments Due: 5 p.m. ET 4/8/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2794–028; ER12–1825–026; ER14–2672–013.

Applicants: EDF Trading North America, LLC, EDF Energy Services, LLC, EDF Industrial Power Services (CA), LLC.

Description: Notice of Non-Material Change in Status of the EDF Sellers.

Filed Date: 3/18/19.

Accession Number: 20190318–5124.

Comments Due: 5 p.m. ET 4/8/19.

Docket Numbers: ER19–1371–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: FPL and FKEC Amendments to Rate Schedule FERC No. 322 to be effective 1/1/2018.

Filed Date: 3/18/19.

Accession Number: 20190318–5103.

Comments Due: 5 p.m. ET 4/8/19.

Docket Numbers: ER19–1372–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: FPL and LCEC Amendments to Rate Schedule FERC No. 317 to be effective 1/1/2018.

Filed Date: 3/18/19.

Accession Number: 20190318–5109.

Comments Due: 5 p.m. ET 4/8/19.

Docket Numbers: ER19–1373–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–03–19_SA 3269 Flying Cow Wind—Otter Tail GIA (J493) to be effective 3/5/2019.

Filed Date: 3/19/19.

Accession Number: 20190319–5035.

Comments Due: 5 p.m. ET 4/9/19.

Docket Numbers: ER19–1374–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–03–19_SA 3271 Bondurant-Montezuma 345kV Structure Replacement MPFCA to be effective 3/20/2019.

Filed Date: 3/19/19.

Accession Number: 20190319–5065.

Comments Due: 5 p.m. ET 4/9/19.

Docket Numbers: ER19–1375–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–03–19_SA 3273 150 Mvar Cap Bank at Blackhawk 345kV MPFCA to be effective 3/20/2019.

Filed Date: 3/19/19.

Accession Number: 20190319–5070.

Comments Due: 5 p.m. ET 4/9/19.

Docket Numbers: ER19–1376–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–03–19_SA 3272 100 Mvar Switched Cap Bank at Montezuma 345 kV MPFCA to be effective 3/20/2019.

Filed Date: 3/19/19.

Accession Number: 20190319–5072.

Comments Due: 5 p.m. ET 4/9/19.

Docket Numbers: ER19–1377–000.

Applicants: Alabama Power Company.

Description: § 205(d) Rate Filing: Wilsonville Solar (Douglas Solar) LGIA Filing to be effective 3/8/2019.

Filed Date: 3/19/19.

Accession Number: 20190319–5078.

Comments Due: 5 p.m. ET 4/9/19.

Docket Numbers: ER19–1378–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–03–19_SA 3274 1x50 Mvar Cap Bank at Midport 161 kV MPFCA to be effective 3/20/2019.

Filed Date: 3/19/19.

Accession Number: 20190319–5086.

Comments Due: 5 p.m. ET 4/9/19.

Docket Numbers: ER19–1379–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–03–19_SA 3275 J438 POI Add 25 Mvar Cap Bank MPFCA to be effective 3/20/2019.

Filed Date: 3/19/19.

Accession Number: 20190319–5112.

Comments Due: 5 p.m. ET 4/9/19.

Docket Numbers: ER19–1380–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: LGIA Luz Solar Partners LTD., VI, CAISO & SCE—Kramer Junction 6 Project to be effective 2/21/2019.

Filed Date: 3/19/19.

Accession Number: 20190319–5124.

Comments Due: 5 p.m. ET 4/9/19.

Docket Numbers: ER19–1381–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: LGIA Luz Solar Partners LTD., VII, CAISO & SCE—Kramer Junction 7 Project to be effective 3/2/2019.

Filed Date: 3/19/19.

Accession Number: 20190319–5130.

Comments Due: 5 p.m. ET 4/9/19.

Docket Numbers: ER19–1382–000.

Applicants: FirstEnergy Solutions Corp.

Description: Compliance filing: MBR Compliance Filing [ER18–809; ER18–810] to be effective 6/1/2018.

Filed Date: 3/19/19.

Accession Number: 20190319–5131.

Comments Due: 5 p.m. ET 4/9/19.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES19–19–000.

Applicants: Southwest Power Pool, Inc.

Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities of Southwest Power Pool, Inc.

Filed Date: 3/19/19.

Accession Number: 20190319–5105.

Comments Due: 5 p.m. ET 4/9/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–05628 Filed 3–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Public Notice: Records Governing Off-the-Record Communications

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202)502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
CP17–101–000	3/12/19	Larson Design Group.
Exempt:		
P–13318–003	3/12/19	Advisory Council on Historic Preservation.

Dated: March 19, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–05630 Filed 3–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14960–000]

Renewable Energy Aggregators; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 10, 2019, Renewable Energy Aggregators filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Big Rock Pumped Storage Hydro Project to be located in Big Rock in Buchanan County, Virginia. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new upper reservoir with a surface area of 27 acres and a storage capacity of 404.97 acre-feet at a surface elevation of approximately 1,883 feet above mean sea level (msl) created through construction of a new roller-compacted concrete or rock-fill dam; (2) a new lower reservoir with a surface area of 9.13 acres and a storage capacity of 547.76 acre-feet at a surface elevation of 1,241 feet msl; (3) a new 2,053-foot-long, 4-foot-diameter penstock connecting the upper and lower reservoirs; (4) a new 150-foot-long, 50-foot-wide, 25-foot-high powerhouse containing as many as two turbine-generator units with a total rated capacity of 20 megawatts; (5) a new transmission line connecting the powerhouse to a nearby electric grid interconnection point with options to evaluate multiple grid interconnection locations; and (6) appurtenant facilities. The proposed project would have an annual generation of 86,449.37 megawatt-hours.

Applicant Contact: Adam Rousselle II, Renewable Energy Aggregators, 5710 Oak Crest Drive, Doylestown, PA 18902; phone: 215–485–1708.

FERC Contact: Woohee Choi; phone: (202) 502–6336.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14960–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14960) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: March 19, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05601 Filed 3–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP18–1167–001.

Applicants: Equitrans, L.P.

Description: Motion of the Peoples LDCs for sixty (60) Day Deferral of Commission Action on December 28, 2018 Equitrans, L.P. 501–G tariff filing under RP18–1167.

Filed Date: 3/11/19.

Accession Number: 20190311–5254.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: RP19–817–000.

Applicants: Panhandle Eastern Pipe Line Company, LP.

Description: Compliance filing Flow Through of Penalty Revenues Report filed on 3–12–19.

Filed Date: 3/12/19.

Accession Number: 20190312–5006.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: RP19–818–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated rate—Con Ed to Pay Less 798603 to be effective 4/1/2019.

Filed Date: 3/12/19.

Accession Number: 20190312–5007.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: RP19–819–000.

Applicants: Texas Eastern Transmission, LP.

Description: § 4(d) Rate Filing: Negotiated Rate—EQT to Colonial 8956450 to be effective 4/1/2019.

Filed Date: 3/12/19.

Accession Number: 20190312–5008.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: RP19–820–000.

Applicants: Empire Pipeline, Inc.

Description: § 4(d) Rate Filing: Fuel Tracker (Empire tracking Supply Storage) to be effective 4/1/2019.

Filed Date: 3/12/19.

Accession Number: 20190312–5009.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: RP19–821–000.

Applicants: Northern Natural Gas Company.

Description: Compliance filing 20190312 NAESB Filing to be effective 8/1/2019.

Filed Date: 3/12/19.

Accession Number: 20190312–5110.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: RP19–822–000.

Applicants: Kern River Gas Transmission Company.

Description: Compliance filing 2019 NAESB 3.1 to be effective 8/1/2019.

Filed Date: 3/12/19.

Accession Number: 20190312–5157.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: RP19–823–000.

Applicants: Northwest Pipeline LLC.

Description: § 4(d) Rate Filing: Miscellaneous and Housekeeping Filing 2019 to be effective 4/12/2019.

Filed Date: 3/12/19.

Accession Number: 20190312–5162.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: RP19–824–000.

Applicants: Dominion Energy Questar Pipeline, LLC.

Description: Compliance filing Order 587–Y NAESB 3.1 Compliance Filing to be effective 8/1/2019.

Filed Date: 3/12/19.

Accession Number: 20190312–5201.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: RP19–825–000.

Applicants: Dominion Energy Overthrust Pipeline, LLC.

Description: Compliance filing Order 587–Y NAESB 3.1 Compliance Filing to be effective 8/1/2019.

Filed Date: 3/12/19.

Accession Number: 20190312–5202.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: RP19–826–000.

Applicants: Questar Southern Trails Pipeline Company.

Description: Compliance filing Order 587–Y NAESB 3.1 Compliance Filing to be effective 8/1/2019.

Filed Date: 3/12/19.

Accession Number: 20190312–5207.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: RP19–827–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: Rate Schedule LSS and SS–2 Tracker Filing eff 4/1/2019 to be effective 4/1/2019.

Filed Date: 3/12/19.

Accession Number: 20190312–5208.

Comments Due: 5 p.m. ET 3/25/19.

Docket Numbers: RP19–828–000.

Applicants: White River Hub, LLC.

Description: Compliance filing Order 587–Y NAESB 3.1 Compliance Filing to be effective 8/1/2019.

Filed Date: 3/12/19.

Accession Number: 20190312–5213.

Comments Due: 5 p.m. ET 3/25/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2019..

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–05631 Filed 3–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14959–000]

Renewable Energy Aggregators; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 10, 2019, Renewable Energy Aggregators filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Bechtelsville Pumped Storage Hydro Project to be located in Bechtelsville Borough and Colebrookdale Township in Berks County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new upper reservoir with a surface area of 39 acres and a storage capacity of 584.96 acre-feet at a surface elevation of approximately 696 feet above mean sea level (msl) created through construction of a new roller-compacted concrete or rock-fill dam; (2) a new lower reservoir with a surface area of 18.7 acres and a storage capacity of 1,121.92 acre-feet at a surface elevation of 243 feet msl; (3) a new 1,957-foot-long, 4-foot-diameter penstock connecting the upper and lower reservoirs; (4) a new 150-foot-long, 50-foot-wide, 25-foot-high powerhouse containing as many as two turbine-generator units with a total rated capacity of 20 megawatts; (5) a new transmission line connecting the powerhouse to a nearby electric grid interconnection point with options to evaluate multiple grid interconnection locations; and (6) appurtenant facilities. The proposed project would have an annual generation of 88,110.14 megawatt-hours.

Applicant Contact: Adam Rousselle II, Renewable Energy Aggregators, 5710 Oak Crest Drive, Doylestown, PA 18902; phone: 215–485–1708.

FERC Contact: Woohee Choi; phone: (202) 502–6336.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14959–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14959) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: March 19, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05603 Filed 3–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–69–000.

Applicants: Glaciers Edge Wind Project, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Glaciers Edge Wind Project, LLC.

Filed Date: 3/13/19.

Accession Number: 20190313–5074.

Comments Due: 5 p.m. ET 4/3/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2762–002.

Applicants: Messer Energy Services, Inc.

Description: Notice of Non-Material Change in Status of Messer Energy Services, Inc.

Filed Date: 3/11/19.

Accession Number: 20190311–5275.

Comments Due: 5 p.m. ET 4/1/19.

Docket Numbers: ER19–1265–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 20190313 Joint Operating Agreement—Amendment to be effective 5/13/2019.

Filed Date: 3/13/19.

Accession Number: 20190313–5004.

Comments Due: 5 p.m. ET 4/3/19.

Docket Numbers: ER19–1266–000.

Applicants: Calpine Corporation.

Description: Request for Limited Waiver of Calpine Corporation.

Filed Date: 3/12/19.

Accession Number: 20190312–5232.

Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–1267–000.

Applicants: Midcontinent Independent System Operator, Inc. Duke Energy Indiana, LLC.

Description: § 205(d) Rate Filing: 2019–03–13_SA 3280 DEI-Roaming Bison Renewables E&P (J754) to be effective 3/14/2019.

Filed Date: 3/13/19.

Accession Number: 20190313–5068.

Comments Due: 5 p.m. ET 4/3/19.

Docket Numbers: ER19–1268–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Tri-State NITSA Rev 9 to be effective 3/1/2019.

Filed Date: 3/13/19.

Accession Number: 20190313–5121.

Comments Due: 5 p.m. ET 4/3/19.

Docket Numbers: ER19–1269–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–03–13_SA 3263 Diamond Trail Wind Energy—MidAmerican GIA (J530) to be effective 2/27/2019.

Filed Date: 3/13/19.

Accession Number: 20190313–5125.

Comments Due: 5 p.m. ET 4/3/19.

Docket Numbers: ER19–1270–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–03–13_SA 3264 Brown Valley Conductor Clearance MPFCA (J488 J493 J526) to be effective 5/13/2019.

Filed Date: 3/13/19.

Accession Number: 20190313–5127.

Comments Due: 5 p.m. ET 4/3/19.

Docket Numbers: ER19–1271–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: ISO–NE and NEPOOL; Filing re Significant

Decrease Calculations to be effective 3/14/2019.

Filed Date: 3/13/19.

Accession Number: 20190313–5128.

Comments Due: 5 p.m. ET 4/3/19.

Docket Numbers: ER19–1278–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Amended GIA and Distrib Serv Agmt Johanna Energy Center—Santa Ana Storage Proj to be effective 3/14/2019.

Filed Date: 3/13/19.

Accession Number: 20190313–5137.

Comments Due: 5 p.m. ET 4/3/19.

Docket Numbers: ER19–1279–000.

Applicants: Messer Energy Services, Inc.

Description: § 205(d) Rate Filing: Notice of Succession to be effective 3/14/2019.

Filed Date: 3/13/19.

Accession Number: 20190313–5149.

Comments Due: 5 p.m. ET 4/3/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–05629 Filed 3–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator

	Docket Nos.
Crocker Wind Farm, LLC	EG19–29–000
Wheelabrator Concord Company, L.P.	EG19–30–000
Vermillion Power, L.L.C	EG19–31–000
Coolidge Power LLC	EG19–32–000
Valentine Solar, LLC	EG19–33–000
Techren Solar V LLC	EG19–34–000
226HC 8me LLC	EG19–35–000
Ranchero Wind Farm, LLC	EG19–36–000
Stryker 22 LLC	EG19–37–000
Plumsted 537 LLC	EG19–38–000
Pinetree Power LLC	EG19–40–000
Innovative Solar 54, LLC	EG19–41–000
CCP–PL Lessee IV, LLC	EG19–42–000
Innovative Solar 67, LLC	EG19–43–000
CCP–PL Lessee V, LLC	EG19–44–000

Take notice that during the month of February 2019, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a) (2018).

Dated: March 13, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary

[FR Doc. 2019–05633 Filed 3–22–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–52–000]

Natural Gas Pipeline Company of America, LLC; Notice of Schedule for Environmental Review of the Lockridge Extension Pipeline Project

On January 18, 2019, Natural Gas Pipeline Company of America, LLC (Natural) filed an application in Docket No. CP19–52–000 with the Federal Energy Regulatory Commission (FERC or Commission) pursuant to section 7(c) of the Natural Gas Act to construct, operate and maintain new facilities in Ward, Reeves, and Pecos Counties, Texas. The proposed project is known as the Lockridge Extension Pipeline Project (Project) and would provide up to 500 million standard cubic feet per day of firm transportation capacity southbound on Natural's existing system to a new bidirectional interconnect with Trans-Pecos Pipeline, LLC, at the Waha Hub, a major natural gas trading point in the Gulf region.

On February 1, 2019, the Commission issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—May 31, 2019

90-day Federal Authorization Decision Deadline—August 29, 2019

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The Lockridge Extension Pipeline Project would consist of the following facilities:

- approximately 16.8 miles, of new 30-inch-diameter pipeline in Ward, Reeves, and Pecos Counties, Texas;
- a new bidirectional interconnect, including two 10-inch-diameter ultrasonic meter runs and a 30-inch-diameter tap, in Pecos County, Texas; and
- appurtenant and auxiliary facilities, including:
  - two 30-inch-diameter tees, valves, and risers for potential future use;
  - piping and valves to interconnect the pipeline extension to the existing Lockridge Pipeline in Ward County, Texas; and
  - relocating a pig receiver currently at the beginning of the pipeline extension to the end of pipeline extension in Pecos County, Texas.[1]

Background

On March 1, 2019, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Lockridge Extension Pipeline Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. All substantive comments will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

[1] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP19–52), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: March 19, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05602 Filed 3–22–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9991–31–Region 10]

Proposed Reissuance of NPDES General Permit for Offshore Seafood Processors in Alaska (AKG524000)

AGENCY: Environmental Protection Agency, Region 10.

ACTION: Notice of proposed reissuance of NPDES General Permit and request for public comment.

SUMMARY: The Director, Office of Water and Watersheds, Environmental Protection Agency (EPA) Region 10, is proposing to reissue a National Pollutant Discharge Elimination System (NPDES) General Permit to Offshore Seafood Processors in Alaska. As proposed, the General Permit will authorize discharges of seafood processing waste from facilities (also referred to as ''vessels'') that discharge at least 3 nautical miles (NM) or greater from the Alaska shore as delineated by mean lower low water (MLLW) or a closure line and which engage in the processing of fresh, frozen, canned, smoked, salted or pickled seafood, the processing of mince, or the processing of meal, paste and other secondary by-products.

DATES: Comments must be received by May 9, 2019.

ADDRESSES: You may send comments by any of the following methods:

Comments on the draft General Permit should be sent to Director, Office of Water and Watersheds; USEPA Region 10; 1200 Sixth Avenue, Suite 155, OWW–191; Seattle, WA 98101 and may also be submitted by fax to (206) 553–0165 or electronically to *ziobro.joseph@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Permit documents may be found on the EPA Region 10 website at: *https://www.epa.gov/npdes-permits/npdes-general-permit-offshore-seafood-processors-alaska.* Copies of the draft general permit and Fact Sheet are also available upon request. Requests may be made to Audrey Washington at (206) 553–0523 or to Joseph Ziobro at (206) 553–2723. Requests may also be electronically mailed to: *washington.audrey@epa.gov,* or *ziobro.joseph@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

There are currently fewer than 100 permitted seafood processors that discharge effluent and operate more than 3 NM from the Alaskan shore or closure line. Most of the seafood processed on the vessels are pollock and Pacific cod. Other species have included sablefish, arrowtooth flounder, Pacific hake, jack mackerel, Alaska plaice, Pacific Ocean perch, rockfish, sculpin, lumpsucker, skate, sole, Greenland turbot, bairdi, opilio, and king crab. The permit authorizes the discharge of seafood processing wastes that are mostly waste solids (shell, bones, skin, scales, flesh and organs), blood, body fluids, slime, oils and fats from cooking and rendering operations; disinfectants; and miscellaneous wastewaters. This Permit does not authorize the discharge of pollutants from any shore-based facilities, nor any pollutants from vessels transporting seafood processing waste solely for the purpose of dumping materials into ocean waters. The median annual waste discharged from a vessel in 2014 and 2015 was 7.1 and 6.2 million pounds, respectively.

A description of the basis for the conditions and requirements of the draft general permit is given in the Fact Sheet. In addition, the EPA has completed an Ocean Discharge Criteria Evaluation pursuant to 40 CFR Subpart M which supports the basis for the conditions and requirements in the draft general permit. Facilities will receive a written notification from the EPA whether permit coverage and authorization to discharge under the general permit is approved. Major changes from the 2009 General Permit include the removal of the metals monitoring requirement and the removal of the requirement to grind effluent except in cases when vessels that discharge more than 10 million pounds per annual reporting year are discharging within Steller Sea Lion critical habitat areas designated by the National Marine Fisheries Service.

The EPA is preparing a Biological Evaluation for this Permit action. Consultations under the Endangered Species Act between the EPA and the National Marine Fisheries Service and the U.S. Fish and Wildlife Service are ongoing. Also for review in Section X of the Fact Sheet are potential mitigation measures provided by National Marine Fisheries Service for vessels that are exempt from grinding requirements in Steller sea lion critical habitat.

II. Other Legal Requirements

This action was submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866, *Regulatory Planning and Review,* and 13563, *Improving Regulation and Regulatory Review,* and was determined to be not significant. Compliance with Endangered Species Act, Essential Fish Habitat, Paperwork Reduction Act, and other requirements are discussed in the Fact Sheet to the proposed permit.

Dated: March 15, 2019.

Daniel D. Opalski,

Director, Office of Water and Watersheds, Region 10.

[FR Doc. 2019–05661 Filed 3–22–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2019–0090; FRL–9990–83]

Potassium Chloride; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a quarantine exemption request from the Maryland Department of Agriculture to use the pesticide potassium chloride to treat Hyde's Quarry in Carroll County, Maryland, to control zebra mussels. The Applicant proposes the use of a new chemical which has not been registered by EPA as a pesticide. EPA is soliciting public comment before making the decision whether to grant the exemption.

DATES: Comments must be received on or before April 9, 2019.

ADDRESSES: Submit your comments, identified by docket identification (ID)

number EPA–HQ–OPP–2019–0090, by one of the following methods:

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

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

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

II. What action is the Agency taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the EPA Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the EPA Administrator determines that emergency conditions exist which require the exemption. Maryland Department of Agriculture has requested the EPA Administrator to issue a quarantine exemption for the use of potassium chloride (CAS No. 7447–40–7) in Hyde's Quarry in Carroll County, Maryland, to control zebra mussels. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the Applicant asserts that zebra mussels need to be eradicated in this body of water to prevent the establishment and spread of this aquatic invasive species. The mussels have a variety of detrimental environmental, economic, and recreational impacts. Without treatment it is likely that the mussels will establish a reproducing, self-sustaining population, which would, in turn, serve as another source population and possibly contribute to the infestation of other aquatic areas. The Applicant states that the requested chemical provides the best efficacy for the desired result with the best economic and environmental feasibility and least impact to human health and the environment.

The Applicant proposes to treat Hyde's Quarry in Carroll County, Maryland, containing an estimated 110–115 million gallons of water. The Applicant proposes to use a 20% potassium chloride solution mixed from muriate of potash and water. Applications will be made from a boat using a specially designed diffuser assembly to obtain a quarry-wide concentration of 100 parts per million over a period of approximately 14 days. This equates to approximately 8,140 gallons of stock solution introduced daily for the anticipated introduction of approximately 114,000 gallons over the 14-day treatment period. It is anticipated that only one application will be made, but up to four may be made if needed.

This notice does not constitute a decision by EPA on the application itself. The regulations governing FIFRA section 18 require publication of a notice of receipt of an application for a quarantine exemption proposing use of a new chemical (*i.e.,* an active ingredient) which has not been registered by EPA for use as a pesticide. The notice provides an opportunity for public comment on the application.

The Agency will review and consider all comments received during the comment period in determining whether to issue the quarantine exemption requested by the Maryland Department of Agriculture.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 15, 2019.

Daniel Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2019–05664 Filed 3–22–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2019–0091; FRL–9990–87]

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. EPA intends to

grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw its requests. If these requests are granted, any sale, distribution, or use of the products listed in this notice will be permitted after the registrations have been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before April 24, 2019.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2019–0091, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

Submit written withdrawal request by mail to: Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. ATTN: Christopher Green.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT: Christopher Green, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This notice announces receipt by EPA of requests from registrants to cancel certain pesticide product registrations. The affected products and the registrants making the requests are identified in Tables 1 and 2 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this requests, EPA intends to issue an order canceling the affected registrations.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredients
100–1341	100	Meridian 0.20G	Thiamethoxam.
100–1346	100	Meridian 0.14G	Thiamethoxam.
100–1399	100	Avicta Complete Corn 500	Azoxystrobin; Metalaxyl-M; Fludioxonil; Thiabendazole; Abamectin & Thiamethoxam.
100–1426	100	THX_MXM_FDL_TBZ FS	Thiamethoxam; Metalaxyl-M; Fludioxonil & Thiabendazole.
100–1449	100	Adage Deluxe	Thiamethoxam; Metalaxyl-M; Fludioxonil & Azoxystrobin.
100–1450	100	Adage Premier	Thiamethoxam; Metalaxyl-M; Fludioxonil; Azoxystrobin & Thiabendazole.
264–1125	264	Emesto Quantum	Clothianidin & Penflufen.
59639–164	59639	V–10170 0.25 G GL Insecticide	Clothianidin.
59639–176	59639	Inovate Seed Protectant	Clothianidin; Metalaxyl & Ipconazole.
59639–187	59639	Inovate Neutral Seed Protectant	Clothianidin; Metalaxyl & Ipconazole.
59639–214	59639	Aloft GC G Insecticide	Bifenthrin & Clothianidin.
72155–95	72155	Flower, Rose & Shrub Care III	Clothianidin & Imidacloprid.

Table 2 of this unit includes the names and addresses of record for the registrants of the products listed in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATIONS

EPA Company No.	Company name and address
100	Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419–8300.
264	Bayer CropScience, LP 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709.
59639	Valent U.S.A., LLC, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596–8025.
72155	Bayer Advanced, Business Unit of Bayer CropScience, LP 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709.

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

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants have requested that EPA waive the 180-day comment period.

Accordingly, EPA will provide a 30-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Requests

Registrants who choose to withdraw a request for product cancellation should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the action. If the requests for voluntary cancellation are granted, the Agency intends to publish the cancellation order in the **Federal Register**.

In any order issued in response to these requests for cancellation of product registrations, EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1 of Unit II.

For voluntary product cancellations, registrants will be permitted to sell and distribute existing stocks of voluntarily canceled products for 1 year after the effective date of the cancellation, which will be the date of publication of the cancellation order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the products identified in Table 1 of Unit II, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 13, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019–05667 Filed 3–22–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1131]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before May 24, 2019. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1131.

Title: Implementation of the NET 911 Improvement Act of 2008: Location Information From Owners and Controllers of 911 and E911 Capabilities.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, and State, Local and Tribal Government.

Number of Respondents and Responses: 60 respondents; 60 responses.

Estimated Time per Response: 0.833 hours (5 minutes).

Frequency of Response: One-time, on occasion, third party disclosure requirement, and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in the New and Emerging Technologies 911 Improvement Act of 2008 (NET 911 Act), Public Law 110–283, 122 Stat. 2620 (2008) (to be codified at 47 U.S.C. 615a–1), and section 222 of the Communications Act of 1934, as amended.

Total Annual Burden: 5 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: Respondents are not required to submit proprietary trade secrets or other confidential information. However, carriers that believe the only way to satisfy the requirements for information is to submit what it considers to be proprietary trade secrets or other confidential information, carriers are free to request that materials or information submitted to the Commission be withheld from public inspection and from the E911 website (see Section 0.459 of the Commission's rules).

Needs and Uses: The Commission is seeking an extension of this information collection from Office of Management and Budget (OMB) in order to obtain the full three-year approval. The information collection requirements contained in this collection guarantee continued cooperation between interconnected VoIP service providers and Public Safety Answering Points (PSAPs) in complying with the Commission's E911 requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–05621 Filed 3–22–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0678]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before May 24, 2019. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0678.

Title: Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Stations and Space Stations.

Form No: FCC Form 312, FCC Form 312–EZ, FCC Form 312–R and Schedules A, B and S.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities and Not-for-profit institutions.

Number of Respondents: 6,512 respondents; 6,561 responses.

Estimated Time per Response: 0.5–80 hours.

Frequency of Response: On occasion, one time, and annual reporting requirements; third-party disclosure requirement; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The Commission has statutory authority for the information collection requirements under 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721.

Total Annual Burden: 45,036 hours.

Total Annual Cost: $17,105,204.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality pertaining to the information collection requirements in this collection.

Needs and Uses: On September 27, 2018, the Commission released a Report and Order and Further Notice of Proposed Rulemaking, FCC 18–138, in IB Docket No. 17–95, titled ''Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in Motion Communicating with Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed Satellite Service'' (ESIM GSO FSS Report and Order and FNPRM). In this Report and Order, the Commission simplifies its rules to facilitate the continued deployment of Earth Stations in Motion (ESIMs) and reduce the regulatory burdens on ESIMs. Specifically, the Commission reorganized and consolidated sections in Part 25 of the Commission's rules addressing ESIMs. The Commission also expanded the scope of operations of ESIMs to communicate in additional frequency bands with geostationary-satellite orbit (GSO) satellites operating in the fixed-satellite service (FSS). These actions will promote innovative and flexible use of satellite technology and provide new opportunities for a variety of uses. This information collection will provide the Commission and the public with necessary information about the operations of this growing area of satellite operations. This information collection represents a decrease in the

overall paperwork burdens for operators of earth stations in motion, serving the public interest by streamlining the collection of information and allow the Commission to authorize routine licensing of ESIM operations in the Ka-band while protecting the interests of FSS operators.

Specifically, FCC 18–138 contains new or modified information collection requirements listed below:

(1) Earth Stations on Vessel (ESV), Vehicle-Mounted Earth Station (VMES) and Earth Station Aboard Aircraft (ESAA) requirements previously incorporated in 25.221, 25.222, 25.226 and 25.227 have been streamlined and are in the new ESIMs section 25.228.

(2) Minor discrepancies between the previous rules in 25.221, 25.222, 25.226 and 25.227 were harmonized in the new section 25.228.

(3) The antenna pointing accuracy requirement contained in the individual ESV, VMES, and ESAA rules in Sections 25.221, 25.222, 25.226, and 25.227 were eliminated.

(4) Cross references to the previous rules in 25.221, 25.222, 25.226 and 25.227 were eliminated from footnotes to the Table of Allocations, 47 CFR 2.106 and all other rule sections in Part 25.

(5) The off-axis equivalent isotropically radiated power (EIRP) density provisions of Section 25.138 were merged into Section 25.218, thus extending the applicability of Section 25.218 to conventional Ka-band GSO FSS earth stations. This applies a single set of limits across all types of FSS earth station, including those on mobile platforms, and increases the number of applicants who are considered ''two-degree-spacing compliant,'' and the operators of their target space stations are not required to coordinate the operation of these earth stations with operators of nearby space stations.

(6) Sections 25.130 and 25.131 were merged into Section 25.115, eliminating duplication of rules and making use of the FCC Form 312 EZ permissive, not mandatory.

(7) The data logging requirements that were in paragraphs (a)(5) of Sections 25.221 and 25.222 for C- and Ku-band ESV operators and in paragraphs (a)(6) of Sections 25.226 and 25.227 for Ku-band VMES and ESAA operators were eliminated.

(8) The option to use the alternative licensing compliance demonstration of demonstrating that an earth station antenna gain pattern comports with the off-axis gain limits in Section 25.209, and that the antenna input power density comports with limits in Section 25.212, was extended to ESIM applications.

(9) The certification for a C-band ESV system in Section 25.221(b)(3)(v) regarding compliance with the power limits in Section 25.204(h) is eliminated as no longer necessary.

(10) Sections 25.115(l)–(n)(3)(i) requires all applicants to: ''provide a *certification* that the ESIM system is capable of detecting and automatically ceasing emissions when an individual ESIM transmitter exceeds the relevant off-axis EIRP spectral density limits specified in § 25.218, or the limits provided to the target satellite operator for operation under § 25.220'' in lieu of a demonstration.

This collection is used by the Commission's staff in carrying out its statutory duties to regulate satellite communications in the public interest, as generally provided under 47 U.S.C.154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721. This collection is also used by staff in carrying out United States treaty obligations under the World Trade Organization (WTO) Basic Telecom Agreement. The information collected is used for the practical and necessary purposes of assessing the legal, technical, and other qualifications of applicants; determining compliance by applicants, licensees, and other grantees with Commission rules and the terms and conditions of their grants; and concluding whether, and under what conditions, grant of an authorization will serve the public interest, convenience, and necessity.

As technology advances and new spectrum is allocated for satellite use, applicants for satellite service will continue to submit the information required in 47 CFR part 25 of the Commission's rules. Without such information, the Commission could not determine whether to permit respondents to provide telecommunication services in the United States. Therefore, the Commission would be unable to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended, and the obligations imposed on parties to the WTO Basic Telecom Agreement.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–05623 Filed 3–22–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0975]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before May 24, 2019. If you anticipate that you will be submitting comments but find it difficult to do so within the time period allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0975.

Title: Sections 68.105 and 1.4000, Promotion of Competitive Networks in

Local Telecommunications Markets Multiple Tenant Environments (MTEs).

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and State, local, or Tribal governments.

Number of Respondents and Responses: 6,570 respondents; 232,183 responses.

Estimated Time per Response: 0.5 hour–10 hours.

Frequency of Response: On occasion reporting requirement and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151 and the Telecommunications Act of 1996, Public Law 104–104.

Total Annual Burden: 166,185 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: There are no impacts under the Privacy Act.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: This information facilitates efficient interaction between premises owners and local exchange carriers (LECs) regarding the placement of the demarcation point, which marks the end of wiring under control of the LEC and the beginning of wiring under the control of the premises owner or subscriber. The demarcation point is a critical point of interconnection where competitive LECs can gain access to the inside wiring of the building to provide service to customers in the building. This collection also helps ensure that customer-end antennas used for telecommunications service comply with the Commission's limits on radiofrequency exposure and provides the Commission with information on the state of the market. In short, this collection helps foster competition in local telecommunications markets by ensuring that competing telecommunications providers can provide services to customers in multiple tenant environments.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2019–05622 Filed 3–22–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

[NOTICE 2019—07]

Filing Dates for the North Carolina Special Election in the 9th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: North Carolina has scheduled special elections to fill the U.S. House of Representatives seat in the 9th Congressional District.

DATES: There are three possible special elections, but only two may be necessary.

- *Special Primary Election:* May 14, 2019.
- *Possible Special Runoff Election:* September 10, 2019. In the event that the top vote-getter does not achieve over 30% of the votes cast in his/her party's Special Primary Election, the top two vote-getters of that party may participate in a Special Runoff Election.
- *Special General Election:* November 5, 2019. However, if a Special Runoff Election is not necessary, the Special General will instead be held on September 10, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

Special Primary Only

All principal campaign committees of candidates *only* participating in the North Carolina Special Primary Election shall file a Pre-Primary Report on May 2, 2019. (See chart below for the closing date for the report).

Special Primary and Special General Without Special Runoff

If only two elections are held, all principal campaign committees of candidates participating in the North Carolina Special Primary and Special General Elections shall file a Pre-Primary Report on May 2, 2019; a Pre-General Report on August 29, 2019; and a Post-General Report on October 10, 2019. (See chart below for the closing date for each report).

Special Primary and Special Runoff Elections

If three elections are held, all principal campaign committees of candidates *only* participating in the North Carolina Special Primary and Special Runoff Elections shall file a Pre-Primary Report on May 2, 2019; and a Pre-Runoff Report on August 29, 2019. (See chart below for the closing date for each report.)

Special Primary, Special Runoff and Special General Elections

All principal campaign committees of candidates participating in the North Carolina Special Primary, Special Runoff and Special General Elections shall file a Pre-Primary Report on May 2, 2019; a Pre-Runoff Report on August 29, 2019; a Pre-General Report on October 24, 2019; and a Post-General Report on December 5, 2019. (See chart below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly in 2019 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the North Carolina Special Primary, Special Runoff or Special General Elections by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the North Carolina Special Primary, Special Runoff or Special General Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the North Carolina Special Elections may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and Leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $18,700 during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

CALENDAR OF REPORTING DATES FOR NORTH CAROLINA SPECIAL ELECTION

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
Campaign Committees Involved in *Only* the Special Primary (05/14/19) Must File			
Pre-Primary	04/24/19	04/29/19	05/02/19
July Quarterly	06/30/19	07/15/19	07/15/19
PACs and Party Committees Not Filing Monthly Involved in *Only* the Special Primary (05/14/19) Must File			
Pre-Primary	04/24/19	04/29/19	05/02/19
Mid-Year	06/30/19	07/31/19	07/31/19
If Only Two Elections Are Held, Campaign Committees Involved in Both the Special Primary (05/14/19) and Special General (09/10/19) Must File			
Pre-Primary	04/24/19	04/29/19	05/02/19
July Quarterly	06/30/19	07/15/19	07/15/19
Pre-General	08/21/19	08/26/19	08/29/19
Post-General	09/30/19	10/10/19	10/10/19
October Quarterly	—WAIVED—		
Year-End	12/31/19	01/31/20	01/31/20
If Only Two Elections Are Held, PACs and Party Committees Not Filing Monthly Involved in Both the Special Primary (05/14/19) and Special General (09/10/19) Must File			
Pre-Primary	04/24/19	04/29/19	05/02/19
Mid-Year	06/30/19	07/31/19	07/31/19
Pre-General	08/21/19	08/26/19	08/29/19
Post-General	09/30/19	10/10/19	10/10/19
Year-End	12/31/19	01/31/20	01/31/20
If Only Two Elections Are Held, Campaign Committees Involved in *Only* the Special General (09/10/19) Must File			
Pre-General	08/21/19	08/26/19	08/29/19
Post-General	09/30/19	10/10/19	10/10/19
October Quarterly	—WAIVED—		
Year-End	12/31/19	01/31/20	01/31/20
If Only Two Elections Are Held, PACs and Party Committees Not Filing Monthly Involved in *Only* the Special General (09/10/19) Must File			
Pre-General	08/21/19	08/26/19	08/29/19
Post-General	09/30/19	10/10/19	10/10/19
Year-End	12/31/19	01/31/20	01/31/20
If Three Elections Are Held, Campaign Committees Involved in *Only* the Special Primary (05/14/19) and Special Runoff (09/10/19) Must File			
Pre-Primary	04/24/19	04/29/19	05/02/19
July Quarterly	06/30/19	07/15/19	07/15/19
Pre-Runoff	08/21/19	08/26/19	08/29/19
October Quarterly	09/30/19	10/15/19	10/15/19
If Three Elections Are Held, PACs and Party Committees Not Filing Monthly Involved in *Only* the Special Primary (05/14/19) and Special Runoff (09/10/19) Must File			
Pre-Primary	04/24/19	04/29/19	05/02/19
Mid-Year	06/30/19	07/31/19	07/31/19
Pre-Runoff	08/21/19	08/26/19	08/29/19
Year-End	12/31/19	01/31/20	01/31/20
If Three Elections Are Held, Campaign Committees Involved in *Only* the Special Runoff (09/10/19) Must File			
Pre-Runoff	08/21/19	08/26/19	08/29/19
October Quarterly	09/30/19	10/15/19	10/15/19
If Three Elections Are Held, PACs and Party Committees Not Filing Monthly Involved in *Only* the Special Runoff (09/10/19) Must File			
Pre-Runoff	08/21/19	08/26/19	08/29/19

CALENDAR OF REPORTING DATES FOR NORTH CAROLINA SPECIAL ELECTION—Continued

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
Year-End	12/31/19	01/31/20	01/31/20
Campaign Committees Involved in the Special Primary (05/14/19), Special Runoff (09/10/19), and Special General (11/05/19) Must File			
Pre-Primary	04/24/19	04/29/19	05/02/19
July Quarterly	06/30/19	07/15/19	07/15/19
Pre-Runoff	08/21/19	08/26/19	08/29/19
October Quarterly	—WAIVED—		
Pre-General	10/16/19	10/21/19	10/24/19
Post-General	11/25/19	12/05/19	12/05/19
Year-End	12/31/19	01/31/20	01/31/20
PACs and Party Committees Not Filing Monthly Involved in the Special Primary (05/14/19), Special Runoff (09/10/19), and Special General (11/05/19) Must File			
Pre-Primary	04/24/19	04/29/19	05/02/19
Mid-Year	06/30/19	07/31/19	07/31/19
Pre-Runoff	08/21/19	08/26/19	08/29/19
Pre-General	10/16/19	10/21/19	10/24/19
Post-General	11/25/19	12/05/19	12/05/19
Year-End	12/31/19	01/31/20	01/31/20
If Three Elections Are Held, Campaign Committees Involved in *Only* the Special General (11/05/19) Must File			
October Quarterly	—WAIVED—		
Pre-General	10/16/19	10/21/19	10/24/19
Post-General	11/25/19	12/05/19	12/05/19
Year-End	12/31/19	01/31/20	01/31/20
If Three Elections Are Held, PACs and Party Committees Not Filing Monthly Involved in *Only* the Special General (11/05/19) Must File			
Pre-General	10/16/19	10/21/19	10/24/19
Post-General	11/25/19	12/05/19	12/05/19
Year-End	12/31/19	01/31/20	01/31/20

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

On behalf of the Commission.

Dated: March 12, 2019.

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 2019–05581 Filed 3–22–19; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, March 28, 2019 at 10:00 a.m.

PLACE: 1050 First Street NE, Washington, DC (12TH FLOOR)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Correction and Approval of Minutes for December 13, 2018

Correction and Approval of Minutes for February 7, 2019

Draft Advisory Opinion 2018–13: OsiaNetwork LLC

Draft Advisory Opinion 2018–12: Defending Digital Campaigns, Inc.

Draft Advisory Opinion 2019–01: It Starts Today

Draft Advisory Opinion 2019–02: Bill Nelson for Senate

Draft Advisory Opinion 2019–03: DC Libertarian Parry

Audit Division Recommendation Memorandum on Hall for Congress (A17–07)

Audit Division Recommendation Memorandum on Jill Stein for President (JSFP)

Management and Administrative Matters

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dayna C. Brown, Secretary and Clerk, at (202)694–1040, at least 72 hours prior to the meeting date.

Dayna C. Brown,

Secretary and Clerk of the Commission.

[FR Doc. 2019–05777 Filed 3–21–19; 4:15 pm]

BILLING CODE 6715–01–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 notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 9, 2019.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *David S. Albrecht and Steve D. Albrecht as co-trustees of the Dean L. Albrecht 2014 Trust, the Dean L. Albrecht 2014 Family Trust II FBO Abbey Albrecht, and the Dean L Albrecht 2014 Family Trust II FBO Alexis Albrecht, all of Norwalk, Iowa, as a group acting in concert to be added to the Albrecht family control group approved on January 2, 1996;* to acquire voting shares of Albrecht Financial Services, Inc., and thereby indirectly acquire City State Bank, both of Norwalk, Iowa.

Board of Governors of the Federal Reserve System, March 20, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–05639 Filed 3–22–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association and nonbanking companies owned by the savings and loan holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the HOLA (12 U.S.C. 1467a(e)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 10(c)(4)(B) of the HOLA (12 U.S.C. 1467a(c)(4)(B)). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 19, 2019.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to *BOS.SRC.Applications.Comments@bos.frb.org:*

1. *First Seacoast Bancorp, MHC, and First Seacoast Bancorp, both of Dover, New Hampshire;* to become a savings and loan holding companies, by acquiring 100 percent of the voting shares of Federal Savings Bank, Dover, New Hampshire and (to be renamed First Seacoast Bank).

B. 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. *Eureka Homestead Bancorp, Inc.;* to become a savings and loan holding company by acquiring 100 percent of the outstanding shares of Eureka Homestead, both of Metairie, Louisiana, in connection with the mutual-to-stock conversion of Eureka Homestead.

Board of Governors of the Federal Reserve System, March 20, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–05637 Filed 3–22–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 19, 2019.

A. Federal Reserve Bank of Minneapolis (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Citizens Community Bancorp, Inc., Eau Claire, Wisconsin;* to acquire voting shares of F. & M. Bancorp., and thereby indirectly acquire Farmers & Merchants Bank, both of Tomah, Wisconsin.

Board of Governors of the Federal Reserve System, March 20, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–05636 Filed 3–22–19; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting of the Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH). This meeting is open to the public, limited only by the space available. The meeting room accommodates approximately 33 people. The public is welcome to participate during the public comment period, 12:30 p.m. to 12:40 p.m. EDT May 30, 2019. Please note that the public comment period ends at the time

indicated above or following the last call for comments, whichever is earlier. Members of the public who wish to address the NIOSH BSC are requested to contact the Executive Secretary for scheduling purposes (see contact information below). Alternatively, written comments to the BSC may be submitted via an on-line form at the following website: *http://www.cdc.gov/niosh/bsc/contact.html.* Each commenter will be provided up to five minutes for comment. A limited number of time slots are available and will be assigned on a first come-first served basis. Written comments will also be accepted from those unable to attend the public session via an on-line form at the following website: *http://www.cdc.gov/niosh/bsc/contact.html.* The meeting is also open to the public via webcast. If you wish to attend in person or by webcast, please see the NIOSH website to register (*http://www.cdc.gov/niosh/bsc/*) or call (404–498–2539) at least five business days in advance of the meeting. Teleconference is available toll-free; please dial (888) 397–9578, Participant Pass Code 63257516. Adobe Connect webcast will be available at *https://odniosh.adobeconnect.com/nioshbsc/* for participants wanting to connect remotely.

DATES: The meeting will be held on May 30, 2019, 8:30 a.m.–2:30 p.m., EDT.

ADDRESSES: Patriots Plaza I, 395 E Street SW, Room 9000, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Alberto Garcia, MS, Executive Secretary, BSC, NIOSH, CDC, 1090 Tusculum Avenue, MS–R5, Cincinnati, OH 45226, telephone (513) 841–4596, fax (513) 841–4506, or email at *agarcia1@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The Secretary, the Assistant Secretary for Health, and by delegation the Director, Centers for Disease Control and Prevention, are authorized under Sections 301 and 308 of the Public Health Service Act to conduct directly or by grants or contracts, research, experiments, and demonstrations relating to occupational safety and health and to mine health. The Board of Scientific Counselors provides guidance to the Director, National Institute for Occupational Safety and Health on research and prevention programs. Specifically, the Board provides guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings and disseminating results. The Board evaluates the degree to which the activities of the National Institute for Occupational Safety and Health: (1) Conform to appropriate scientific standards, (2) address current, relevant needs, and (3) produce intended results.

Matters to be Considered: The agenda for the meeting addresses occupational safety and health issues related to: NIOSH Chemical Risk Management; Occupational Exposure Banding; Research Integration Activities; and an Overview of the National Fire Fighter Registry. Agenda items are subject to change as priorities dictate. An agenda is also posted on the NIOSH website (*http://www.cdc.gov/niosh/bsc/*).

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–05590 Filed 3–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)—GH16–003, Conducting Public Health Research in Thailand: technical collaboration with the Ministry of Public Health in the Kingdom of Thailand (MOPH); GH16–006, Conducting Public Health Research in Kenya; and GH19–005, Advancing Public Health Research in Bangladesh.

Date: April 23, 2019.

Time: 9:00 a.m.–2:00 p.m., EDT

Place: Teleconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Hylan Shoob, Ph.D., Scientific Review Officer, Center for Global Health, CDC, 1600 Clifton Drive, Atlanta, GA 30329–4027, (404) 639–4796; *HShoob@cdc.gov.*

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–05591 Filed 3–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–19–1235]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Assessments to Inform Program Refinement for HIV, other STD, and Pregnancy Prevention among Middle and High-School Aged Youth, to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on November 15, 2018 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies 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;

(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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Assessments to Inform Program Refinement for HIV, other STD, and Pregnancy Prevention among Middle and High-School Aged Youth (OMB Control No. 0920–1235, Expiration 06/30/19)—Extension—National Center for HIV/AIDS, Viral Hepatitis, STD, TB Prevention, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) requests three year OMB approval for the Extension of a Generic information collection package (OMB #0920–1235) that supports collection of quantitative and qualitative information from adolescents (ages 11–19) and their parents/caregivers for the purpose of needs assessment and program refinement for programs and services to prevent HIV, other sexually transmitted diseases (STDs), and pregnancy among middle and high school aged adolescents.

NCHHSTP conducts behavioral and health service assessments and research projects as part of its response to the domestic HIV/AIDS epidemic, STD prevention, TB elimination and viral hepatitis control with national, state, and local partners. Adolescents are a population with specific developmental, health and social, and resource needs, and their health risk factors and access to health care are addressed as a primary mission by the Division of Adolescent and School Health (DASH), and adolescents are a population of interest for several other NCHHSTP divisions. The assessment and research conducted by NCHHSTP is one pillar upon which recommendations and guidelines are revised and updated. Recommendations and guidelines for adolescent sexual risk reduction require that foundation of scientific evidence. Assessment of programmatic practices for adolescents helps to assure effective and evidence-based sexual risk reduction practices and efficient use of resources. Such assessments also help to improve programs through better identification of strategies relevant to adolescents as a population as well as specific sub-groups of adolescents at highest risk for HIV and other STDs so that programs can be better tailored for them.

The information collection requests under this generic package are intended to allow for data collection with two types of respondents:

- Adolescents (11–19 years old) of middle and high school age; and
- Parents and/or caregivers of adolescents of middle and high school age. For the purposes of this generic package, parents/caregivers include the adult primary caregiver(s) for a child's basic needs (*e.g.,* food, shelter, and safety). This includes biological parents; other biological relatives such as grandparents, aunts, uncles, or siblings; and non-biological parents such as adoptive, foster, or stepparents.

The types of information collection activities included in this generic package are:

(1) Quantitative data collection through electronic, telephone, or paper questionnaires to gather information about programmatic and service activities related to the prevention of HIV and other STDs among adolescents of middle- and high-school age.

(2) Qualitative data collection through electronic, telephone, or paper means to gather information about programmatic and service activities related to the prevention of HIV and other STDs among adolescents of middle- and high-school age. Qualitative data collection may involve focus groups and in-depth interviewing through group interviews, and cognitive interviewing.

For adolescents, data collection instruments will include questions on demographic characteristics; experiences with programs and services to reduce the risk of HIV and other STD transmission; and knowledge, attitudes, behaviors, and skills related to sexual risk and protective factors on the individual, interpersonal, and community levels.

For parents and caregivers, data collection instruments will include questions on demographic characteristics as well as parents'/caregivers' (1) perceptions about programs and services provided to adolescents; (2) knowledge, attitudes, and perceptions about their adolescents' health risk and protective behaviors; and (3) parenting knowledge, attitudes, behaviors, and skills.

Any data collection request put forward under this generic clearance will identify the programs and/or services to be informed or refined with the information from the collection and will include a cross-walk of data elements to the aspects of the program the project team seeks to inform or refine. Because this request includes a wide range of possible data collection instruments, specific requests will include items of information to be collected and copies of data collection instruments. It is expected that all data collection instruments will be pilot-tested, and will be culturally, developmentally, and age appropriate for the adolescent populations included. Similarly, parent data collection instruments will be pilot-tested, and the data collection instruments will reflect the culture, developmental stage, and age of the parents' adolescent children. All data collection procedures will receive review and approval by an Institutional Review Board for the Protection of Human Subjects and follow appropriate consent and assent procedures as outlined in the IRB-approved protocols, and these will be described in the individual information collection requests put forward under this generic package.

The table below provides the estimated annualized response burden for up to 15 individual data collections per year under this generic clearance at 57,584 hours. Average burden per response is based on pilot testing and timing of quantitative and qualitative instrument administration during previous studies. Response times include the time to read and respond to consent forms and to read or listen to instructions. Participation of respondents is voluntary. There is no cost to the participants other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Middle and High School Age Adolescents	Youth Questionnaire	20,000	1	50/60
Middle and High School Age Adolescents	Pre/Post youth questionnaire	10,000	2	50/60
Middle and High School Age Adolescents	Youth interview/focus group guide	3,000	2	90/60
Parents/caregivers of adolescents	Parent/Caregiver questionnaire	7,500	2	25/60
Parents/caregivers of adolescents	Parent/Caregiver interview/focus group guide	3,000	2	90/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–05556 Filed 3–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2018–0103; Docket Number NIOSH–322]

Final National Occupational Research Agenda for Immune, Infectious, and Dermal Disease Prevention (IID)

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: NIOSH announces the availability of the final *National Occupational Research Agenda for Immune, Infectious, and Dermal Disease Prevention.*

DATES: The final document was published March 19, 2019 on the CDC website.

ADDRESSES: The document may be obtained at the following link: *https://www.cdc.gov/nora/councils/iid/agenda.html.*

FOR FURTHER INFORMATION CONTACT: Emily Novicki, M.A., M.P.H, (*NORACoordinator@cdc.gov*), National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Mailstop E–20, 1600 Clifton Road NE, Atlanta, GA 30329, phone (404) 498–2581 (not a toll free number).

SUPPLEMENTARY INFORMATION: On November 8, 2018, NIOSH published a request for public review in the **Federal Register** [83 FR 55887] of the draft version of the *National Occupational Research Agenda for Immune, Infectious, and Dermal Disease Prevention.* All comments received were reviewed and addressed where appropriate.

Frank J. Hearl,

Chief of Staff, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2019–05561 Filed 3–22–19; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Decision To Evaluate a Petition To Designate a Class of Employees From the Y–12 Plant in Oak Ridge, Tennessee, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: NIOSH gives notice of a decision to evaluate a petition to designate a class of employees from the Y–12 Plant in Oak Ridge, Tennessee, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 1090 Tusculum Avenue, MS C–46, Cincinnati, OH 45226–1938, Telephone 877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

SUPPLEMENTARY INFORMATION:

Authority: 42 CFR 83.9–83.12.

Pursuant to 42 CFR 83.12, the initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Y–12 Plant.

Location: Oak Ridge, Tennessee.

Job Titles and/or Job Duties: All laborers who worked in any area at the Y–12 Plant in Oak Ridge, Tennessee, fabricating or processing uranium during the period from January 1, 1977, through December 31, 1994.

Period of Employment: January 1, 1977 through December 31, 1994.

John J. Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2019–05586 Filed 3–22–19; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–19–18APX]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Dental Survey: Improving Outpatient Antibiotic Use through Implementation and Evaluation of Core Elements of Outpatient Antibiotic Stewardship to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on August 10, 2018 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies 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;

(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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov*. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Dental Survey: Improving Outpatient Antibiotic Use through Implementation and Evaluation of Core Elements of Outpatient Antibiotic Stewardship—New—Information Collection—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Antibiotic resistance is a growing problem that has been shown to be a result of wide-spread antibiotic use and misuse. While efforts to improve antibiotic use to date have been primarily implemented in the inpatient setting, the majority of antibiotics are prescribed in the outpatient setting. Up to 50% of all antibiotics prescribed for acute respiratory tract infections (ARI) are proposed to be inappropriate. Interventions that have been demonstrated to decrease inappropriate use include audit-and-feedback, academic detailing, clinical decision support systems (CDSS), provider-focused public commitments to reduce inappropriate antibiotic use, and delayed antibiotic prescriptions. However, current data is limited due to short study time-frames and lack of sustainability.

In a pilot project, phone interviews were conducted with six dental providers and three pediatricians; specifically those who could speak to the knowledge, attitudes and behaviors of their peers. PRA was deemed not applicable by the NCEZID PRA representative for this pilot. We identified six dental providers that were recruited for a phone interview with our team's healthcare psychologist. Semi-structured interviews were used to assess: (1) Knowledge about antibiotic prescribing (what constitutes appropriate and inappropriate prescribing); (2) the providers current antibiotic prescribing practices; (3) beliefs about the consequences of inappropriate and appropriate prescribing (*e.g.,* consequences for the provider, for individual patients, and for the healthcare system); (4) attitudes about antibiotic prescribing (expected negative and positive reactions to appropriate prescribing); (5) subjective norms (beliefs related to what is ''normal'' antibiotic prescribing for the provider and for peers); (6) control beliefs related to appropriate prescribing (factors that make appropriate prescribing easy or difficult, *e.g.,* barriers); and (7) future planned behaviors along with perceived solutions to promote appropriate antibiotic prescribing.

During the analysis of the six dental interviews it was determined by the team that these interviews contained very unique information in terms of knowledge, attitudes and behaviors compared to other non-dental providers. Therefore, it was also determined that information saturation was not reached during this first data collection phase. We want to continue our data collection efforts within this specific population. This information will be crucial in future design of scalable and sustainable outpatient antibiotic stewardship interventions that incorporate all Core Elements of Outpatient Antibiotic Stewardship and to be able to implement it across a network of dental outpatient facilities.

There will be no anticipated costs to respondents other than their time. The survey will be voluntary and will be distributed within University of Utah dental clinics. Potential participants will be contacted via email informing them about the purpose of the survey. Participants would have the option of performing the survey online through an approved University of Utah survey platform (*i.e.* REDCap or Qualtrics) or on paper format if they prefer. To help increase response rate, paper formats may be distributed during dental staff meetings or any other gatherings within this population. Total burden hours being requested is 77.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Dental Providers	Recruitment during meetings	155	1	10/60
Dental Providers	SHEPheRD Outpatient Dental Survey	25	1	30/60
Dental Providers	Dental Survey—CDC Outpatient SEPheRD—Practices and Experiences with Antibiotic Prescribing.	75	1	30/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–05553 Filed 3–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–19–0856]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''National Quitline Data Warehouse'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on November 6, 2018 to obtain comments from the public and affected agencies. CDC received three comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies 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;

(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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

National Quitline Data Warehouse (OMB Control No. 0920–0856, Exp. Date 03/31/2019)—Extension—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Since 2010, the National Quitline Data Warehouse (NQDW) has collected a core set of information from the 50 U.S. states, the District of Columbia, Guam, and Puerto Rico regarding what services telephone quitlines offer to tobacco users as well as the number and type of tobacco users who receive services from telephone quitlines. The data collection was modified in 2015 to collect data from the The Asian Smokers' Quitline (ASQ) in addition to the other 53 states/territories that provide data, and included five new questions to the NQDW Intake Questionnaire to help CDC and states tailor quitline services to the needs of its callers.

The NQDW provides data on the general smoking population who contact their state quitlines, but also allows for collections of information about key subgroups of tobacco users who contact state quitlines to better support cessation services. Data is collected on tobacco users who received service from state telephone quitlines from all funded U.S. states, territories and the Asian Smokers' Quitline (ASQ) through the NQDW Intake Questionnaire. The NQDW Seven-Month Follow-up Questionnaire will be administered to tobacco users who received services from the ASQ only, and is no longer collected from other respondents. Seven-month quit rates have been previously estimated for all Quitline callers except those that call the ASQ. Based on previous literature and a review of the follow-up evaluation data previously collected by the NQDW, seven-month quit rates are not expected to change significantly over time. Data on the quitline call volume, number of tobacco users served, and the services offered by state quitlines will be provided by state health department personnel who manage the quitline or their designee, such as contracted quitline service providers, using the NQDW Quitline Services Survey.

Data collected from the NQDW is analyzed with simple descriptive data tabulations and trends are currently reported online through the CDC State Tobacco Activities Tracking and Evaluation (STATE) System website. More complex statistical analyses, including multivariate regression techniques will be utilized to assess quitline outcomes, such as quitline reach, service utilization, how callers reported hearing about the quitline, and the effectiveness of quitline promotions and the CDC Tips From Former Smokers national tobacco education media campaigns on state quitline call volume and tobacco users receiving services from state quitlines.

CDC uses the information collected by the NQDW for ongoing monitoring, reporting, and evaluation related to state quitlines. Select data from the NQDW are reported online through the CDC's STATE System website (*http://www.cdc.gov/statesystem*). The estimated annual burden hours are 82,477.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per respondent (in hours)
Quitline callers who contact the quitline for help for themselves.	NQDW Intake Questionnaire (English-complete).	488,846	1	10/60
	ASQ Intake Questionnaire (Chinese, Korean, or Vietnamese-complete).	1,935	1	10/60
	ASQ Seven-Month Follow-up Questionnaire	1,587	1	7/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per respondent (in hours)
Caller who contacts the Quitline on behalf of someone else.	NQDW Intake Questionnaire (English-subset).	12,217	1	1/60
	ASQ Intake Questionnaire (Chinese, Korean, or Vietnamese-subset).	86	1	1/60
Tobacco Control Manager or their Designee/ Quitline Service Provider.	Submission of NQDW Intake Questionnaire Electronic Data File to CDC.	54	4	1
	Submission of NQDW (ASQ) Seven-Month Follow-up Electronic Data File to CDC.	1	1	1
	NQDW Quitline Services Survey	54	4	20/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–05555 Filed 3–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–19–18AWP]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Using social media for recruitment in cancer prevention and control survey-based research (SMFR Study)'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on September 18, 2018 to obtain comments from the public and affected agencies. CDC received five comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies 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;

(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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of notice publication.

Proposed Project

Using Social Media for Recruitment in Cancer Prevention and Control Survey-Based Research—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This project involves formative research to assess the feasibility of using social media to conduct survey-based cancer prevention and control research for study recruitment. To achieve this goal, the project will field four online surveys for three distinct populations using Facebook, Twitter, and Google ads as tools for recruitment. Sampling bias and ability to use weights, among other statistical methods, to correct for potential bias will be assessed at the conclusion of the study.

This project has two aims:

Aim 1: To develop and launch surveys with three populations of interest to cancer prevention and control research using social media platforms for study recruitment. This will consist of using Facebook, Twitter, and Google ads to recruit participants from three groups: Cancer survivors, those at high risk for cancer, and the general population (for cancer screening). Survey questions will be taken from previously administered national surveys, such as NHIS, HINTS, and MEPS, in addition to questions specially developed for this study.

Aim 2: To assess the extent of sampling bias associated with surveys using social media platforms and the internet as frames for non-proportional sampling and the ability to use weights or other statistical methods to correct for potential biases. Content for the social media surveys will include questions from nationally representative surveys (such as the National Health Interview Survey) to enable socio-demographic and health history comparisons with nationally representative populations. In addition we will explore the ability to use post-stratification weights, propensity scores, or other statistical methods to address issues of potential sampling bias.

The first survey will target cancer survivors and focus on general health and well-being post-treatment. The second survey will target the general population, focusing on cancer screening and access to care. The third and fourth surveys will target those at high risk for cancer focusing on communication of genetic risk among family members and the tools and resources needed for risk communication.

Individuals will be recruited to participate in the web survey through ads posted on social media sites including Facebook, Twitter, and

Google Analytics. Self-reported data provided on users' profile pages may be applied for targeting to maximize the value of each ad.

• Ads for the survivorship survey will be targeted toward users who 'like', search, and/or visit web pages geared toward survivors, such as the National Cancer Survivors Day Facebook page. Individuals will be screened for eligibility until the target of up to 1,000 completes is met. It is expected that to reach 1,000 eligible respondents for the survivorship survey, 3,000 individuals will need to be screened.

• Ads for the general population survey will be targeted toward users whose profiles indicate they are 40 or older. Individuals will be screened for eligibility until the target of up to 1,000 completes is met. It is expected that to reach 1,000 eligible respondents for the general population survey, 1,500 individuals will need to be screened.

• Ads for the high-risk survey will be targeted toward users who 'like', visit, or search for terms related to cancer and genetic testing. Individuals will be screened for eligibility until the target of up to 1,000 completes is met. It is expected that to reach 1,000 eligible respondents for the high-risk survey, 2,000 individuals will need to be screened.

• Eligible high-risk participants will be invited via email to participate in the follow-up high-risk survey. Additional social media ads may also be placed, using the targeting methods described above. In order to survey 1,000 high-risk adults, it is expected that an additional 4,000 individuals will be screened.

Participation in this project is completely voluntary. There are no costs to the respondents other than their time. The total estimated annualized burden is 1,567 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Adults at High Risk for Cancer	Survey Screener	2,000	1	2/60
Adults over 40	Survey Screener	1,500	1	2/60
Cancer Survivors	Survey Screener	3,000	1	2/60
Adults at High Risk for Cancer	Follow-Up Screener	4,000	1	2/60
Adults at High Risk for Cancer	High-Risk Survey	1,000	1	19/60
Adults over 40	General Population Survey	1,000	1	22/60
Cancer Survivors	Survivorship Survey	1,000	1	15/60
Adults at High Risk for Cancer	High-Risk Follow-Up Survey	1,000	1	17/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–05554 Filed 3–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis (ACET); Notice of Charter Renewal

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Advisory Council for the Elimination of Tuberculosis Meeting (ACET), Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through March 15, 2021.

FOR FURTHER INFORMATION CONTACT: Hazel Dean, ScD, DrPH (Hon), FACE, Designated Federal Officer, Advisory Council for the Elimination of Tuberculosis (ACET), CDC, HHS, 1600 Clifton Road, NE, Mailstop: E–07, Atlanta, Georgia, 30329–4027, Telephone 404/639–8000; *hdd0@cdc.gov.*

The Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–05592 Filed 3–22–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Submission for OMB Review; the State Plan for Independent Living (SPIL) (0985–0044)

AGENCY: Administration for Community Living (ACL), HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing that the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required under the Paperwork Reduction Act of 1995. This 30-Day notice collects comments on the information collection requirements related to State Plan for Independent Living (SPIL) (Information Collection Request Ext (ICR Ext)).

DATES: Comments on the information collection request must be submitted electronically by 11:59 p.m. (EST) or postmarked by April 24, 2019.

ADDRESSES: Submit written comments on the collection of information by:

(a) *Email to: OIRA_submission@omb.eop.gov,* Attn: OMB Desk Officer for ACL;

(b) fax to 202.395.5806, Attn: OMB Desk Officer for ACL; or

(c) by mail to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW, Rm. 10235, Washington, DC 20503, Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Peter Nye, Administration for Community Living, Washington, DC 20201, (202) 795–7606 or *peter.nye@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, ACL

has submitted the following proposed collection of information to OMB for review and clearance. Legal authority for the State Plan for Independent Living is contained in Chapter 1 of Title VII of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act ([the Act], Pub. L. 113–128). Section 704 of the Rehabilitation Act requires that, to be eligible to receive financial assistance under Chapter 1, ''a State shall submit to the Department, and obtain approval of, a State plan containing such provisions as the Department may require.'' The Administration for Community Living's (ACL) approval of the SPIL is required for states to receive federal funding for both the Independent Living Services State grants and Centers for Independent Living programs. Federal statute and regulations require the collection of this information every three years.

The current version of the SPIL Instrument and Instructions that ACL is requesting an extension for was approved by OMB, but will expire on April 30, 2019. Under this request, ACL requests that OMB approve an extension without change for 12 months after expiration. During this extension period, ACL's Independent Living Administration plans to complete substantive revisions that address changes required as a result of the Workforce Innovation and Opportunity Act (WIOA) of 2014.

The SPIL is jointly developed by the chairperson of the Statewide Independent Living Council (SILC) and the directors of the CILs and the designated State entity (DSE) in the State, after receiving public input from individuals throughout the State. ACL reviews the SPIL for compliance with the Rehabilitation Act and 45 CFR part 1329 and approves the SPIL. It also serves statewide as a primary planning document for continuous monitoring of technical assistance to the state independent living programs to ensure planning; financial support and coordination; and other assistance to facilitate independent living services.

Comments in Response to the 60-Day Federal Register Notice

A notice was published in the **Federal Register** on October 19, 2018 (Vol. 83, Number 2018–22753; pp. 53063–53064).

We received no comments during the 60-day public comment period.

The proposed form(s) may be found on the ACL website at *https://www.acl.gov/about-acl/public-input.*

Estimated Program Burden

ACL estimates the burden of this collection of information as follows: 56 Statewide Independent Living Councils will respond to the requirement for a SPIL every three years. It will take approximately 60 hours for each state's Statewide Independent Living Council to jointly complete the development of the SPIL for a total of approximately 3,360 hours. This estimate is based on amounts of time that Statewide Independent Living Councils have reported that they have spent responding to previous requests for this report. ACL is not requesting any change in the data States are required to submit. As such, there is no change to the estimated reporting burden.

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Annual burden hours
Statewide Independent Living Councils	56	1	60	3,360
Total	56	1	60	3,360

Dated: March 18, 2019.

Lance Robertson,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2019–05619 Filed 3–22–19; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0983]

Pulmonary-Allergy Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Pulmonary-Allergy Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on May 8, 2019, from 8 a.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2019–N–0983. The docket will close on May 7, 2019. Submit either electronic or written comments on this public meeting by May 7, 2019. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 7, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before April 24, 2019, will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your

comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–0983 for ''Pulmonary-Allergy Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information 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 the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Cindy Chee, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *PADAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committee will discuss new drug application (NDA) 202049, for mannitol inhalation powder, for oral inhalation submitted by Chiesi USA, Inc., for the proposed indication of management of cystic fibrosis to improve pulmonary function in patients 18 years of age and older in conjunction with standard therapies.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see the **ADDRESSES** section) on or before April 24, 2019, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 16, 2019. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 17, 2019.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Cindy Chee at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 20, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05658 Filed 3–22–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–1134]

Development of Antibacterial Drugs for the Treatment of Nontuberculous Mycobacterial Disease; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public workshop entitled ''Development of Antibacterial Drugs for the Treatment of Nontuberculous Mycobacterial Disease.'' The purpose of the public workshop is to discuss the clinical trial design considerations, including endpoints, related to the development of antibacterial drug products for treatment of nontuberculous mycobacterial (NTM) disease.

DATES: The public workshop will be held on April 8, 2019, from 8:30 a.m. to 5 p.m. Submit either electronic or written comments on this public workshop by May 16, 2019. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Building 31, Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993. Entrance for the public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before May 16, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time on May 16, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–1134 for ''Development of Antibacterial Drugs for the Treatment of Nontuberculous Mycobacterial Disease.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Lori Benner and/or Jessica Barnes, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6221, Silver Spring, MD 20993–0002, 301–796–1300.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing a public workshop regarding the development of antibacterial drugs for the treatment of NTM disease. Discussions will focus on clinical trial design considerations, including endpoints, related to drug development for the treatment of NTM disease.

II. Topics for Discussion at the Public Workshop

FDA is particularly interested in discussing challenges and considerations regarding drug development for NTM disease.

Discussions are planned around the following topics areas:

- Trial design
- Trial endpoints
- Trial populations

The Agency encourages health care providers, other U.S. Government Agencies, academic experts, industry, and other stakeholders to attend this public workshop.

III. Participating in the Public Workshop

Registration: Registration is free and based on space availability. Persons interested in attending this public workshop must register online by April 4, 2019, midnight Eastern Time. To register, please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone to *https://www.eventbrite.com/e/development-of-antibacterial-drugs-for-the-treatment-of-nontuberculous-mycobacterial-disease-tickets-54145569857.*

Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. If time and space permit, onsite registration on the day of the public workshop will be provided beginning at 7:30 a.m. We will let registrants know if registration closes before the day of the public workshop.

If you need special accommodations due to a disability, please contact Jessica Barnes or Lori Benner (see **FOR FURTHER INFORMATION CONTACT**) no later than April 1, 2019.

Requests for Oral Presentations: During online registration you may indicate if you wish to present during a public comment session or participate in a specific session, and which topic(s) you wish to address. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate in the focused sessions. We will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin and will select and notify participants by March 29, 2019. All requests to make oral presentations must be received by March 25, 2019. If selected for presentation, any presentation materials must be emailed to *ONDPublicMTGSupport@fda.hhs.gov* no later than April 3, 2019. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

Streaming Webcast of the Public Workshop: This public workshop will also be webcast at the following site: *https://collaboration.fda.gov/r1s6qm9hgylr/.*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. A link to the transcript will also be available on the internet at *https://www.fda.gov/Drugs/NewsEvents/ucm629494.htm.*

Dated: March 20, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05657 Filed 3–22–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0747]

Antimicrobial Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Antimicrobial Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this meeting.

DATES: The meeting will be held on April 25, 2019, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: Tommy Douglas Conference Center, the Ballroom, 10000 New Hampshire Ave., Silver Spring, MD 20903. The conference center's telephone number is 240–645–4000. Answers to commonly asked questions about FDA Advisory Committee meetings may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.* Information about the Tommy Douglas Conference Center can be accessed at: *https://www.tommydouglascenter.com/.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2019–N–0747. The docket will close on April 24, 2019. Submit either electronic or written comments on this public meeting by April 24, 2019. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 24, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 24, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before April 11, 2019, will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the

public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the FDA–2019–N–0747 for ''Antimicrobial Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information 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 the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Lauren Tesh, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, *AMDAC@fda.hhs.gov*; or the FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committee will discuss one or more possible pathways for approval of rabies virus monoclonal antibodies for use as the passive-immunization component of post-exposure prophylaxis.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before April 11, 2019, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 1:30 p.m. and 2:30 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 3, 2019. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 4, 2019.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Lauren Tesh (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 20, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05654 Filed 3–22–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–0120]

Interpretation of and Compliance Policy for Certain Label Requirement; Applicability of Certain Federal Food, Drug, and Cosmetic Act Requirements to Vape Shops; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a final guidance for industry entitled ''Interpretation of and Compliance Policy for Certain Label Requirement; Applicability of Certain Federal Food, Drug, and Cosmetic Act Requirements to Vape Shops.'' This guidance provides FDA's interpretation of, and a compliance policy for, the requirement that the label of tobacco products contain an accurate statement of the percentage of foreign and domestic grown tobacco under the Federal Food, Drug, and Cosmetic Act (FD&C Act). This guidance document is also intended to assist retailers who sell deemed products by explaining whether engaging in certain activities subjects such establishments to additional requirements of the FD&C Act and the limited circumstances under which FDA does not intend to enforce compliance.

DATES: The announcement of the guidance is published in the **Federal Register** on March 25, 2019.

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 Docket No. FDA–2017–D–0120 for ''Interpretation of and Compliance Policy for Certain Label Requirement; Applicability of Certain Federal Food, Drug, and Cosmetic Act Requirements to Vape Shops.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a Fax number to which the guidance document may be sent. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Gerie Voss or Annette Marthaler, Center for Tobacco Products, Food and Drug Administration, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 1–877–287–1373, email: *CTPRegulations@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a guidance for industry entitled ''Interpretation of and Compliance Policy for Certain Label Requirement; Applicability of Certain Federal Food, Drug, and Cosmetic Act Requirements to Vape Shops.'' This guidance finalizes the draft guidance of the same title, which was made available for public comment as noted in the **Federal Register** of January 17, 2017 (82 FR 4893).

This guidance document provides FDA's interpretation of, and a compliance policy for, the label requirement under section 903(a)(2)(C) of the FD&C Act (21 U.S.C. 387c(a)(2)(C)). This guidance document is also intended to assist retailers who

sell deemed products by explaining whether engaging in certain activities subjects such establishments to additional requirements of the FD&C Act and the limited circumstances under which FDA does not intend to enforce compliance.

The Family Smoking Prevention and Tobacco Control Act (Pub. L. 111–31) (Tobacco Control Act), enacted on June 22, 2009, amends the FD&C Act and provides FDA with the authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors.

Cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco were immediately covered by FDA's tobacco product authorities in chapter IX of the FD&C Act, when the Tobacco Control Act went into effect. As for other types of tobacco products, section 901(b) of the FD&C Act (21 U.S.C. 387a(b)) grants FDA authority to deem those products subject to chapter IX of the FD&C Act. Pursuant to that authority, FDA issued a rule deeming all other products that meet the statutory definition of ''tobacco product,'' set forth in section 201(rr) of the FD&C Act (21 U.S.C. 321(rr)), except for accessories of those products, as subject to chapter IX of the FD&C Act (21 U.S.C. 387 through 387u) (81 FR 28974). FDA published the final rule on May 10, 2016, and it became effective on August 8, 2016.

Section 903(a)(2)(C) of the FD&C Act provides that a tobacco product in package form is misbranded unless its label contains ''an accurate statement of the percentage of tobacco used in the product that is domestically grown tobacco and the percentage that is foreign grown tobacco.'' The guidance provides FDA's interpretation of, and a compliance policy for, this label requirement.

Retail establishments, such as vape shops, which engage in certain activities may also be subject to certain requirements of the FD&C Act that apply to tobacco product manufacturers and to establishments that engage in the manufacture, preparation, compounding, or processing of tobacco products. These activities may also include modifying a product so that it is a new tobacco product requiring compliance with the premarket authorization requirements. This guidance explains which activities subject vape shops to these FD&C Act requirements and the limited circumstances under which FDA does not intend to enforce compliance.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Electronic Access

Persons with access to the internet may obtain an electronic version of the guidance at either *https://www.regulations.gov* or *https://www.fda.gov/TobaccoProducts/Labeling/RulesRegulationsGuidance/default.htm.*

Dated: March 20, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05656 Filed 3–22–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0795]

Antimicrobial Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Antimicrobial Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on April 26, 2019, from 8:30 a.m. to 1 p.m.

ADDRESSES: Tommy Douglas Conference Center, the Ballroom, 10000 New Hampshire Ave., Silver Spring, MD 20903. The conference center's telephone number is 240–645–4000.

Answers to commonly asked questions about FDA Advisory Committee meetings may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.* Information about the Tommy Douglas Conference Center can be accessed at: *https://www.tommydouglascenter.com/.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2019–N–0795. The docket will close on April 25, 2019. Submit either electronic or written comments on this public meeting by April 25, 2019. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 25, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before April 11, 2019, will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and

Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–0795 for ''Antimicrobial Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information 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 the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

FOR FURTHER INFORMATION CONTACT: Lauren Tesh, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, *AMDAC@fda.hhs.gov*; or the FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committee will discuss the safety and effectiveness of bacitracin for intramuscular injection for the treatment of infants with pneumonia and empyema caused by staphylococci shown to be susceptible to the drug, which is the only approved indication for bacitracin for intramuscular injection. The committee will also consider whether there are other uses for bacitracin for intramuscular injection that could be studied. FDA will present background information on the regulatory history of bacitracin for intramuscular injection and information on the current use of bacitracin for intramuscular injection.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before April 11, 2019, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 10:30 a.m. and 11:30 a.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 3, 2019. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 4, 2019.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Lauren Tesh (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 20, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05652 Filed 3–22–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–0481]

Rare Diseases: Natural History Studies for Drug Development; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Rare Diseases: Natural History Studies for Drug Development.'' FDA is publishing this draft guidance to help inform the design and implementation of natural history studies that can be used to support the development of safe and effective drugs and biological products for rare diseases. A natural history study collects information about the natural history of a disease in the absence of an intervention, from the disease's onset until either its resolution or the individual's death. Although knowledge of a disease's natural history can benefit drug development for many disorders and conditions, natural history information is usually not available or is incomplete for most rare diseases; therefore, natural history information is particularly needed for these diseases.

DATES: Submit either electronic or written comments on the draft guidance by May 24, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–0481 for ''Rare Diseases: Natural History Studies for Drug Development; Draft Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002; or the Office of Orphan Products Development, Office of Special Medical Programs, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5295, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Lucas Kempf, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6460, Silver Spring, MD 20993, 301–796–1140; Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911; or Aaron Friedman, Office of Orphan Products Development, Office of Special Medical Programs, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5295, Silver Spring, MD 20993–0002, 301–796–8660.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Rare Diseases: Natural History Studies for Drug Development.'' This draft guidance is intended to help inform the design and implementation of natural history studies that can be used to support the development of safe and effective drugs and biological products for rare diseases. Although FDA has published guidance concerning common issues encountered in drug

development for rare diseases, this draft guidance expands on the topic of natural history studies specifically.

There are approximately 7,000 recognized rare diseases. Individually, rare diseases affect a small number of people, but collectively rare diseases affect about 1 in 10 people in the United States. Most rare diseases have no approved therapies and thus present a significant unmet public health need. Although knowledge of a disease's natural history can benefit drug development for many disorders and conditions, natural history information is usually not available or is incomplete for most rare diseases; therefore, natural history information is particularly needed for these diseases.

This draft guidance describes the potential uses of a natural history study in all phases of drug development and in the postmarketing period, the strengths and weaknesses of various types of natural history studies that might be conducted to support drug development, data elements and research plans, and a practical framework for the conduct of a natural history study. The draft guidance also discusses patient confidentiality and data protection issues in natural history studies and the potential nature of interactions with FDA related to these studies.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Rare Diseases: Natural History Studies for Drug Development.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively. The collections of information in 21 CFR parts 50 and 56 (Protection of Human Subjects: Informed Consent; Institutional Review Boards) have been approved under OMB control number 0910–0755.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/default.htm,* or *https://www.regulations.gov.*

Dated: March 20, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05655 Filed 3–22–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0937–New]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before April 24, 2019.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Sherrette Funn, *Sherrette.Funn@hhs.gov* or (202) 795–7714. When submitting comments or requesting information, please include the document identifier 0937-Fertility Knowledge Survey-30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Fertility Knowledge Survey.

Type of Collection: New.

Abstract: The Office of the Assistant Secretary for Health/Office of Population Affairs (OPA) is requesting a three-year approval by the Office of Management and Budget of a new information collection. We are seeking to collect information to increase understanding of (1) adolescent and young adult knowledge of human (female and male) fertility and (2) how this knowledge is related to behaviors and intentions involving childbearing. We propose to collect this information through a 20-minute web survey (Fertility Knowledge Survey) of 2,100 females and 1,900 males, aged 15 to 29 years, using an online panel that is based on a probability-based sample of the U.S. population. Respondents will be members of the general public, and consist of English-speaking females and males, aged 15 to 29 years, who are able to get pregnant or to biologically father a child, respectively. The survey will produce evidence and findings that are expected to be generalizable to the population of individuals in the United States with these characteristics.

Possessing accurate knowledge about human fertility is important information that enables reproductive-aged women and men to make informed decisions and plans about reproduction and empowers them to seek appropriate and timely health services (*e.g.,* family planning, related preventive healthcare, or infertility assessment) to achieve those plans. OPA requires high-quality information on the fertility knowledge and related behaviors of U.S. adolescents and young adults to inform Title X policies and strategies that aim to close knowledge gaps, enhance reproductive life planning, and increase access to appropriate and evidence-informed care.

The web survey (Fertility Knowledge Survey) will be self-administered once by each respondent using a personal computer, tablet, or smart phone. A web survey has numerous methodological advantages, including increased accuracy in measurement of key variables of interest, and reduced burden on study participants. This collection will not involve small business or small entities.

The estimated annualized hour burden of responding to this information collection is 1,333 hours, or a weighted average of 20 minutes (.33 hours) per respondent. The hour-burden estimate includes the time spent by a respondent to read the email invitation, review the online consent or assent (minor), and complete the survey. Participation is voluntary and there are

no costs to respondents other than their time.

ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
Fertility Knowledge Survey	General Public, aged 15 to 29 years	4,000	1	20/60	1,333
Total			4,000		1,333

Terry Clark,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2019–05595 Filed 3–22–19; 8:45 am]

BILLING CODE 4150–48–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0010]

Agency Information Collection Activities: Certificate of Registration

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-day notice and request for comments; Extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than May 24, 2019) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0010 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (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, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Certificate of Registration.

OMB Number: 1651–0010.

Form Number: CBP Forms 4455 and 4457.

Abstract: Travelers who do not have proof of prior possession in the United States of foreign made articles and who do not want to be assessed duty on these items can register them prior to departing on travel. In order to register these articles, the traveler completes CBP Form 4457, *Certificate of Registration for Personal Effects Taken Abroad,* and presents it at the port at the time of export. This form must be signed in the presence of a CBP official after verification of the description of the articles is completed. CBP Form 4457 is accessible at: *http://www.cbp.gov/newsroom/publications/forms?title=4457&=Apply.*

CBP Form 4455, *Certificate of Registration,* is used primarily for the registration, examination, and supervised lading of commercial shipments of articles exported for repair, alteration, or processing, which will subsequently be returned to the United States either duty free or at a reduced duty rate. CBP Form 4455 is accessible at: *http://www.cbp.gov/newsroom/publications/forms?title=4455&=Apply.*

CBP Forms 4455 and 4457 are provided for by 19 CFR 10.8, 10.9, 10.68, 148.1, 148.8, 148.32 and 148.37.

Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected on CBP Forms 4455 and 4457.

Type of Review: Extension (without change).

Affected Public: Businesses.

CBP Form 4455

Estimated Number of Respondents: 60,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 60,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 9,960.

CBP Form 4457

Estimated Number of Respondents: 140,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 140,000.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 7,000.

Dated: March 19, 2019.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2019–05552 Filed 3–22–19; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4404–DR; Docket ID FEMA–2019–0001]

Commonwealth of the Northern Mariana Islands; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of the Northern Mariana Islands (FEMA–4404–DR), dated October 26, 2018, and related determinations.

DATES: This amendment was issued February 25, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 25, 2019, the President amended the cost-sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), in a letter to Brock Long, Administrator, Federal Emergency Management Agency, Department of Homeland Security, under Executive Order 12148, as follows:

I have determined that the damage in the Commonwealth of the Northern Mariana Islands resulting from Super Typhoon Yutu during the period of October 24 to October 26, 2018, is of sufficient severity and magnitude that special cost sharing arrangements are warranted regarding Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act'').

Therefore, I amend my declaration of October 26, 2018, to authorize Federal funds for all categories of Public Assistance, Hazard Mitigation, and the Other Needs Assistance portion of the Individual Assistance program at 90 percent of total eligible costs and Federal funds for Public Assistance Categories A and B at 100 percent for 180 days from the start of the incident.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–05634 Filed 3–22–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4418–DR; Docket ID FEMA–2019–0001]

Washington; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA–4418–DR), dated March 4, 2019, and related determinations.

DATE: The declaration was issued March 4, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 4, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Washington resulting from severe winter storms, straight-line winds, flooding, landslides, mudslides, and a tornado during the period of December 10 to December 24, 2018, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Washington.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Dolph A. Diemont, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Washington have been designated as adversely affected by this major disaster:

Clallam, Grays Harbor, Island, Jefferson, Mason, Pacific, Snohomish, and Whatcom Counties for Public Assistance.

All areas within the State of Washington are eligible for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049,

Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–05611 Filed 3–22–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4417–DR; Docket ID FEMA–2019–0001]

Kansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA–4417–DR), dated February 25, 2019, and related determinations.

DATES: The declaration was issued February 25, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 25, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Kansas resulting from severe storms, straight-line winds, and flooding during the period of October 4 to October 15, 2018, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Kansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Constance C. Johnson-Cage, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Kansas have been designated as adversely affected by this major disaster:

Anderson, Barton, Cowley, Doniphan, Greenwood, Harvey, Kingman, Neosho, Pratt, Reno, Rice, and Sumner Counties for Public Assistance.

All areas within the State of Kansas are eligible for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–05617 Filed 3–22–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4415–DR; Docket ID FEMA–2019–0001]

Mississippi; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–4415–DR), dated February 14, 2019, and related determinations.

DATES: The declaration was issued February 14, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 14, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Mississippi resulting from severe storms, flooding, and tornado during the period of December 27 to December 28, 2018, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Mississippi.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jon K. Huss, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Mississippi have been designated as adversely affected by this major disaster:

Clarke, Covington, Forrest, Greene, Jasper, Jones, Marion, Newton, Perry, and Wayne Counties for Public Assistance.

All areas within the State of Mississippi are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–05615 Filed 3–22–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4416–DR; Docket ID FEMA–2019–0001]

Texas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–4416–DR), dated February 25, 2019, and related determinations.

DATES: The declaration was issued February 25, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 25, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Texas resulting severe storms and flooding during the period of September 10 to November 2, 2018, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jerry S. Thomas, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Texas have been designated as adversely affected by this major disaster:

Archer, Baylor, Brown, Burnet, Callahan, Comanche, Coryell, Dimmit, Edwards, Fannin, Franklin, Grimes, Haskell, Hill, Hopkins, Houston, Jones, Kimble, Kinney, Knox, Llano, Madison, Mason, McCulloch, Menard, Nolan, Real, San Saba, Sutton, Throckmorton, Travis, Uvalde, and Val Verde Counties for Public Assistance.

All areas within the State of Texas are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–05616 Filed 3–22–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4419–DR; Docket ID FEMA–2019–0001]

Alabama; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA–4419–DR), dated March 5, 2019, and related determinations.

DATES: The declaration was issued March 5, 2019.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 5, 2019, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Alabama resulting from severe storms, straight-line winds, and tornadoes on March 3, 2019, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Alabama.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments (PDAs).

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will also be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Gerard M. Stolar, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Alabama have been designated as adversely affected by this major disaster:

Lee County for Individual Assistance and assistance for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program.

All areas within the State of Alabama are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Acting Administrator, Federal Emergency Management Agency.

[FR Doc. 2019–05612 Filed 3–22–19; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6146–N–04]

Privacy Act of 1974; System of Records; Inventory Management System, Also Known as the Public and Indian Housing Information Center

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Notice of a modified system of records.

SUMMARY: The Inventory Management System, also known as the Public and Indian Housing Information Center (IMS/PIC) serves as a national repository of information related to Public Housing Authorities (PHAs), HUD-assisted families, HUD-assisted properties, and other HUD programs for the purpose of monitoring and evaluating the effectiveness of HUD rental housing assistance programs. In accordance with the Privacy Act of 1974, the Department of Housing and Urban Development, Office of Public and Indian Housing (PIH) proposes to modify the system of records titled, Inventory Management System (IMS), also known as Public and Indian Housing Information Center (PIC), HUD/PIH.01. This system of records allows the Department of Housing and Urban Development, Office of Public and Indian Housing to collect and maintain records on individuals and organizations administering, participating in, or potentially affected by, housing assistance programs administered by HUD. This proposed modification of the IMS/PIC system would allow the system to contain additional categories of records and types of individuals. Specifically, IMS/PIC will store information about applicants for disaster recovery assistance from the Federal Emergency Management Agency (FEMA), provided pursuant to a computer matching agreement. Storing these records will enable HUD to aid individuals affected by natural disasters and prevent improper payments.

DATES: Comments are due on April 24, 2019. Unless comments are received that warrant a revision, this modification will become effective on April 24, 2019.

ADDRESSES: You may submit comments, identified by docket number and title, by one of the following methods:

Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the instructions provided on that site to submit comments electronically.

Fax: 202–619–8365.

Email: privacy@hud.gov.

Mail: John Bravacos, Senior Agency Official for Privacy, Privacy Office, Department of Housing and Urban Development, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: The Privacy Office, 451 Seventh Street SW, Room 10139, Washington, DC 20410, telephone number 202–708–3054. Individuals who are hearing- and speech-impaired may access this number via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: The existing system known as the Inventory Management System/Public and Indian Housing Information Center (IMS/PIC), HUD/PIH.01, is being updated to include additional categories of records and individuals and to permit the storage of information shared by the Federal Emergency Management Agency (FEMA). This update also reorganizes the routine uses, eliminates some routine uses that are already identified in HUD's Routine Use Inventory Notice and allows disclosure to state, local, and tribal governments to ensure effective and non-duplicative delivery of disaster recovery aid.

SYSTEM NAME AND NUMBER:

Inventory Management System, Also Known as Public and Indian Housing Information Center (IMS/PIC), HUD/PIH.01.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The files are maintained at the following locations: U.S. Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; and IMS/PIC servers are located in Charleston, WV; and are accessed through the internet. The servers are maintained by HUD Information Technology Services (HITS) contractor, and HUD's information technology partners: Perspecta. 15052 Conference Center Drive, Chantilly, VA 20151.

SYSTEM MANAGER(S):

Office of Public and Indian Housing (PIH), Donald J. Lavoy, Deputy Assistant Secretary, Real Estate Assessment

Center, 550 12th Street SW, Suite 100, Washington, DC 20410. 202–475–7949.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The U.S. Housing Act of 1937, as amended, 42 U.S.C. 1437; Title VI of the Civil Rights Act of 1962 (42 U.S.C. 2000d); The Fair Housing Act (42 U.S.C. 3601–3619); The Housing Community Development Act of 1981, Public Law 97–35, 85 stat., 348,408; and The Housing and Community Development Act of 1987, 42 U.S.C. 3543.

PURPOSE(S) OF THE SYSTEM:

IMS/PIC serves as a national repository of information related to Public Housing Authorities (PHAs), Tribally Designated Housing Entities (TDHE), HUD-assisted families, HUD-assisted properties, and other HUD programs, for the purpose of monitoring and evaluating the effectiveness of PIH rental housing assistance programs. IMS/PIC allows PHAs, TDHEs, and their-hired management agents to electronically submit information to HUD that is related to the administration of HUD's PIH programs. It collects data for PIH operations, including data submitted via the internet from HUD's field offices, and accurately tracks activities and processes. IMS/PIC also helps to increase sharing of information throughout PIH and HUD, which improves staff awareness of activities related to the administration of HUD-subsidized housing programs. IMS/PIC is a flexible, scalable, internet-based integrated system, which enables PHA and TDHE users, and HUD personnel to access a common database via their web browser. IMS/PIC aids HUD and entities that administer HUD's assisted housing programs in: (a) Increasing the effective distribution of rental assistance to individuals that meet the requirements of federal rental assistance programs; (b) detecting abuses in assisted housing programs; (c) taking administrative or legal actions to resolve past and current abuses of assisted housing programs; (d) monitoring compliance with HUD program requirements; (e) deterring abuses by verifying the employment and income of tenants at the time of annual and interim reexaminations of family income and composition via the PIH Enterprise Income Verification (EIV) system; (f) evaluating program effectiveness; (g) improving PHA and TDHE IMS/PIC reporting rates; (h) forecasting budgets; (i) controlling funds; (j) updating tenant information; and (k) updating building and unit data.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Families residing in a HUD-assisted property and/or receiving rental housing assistance via programs administered by the Department of Housing and Urban Development; Public Housing Agencies (PHAs) and their hired management agents; Tribally Designated Housing Entities (TDHE) and their hired management agents; and individuals who have received or applied for housing-related disaster assistance from the Federal Emergency Management Agency (FEMA).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of the following information as reported to HUD by PHAs, TDHEs, and their hired management agents, and other governmental agencies:

1. Agency information: Agency name, HUD-assigned code, HUD program type family participates in; project number, building number, building entrance number, and unit number (applicable to only the Public Housing program).

2. Agency point of contact information for individuals that work for, and access IMS/PIC and oversee the agency's administration (*i.e.,* Mayors, board members, managers, directors, etc.: Individual's name, agency's physical address, agency's mailing address, agency's telephone numbers, and email addresses for point of contacts).

3. Action information: Type of action (new admission, annual reexamination, interim reexamination, portability move-in, portability move-out, end of participation, other change of unit, FSS/WTW addendum only, annual reexamination searching (Section 8 program only), issuance of voucher (Section 8 program only), expiration of voucher (Section 8 program only), flat rent annual updated (Public Housing program only), annual HQS inspection (Section 8 program only), historical adjustment, and void); effective date of action, indication of correction of previous submitted information, type of correction, date family was admitted into a PIH rental assistance program, projected effective date of next reexamination of family income and/or composition, projected date of next flat rent annual updated (applicable only to the Public Housing program), indication of whether or not the family is or has participated in the Family Self-sufficiency (FSS) program within the last year, identification of special Section 8 program (applicable only to the Section 8 program), identification of other special HUD rental program(s) the family is participating in, and ''PHA Use Only'' fields which are used by PHAs for general administrative purposes or other uses as prescribed by HUD.

4. Family composition (which includes the following personally identifiable information) as reported by the family and verified by PHAs, TDHEs, and their -hired management agents: Last name, first name, middle initial, date of birth, age on effective date of action, sex, relationship to head of household, citizenship status, disability status, race, ethnicity, social security number, alien registration number, compliance with community service or self-sufficiency requirement for public housing tenants, total number of household members, family subsidy status under the noncitizens rule, eligibility effective date, and former head of household's social security number.

5. Geographical and unit information:

a. Background at admission information as reported by the family: Date family entered the waiting list, zip code before admission, whether or not the family was homeless at time of admission, whether or not the family qualifies for admission over the very low-income limit, whether or not the family is continuously assisted under the 1937 Housing Act, whether or not there is a HUD-approved income targeting disregard.

b. Subsidized Unit information: Unit number and street address, city, state and zip code in which the subsidized unit is located, city, state and zip code in which the subsidized unit is located, whether or not the family's mailing address is the same address of the unit to be occupied by the family, family's mailing address (unit number and street address, city, state, and zip code) if different from the address of the subsidized unit, number of bedrooms, whether or not the unit is an accessible unit (applicable to the Public Housing program only), whether or not the family has requested accessibility features (applicable to the Public Housing program only), whether or not the family has received the requested accessibility features (applicable to the Public Housing program only), date the unit last passed Housing Quality Standards (HQS) inspection (applicable to the Section 8 program only, except Homeownership and Project-Based Vouchers programs), date of last annual HQS inspection (applicable to the Section 8 program only, except Homeownership and Project-Based Vouchers programs), year the unit was built (applicable to the Section 8 program only), and the structure type of the unit (applicable to the Section 8 program only).

6. Family assets information, as reported by the family and verified by PHAs, TDHEs, and their hired management agents, which includes the type of asset, cash value of the asset, anticipated annual income derived from the asset, passbook rate, imputed asset income, and final asset income.

7. Family income information, as reported by the family and verified by PHAs, TDHEs, and their hired management agents, which includes the income source, Income calculations, annual income derived from the income source, income exclusion amount in accordance with HUD program requirements and annual income amount after deducting allowable income exclusion for each household member of the family, total household annual income, amounts of permissible deductions and other deductions to annual income in accordance with HUD program requirements, and amount of family adjusted annual income.

8. Total tenant payment (TTP), minimum rent amount, most recent TTP amount, and tenant rent calculation information in accordance with HUD requirements for the specific PIH rental assistance program the family is currently participating in.

9. Family Self-Sufficiency (FSS) and Welfare-to-Work (WTW) program information: Type of self-sufficiency program the family is participating in, FSS report category, FSS effective date, PHA code of PHA administering FSS contract, WTW report category, WTW effective date of action, PHA code of PHA that issued the WTW voucher, PHA code of PHA counting the family as enrolled in its WTW voucher program if different than the PHA Code of PHA that issued the WTW voucher; and general information pertaining to the employment status of the head of household, date current employment began, type of employment benefits head of household receives from employer, number of years of school completed by the head of household, type of other federal assistance received by the family, number of children receiving childcare services, and optional information related to the type of family services the family needs, whether or not the need was met during participation in the FSS or WTW program, and the name of the service provider; FSS contract, account and exit information; and WTW voucher provider; FSS contract, account and exit information; and WTW voucher program information.

10. PHA and TDHE IMS/PIC system user's information: Name, telephone number, fax number, email address, mailing address, agency website address.

11. Disaster assistance information: Records from the Federal Emergency Management Agency (FEMA), shared with HUD pursuant to an approved computer matching agreement, to enable effective delivery of aid in the wake of a disaster. Includes information about applicants for FEMA assistance, including name, social security number, address, type and amount of disaster damage, type and amount of assistance provided by FEMA.

RECORD SOURCE CATEGORIES:

IMS/PIC receives data from HUD staff; HUD contractors; PHAs, TDHEs, and their hired management agents; the Social Security Administration; the Department of Veteran Affairs; the Federal Emergency Management Agency; and other federal, state and local agencies. The IMS/PIC data reported by PHAs, TDHEs, and their hired management agents is electronically transmitted to IMS/PIC using agency owned software or via HUD's Family Reporting Software (FRS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside HUD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

2. To the HUD Geocoding Service Center (GSC) to obtain geographic information for records in the system.

3. To individuals under contract to HUD or under contract to another agency with funds provided by HUD: For the preparation of studies and statistical reports directly related to the management of HUD's rental assistance programs, to support quality control for tenant eligibility efforts requiring a random sampling of tenant files to determine the extent of administrative errors in making rent calculations, eligibility determinations, etc., and for processing reexaminations (individuals provided information under this routine use are subject to Privacy Act requirements and limitation on disclosures as are applicable to HUD officials and employees).

4. To PHAs, TDHEs, and their hired management agents, and auditors of HUD rental housing assistance programs: To verify the accuracy and completeness of tenant data used in determining eligibility and continued eligibility and the amount of housing assistance received;

5. To PHAs, TDHEs, and their hired management agents of HUD rental housing assistance programs: To identify and resolve discrepancies in tenant data.

6. To researchers affiliated with academic institutions, with not-for-profit organizations, or with federal, state or local governments, or to policy researchers: Without personally identifiable information: For the performance of research and statistical activities on housing and community development issues (individuals provided information under this routine use are subject to Privacy Act requirements and limitation on disclosures as are applicable to HUD officials and employees);

7. To HUD contractors, independent public auditors and accountants, PHAs, and TDHEs: For the purpose of conducting oversight and monitoring of program operations to determine compliance with applicable laws and regulations, and financial reporting requirements (individuals provided information under this routine use are subject to Privacy Act requirements and limitation on disclosures as are applicable to HUD officials and employees);

8. To the U.S. Department of Veterans Affairs (VA) for statistical analysis to advance the goals of the nation's federal strategic plan to prevent and end homelessness through the collection, analysis, and reporting of quality and timely data on veterans homelessness to assist VA with the establishment and/or verification of the following: Reducing homelessness among our nation's veterans; identify and understand the needs of homeless veterans and to develop programs and services to address those needs; effective administration of the HUD Veterans Affairs Supportive Housing (VASH) program by HUD and VA business partners; HUD–VASH program monitoring and evaluation; and the production of aggregate statistical data without any personal identifiers, which will not be used to make decisions concerning the rights, benefits, or

privileges of specific individuals, or providers of services with respect to assistance provided under the HUD–VASH program;

9. To the U.S. Department of Veterans Affairs (VA), under an approved computer matching agreement, or data sharing agreement pursuant to a Presidential Executive Order (E.O.) mandate and in accordance with the Federal Privacy Act and Computer Matching and Privacy Protection Act: To identify and recover overpayments (improper payments) of rental assistance, determine compliance with program requirements by program administrators and participants of HUD rental housing assistance programs, deter future abuses in rental housing assistance programs, reduce administrative costs associated with manual program evaluation and monitoring efforts, and ensure that only eligible participants receive rental assistance in the correct amount;

10. To the Federal Emergency Management Agency (FEMA), under an approved computer matching agreement, or data sharing agreement pursuant to a Presidential E.O. mandate in accordance with the Federal Privacy Act and Computer Matching and Privacy Protection Act: To identify existing families which participate in a HUD rental assistance program and are currently receiving housing assistance;

11. To state, local and tribal governments receiving HUD disaster recovery grants, and to PHAs: To ensure effective delivery of disaster recovery aid, to prevent duplication of benefits between HUD and other federal agencies, and to address unmet needs of disaster victims.

12. To appropriate agencies, entities, and persons when (1) HUD suspects or has confirmed that there has been a breach of the system of records; (2) HUD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HUD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HUD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

13. To another Federal agency or Federal entity, when HUD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resultingfrom a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored manually and electronically in PHA office automation equipment and paper files, respectively. Records are stored on HUD computer servers for HUD and PHA staff to access via the internet. HUD's information technology partners in the Office of the Chief Information Officer maintain the disks and backups files of IMS/PIC data. The servers are maintained by HUD Information Technology Services (HITS) contractor, and HUD's information technology partners: Perspecta. 15052 Conference Center Drive, Chantilly, VA 20151.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored manually and electronically in PHA office automation equipment and paper files, respectively. Records are stored on HUD computer servers for HUD and PHA staff to access via the internet. HUD's information technology partners in the Office of the Chief Information Officer maintain the disks and backups files of IMS/PIC data.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Tenant records may be retrieved by computer search of indices by the Head of Household's or household member's name, date of birth, and/or SSN of an existing or form HUD program participant. PHA records may be retrieved by PHA Code, User ID, and/or IMS/PIC user's last name. *Note:* A user's search capability is limited to only those program participants within the user's jurisdiction and assigned to his or her User ID.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Electronic records are maintained and destroyed in accordance with requirements of the HUD Records Disposition Schedule, 2225–6. In accordance with 24 CFR 908.101 and HUD record retention requirements at 24 CFR 85.42, PHAs are required to retain at least three years' worth of IMS/PIC data either electronically or in paper form.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are maintained at the U.S. Department of Housing and Urban Development in Washington, DC with limited access to those persons whose official duties require the use of such records. Computer files and printed listings are maintained in locked cabinets. User's access, updates access, read-only access, and approval access based on the user's role and security access level.

RECORD ACCESS PROCEDURES:

For information, assistance, or inquiry about records, contact John Bravacos, Chief Privacy Officer, 451 Seventh Street SW, Room 10139, Washington, DC 20410, telephone number (202) 402–6064. When seeking records about yourself from this system of records or any other Housing and Urban Development (HUD) system of records, your request must conform with the Privacy Act regulations set forth in 24 CFR part 16. You must first verify your identity, meaning that you must provide your full name, address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization.

If your request is seeking records pertaing to another living individual, you must include a statement from that individual certifying their agreement for you to access their records. Without the above information, the HUD FOIA Office may not conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with regulations.

CONTESTING RECORD PROCEDURES:

Since tenant information reported in IMS/PIC is submitted to HUD by PHAs and TDHEs based on information collected directly from the individual, tenants must contact the PHA or TDHE to request correction of any tenant supplied information reported incorrectly by the agency. HUD does not have the ability to modify agency reported data within IMS/PIC. With respect to any HUD determination based on IMS/PIC data, the procedures for appealing HUD's initial determination records are outlined in 24 CFR part 16, Additional assistance may be obtained by contacting John Bravacos, Chief Privacy Officer, 451 Seventh Street SW, Room 10139, Washington, DC 20410, or the HUD Departmental Privacy Appeals Officers, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW, Washington DC 20410.

NOTIFICATION PROCEDURES:

Individuals seeking notification of and access to any record contained in

this system of records, or seeking to contest its content, may submit a request in writing to the Privacy Office at the address provided above or to the component's FOIA Officer, whose contact information can be found at *http://www.hud.gov/foia* under ''contact.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Senior Agency Official for Privacy, HUD, 451 Seventh Street, SW, Room 10139, Washington, DC 20410.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The most recent prior IMS/PIC SORN was published in the **Federal Register** on April 13, 2012 at 77 FR 22337–22340.

Dated: March 18, 2019.

John Bravacos,

Senior Agency Official for Privacy.

[FR Doc. 2019–05676 Filed 3–22–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2018–N067; FXES11140800000–189–FF08EVEN00]

Habitat Conservation Plans for the California Tiger Salamander; Categorical Exclusion for the La Laguna Los Alamos Project and the Phillips 66 Idle Pipeline 352 × 4 Abandonment Project; Santa Barbara County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received two applications for an incidental take permit for the federally endangered California tiger salamander (Santa Barbara County distinct population segment) under the Endangered Species Act of 1973, as amended. La Laguna Los Alamos LLC, submitted a permit application which, if issued, would authorize take incidental to otherwise lawful activities associated with the La Laguna Los Alamos Project draft habitat conservation plan. Phillips 66 Company submitted a permit application which, if issued, would authorize take incidental to otherwise lawful activities associated with the Phillips 66 Idle Pipeline 352×4 Abandonment Project draft habitat conservation plan. We invite public comment on these documents.

DATES: Written comments should be received on or before April 24, 2019.

ADDRESSES: *To obtain documents:* You may download a copy of the draft habitat conservation plan and draft low-effect screening form and environmental action statement at *http://www.fws.gov/ventura/,* or you may request copies of the documents by sending U.S. mail (below) or by phone (see **FOR FURTHER INFORMATION CONTACT**).

To submit written comments: Please send us your written comments using one of the following methods:

- *U.S. mail:* Send your comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.
- *Facsimile:* Fax your comments to 805–644–3958.
- *Electronic mail:* Send your comments to *rachel_henry@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Rachel Henry, Fish and Wildlife Biologist, 805–677–3312 (by phone), or at the Ventura Fish and Wildlife office (by mail; see **ADDRESSES**).

SUPPLEMENTARY INFORMATION: We have received two applications for incidental take permits under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicants of the incidental take permits have developed draft habitat conservation plans (HCPs) for the respective projects that include measures to mitigate and avoid/minimize impacts to the federally endangered Santa Barbara County distinct population segment (DPS) of California tiger salamander (*Ambystoma californiense*). The permits would authorize take of the Santa Barbara County DPS of the federally endangered California tiger salamander incidental to otherwise lawful activities.

These permits would authorize incidental take associated with the two respective projects: The draft La Laguna HCP and the draft Phillips 66 Idle Pipeline 352x4 Abandonment Project HCP. We invite public comment on the draft HCPs, draft low-effect screening forms, and environmental action statements.

Background

The Service listed the Santa Barbara County DPS of the California tiger salamander as endangered on September 21, 2000 (65 FR 57242). Section 9 of the ESA (16 U.S.C. 1538) and its implementing regulations prohibit the ''take'' of fish or wildlife species listed as endangered or threatened. ''Take'' is defined under the ESA to include the following activities: ''[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), we may issue permits to authorize incidental take of listed species. Incidental take is take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing incidental take permits for endangered wildlife are in the Code of Federal Regulations (CFR) at 50 CFR 17.22. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species. The permittees would receive assurances under our ''No Surprises'' regulations (50 CFR 17.22(b)(5)) regarding conservation activities for the California tiger salamander.

Proposed Project Activities

La Laguna Los Alamos, LLC, has applied for a permit for incidental take of the California tiger salamander. The take would occur in association with installation and operation of a vineyard, cultivation of berries, other agricultural development that involves land-clearing and/or ripping, plowing and other soil cultivation techniques, and/or construction of a residential development that includes one single-family residence. The project site includes approximately 29 acres of suitable upland habitat for the California tiger salamander. The Service has designated these 29 acres as critical habitat for the Santa Barbara County DPS of the California tiger salamander. The HCP includes avoidance and minimization measures for the covered species and mitigation for unavoidable loss of suitable upland habitat through establishment of a conservation easement. Mitigation for unavoidable take of the species consists of the permanent protection of 34 acres of designated critical habitat for the Santa Barbara County DPS of the California tiger salamander.

Phillips 66 Company has applied for a permit for incidental take of the California tiger salamander. The take would occur in association with activities necessary for the removal and abandonment of an idled pipeline. The site includes approximately 1.22 acres of suitable upland habitat for the California tiger salamander. Of these 1.22 acres, the Service has designated 0.15 acre as critical habitat for the Santa Barbara County DPS of the California tiger salamander. The HCP includes avoidance and minimization measures for the covered species and mitigation

for unavoidable loss of suitable upland habitat by the funding of an appropriate mitigation project through a Service-approved third party mitigation and conservation account.

Preliminary Determinations

The Service has made preliminary determinations that issuance of these incidental take permits is neither a major Federal action that will significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), nor will they individually or cumulatively have more than a negligible effect on the species covered in the HCPs. The Service considers the impacts of the La Laguna Los Alamos Project on the California tiger salamander to be minor, as the project includes the permanent protection of 34 acres of suitable, high-quality habitat in a conservation easement. The Service considers the impacts of the Phillips 66 Idle Pipeline 352×4 Abandonment Project on the California tiger salamander to be minor, as the affected area is small (approximately 1.22 acres) and of low habitat quality. Therefore, based on this preliminary determination, both permits qualify for a categorical exclusion under NEPA.

Public Comments

If you wish to comment on the permit applications, draft HCPs, or associated documents, you may submit comments by one of the methods in **ADDRESSES**.

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 view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Stephen Henry,

Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.

[FR Doc. 2019–05613 Filed 3–22–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAKC001030/A0A501010.999900253G]

Indian Gaming; Amendment to Class III Gaming Procedures for the Mashantucket Pequot Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The notice announces Amendments to the Mashantucket Pequot Tribe Gaming Procedures.

DATES: March 25, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* upon the occurrence of certain circumstances the Secretary of the Interior (Secretary) shall issue procedures providing for the operation of Class III gaming by an Indian Tribe. On May 31, 1991, the Secretary published a Notice of Final Mashantucket Gaming Procedures (Procedures) in the **Federal Register**. See 56 FR 24996. On August 2, 2017, the Mashantucket Pequot Tribe (Tribe) submitted proposed amendments to the Tribe's Procedures (Procedures Amendments), along with resolutions of the Connecticut General Assembly, signed by the Governor, indicating the State of Connecticut's (State) support and approval of the Procedures Amendments, as well as proposed amendments to the Tribal-State Memorandum of Understanding (MOU Amendments). The Department did not approve or disapprove the proposed Procedures Amendments or MOU Amendments at that time.

After further consultations with the Tribe, the Assistant Secretary—Indian Affairs publishes this notice that on March 15, 2019, she approved the proposed amendments to the Tribe's Procedures. Additionally, on March 19, 2019, the Assistant Secretary—Indian Affairs approved the Tribal-State MOU dated January 13, 1993, as amended on April 30, 1993, and April 25, 1994, as well as the MOU Amendments submitted on August 2, 2017.

Dated: March 19, 2019.

Tara M. Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2019–05683 Filed 3–21–19; 11:15 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[DOI–2018–0015; 19XE1700DX EECC000000 EX1EX0000.G40000]

Privacy Act of 1974; System of Records

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Rescindment of a system of records notice.

SUMMARY: The Department of the Interior, Bureau of Safety and Environmental Enforcement is issuing a public notice of its intent to rescind the Privacy Act system of records notice, INTERIOR/MMS–12, Lessee/Operator Training Files from its existing inventory. The Lessee/Operator Training Files system of records was managed by the former Minerals Management Service in accordance with the Well Control and Production Safety Training regulation. Under this regulation, the Minerals Management Service accredited institutions to train lessee and operator personnel and to certify that they were competent and safe to work on the Outer Continental Shelf. Revisions to the regulation in October 2000 eliminated requirements for the Minerals Management Service to accredit institutions and for those institutions to provide copies of training certificates on individuals to the Minerals Management Service. The materials associated with these eliminated requirements were the subject matter of the relevant system of records. Subsequently, upon the dissolution of the Minerals Management Service, the responsibility for this system of records was transferred to the Bureau of Safety and Environmental Enforcement, which is now formally rescinding the INTERIOR/MMS–12, Lessee/Operator Training Files system of records notice.

DATES: These changes take effect upon publication.

ADDRESSES: You may submit comments, identified by docket number [DOI–2018–0015], by any of the following methods:

• *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.

• Hand-delivering comments to Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.

• *Email: DOI_Privacy@ios.doi.gov.*

All submissions received must include the agency name and docket number. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should be aware your entire comment including your personal identifying information, such as your address, phone number, email address, or any other personal identifying information in your comment, may be made publicly available at any time. While you may request to withhold your personal identifying information from public review, we cannot guarantee we will be able to do so.

FOR FURTHER INFORMATION CONTACT: Rowena Dufford, Associate Privacy Officer, Bureau of Safety and Environmental Enforcement, 45600 Woodland Road, Mail Stop VAE–MSD, Sterling, VA 20166, email at *privacy@bsee.gov* or by telephone at (703) 787–1257.

SUPPLEMENTARY INFORMATION: The former Minerals Management Service (MMS) described the requirements for lessees and operators to train their personnel in 30 Code of Federal Regulations Part 250, Subpart O, Well Control and Production Safety Training. This regulation assigned responsibility to MMS for oversight of training for well control and production safety systems, and oversight of MMS accredited institutions to train and certify lessee and operator personnel to work competently and safely on the Outer Continental Shelf. Training organizations were required to provide copies of training certificates, which included the individual's full name, Social Security number, and training completion date, among other categories of records, which were maintained under Privacy Act system of records notice (SORN), INTERIOR/MMS–12, Lessee/Operator Training Files.

In October 2000, the regulation was amended to reassign responsibilities for overseeing well control and production safety training to lessees and operators. When the regulation went into effect, the records associated with the regulation no longer met the Privacy Act standard for a system of records and eliminated the need for the SORN. The records covered by this SORN were disposed of in accordance with the prevailing records retention schedule.

In May 2010, Secretary's Order 3299 directed the division of MMS into three independent entities with separate and clearly defined missions: The Bureau of Safety and Environmental Enforcement (BSEE), the Bureau of Ocean Energy Management, and the Office of Natural Resources Revenue. Responsibilities for this system of records notice transferred to BSEE. Pursuant to the provisions of the Privacy Act of 1974, as amended, the Bureau of Safety and Environmental Enforcement is formally rescinding the INTERIOR/MMS–12, Lessee/Operator Training Files system of records notice from its system of records inventory. Rescinding the INTERIOR/MMS–12, Lessee/Operator Training Files system of records notice will have no adverse impacts on individuals as the records were disposed of in accordance with the records retention schedule. This rescindment will also promote the overall streamlining and management of Department of the Interior Privacy Act systems of records.

SYSTEM NAME AND NUMBER:

INTERIOR/MMS–12, Lessee/Operator Training Files.

HISTORY:

64 FR 8118 (February 18, 1999); modification published at 74 FR 42922 (August 25, 2009).

Teri Barnett,

Departmental Privacy Officer, Department of the Interior.

[FR Doc. 2019–05286 Filed 3–22–19; 8:45 am]

BILLING CODE 4310–VH–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1146]

Certain Taurine (2-Aminoethanesulfonic Acid), Methods of Production and Processes for Making the Same, and Products Containing the Same; Institution of Investigation; Correction

AGENCY: U.S. International Trade Commission.

ACTION: Correction of notice.

Correction is made to notice 84 FR 8110, which was published on March 6, 2019, Respondent JSW Enterprises, LLC d/b/a Nurtavative Ingredients address number and doing business as name are erroneously incorrect in the Notice. The name and address should read as: JSW Enterprises, LLC, d/b/a Nutravative Ingredients, 601 Century Parkway, Suite 200, Allen, TX 75013.

By order of the Commission.

Issued: March 19, 2019.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2019–05578 Filed 3–22–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

[DOL–2018–0004]

Notice of Final Determination To Remove Uzbek Cotton From the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor Pursuant to Executive Order 13126

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice of final determination.

SUMMARY: This notice is a final determination to revise the list required by Executive Order No. 13126 (''Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor'', hereafter the E.O. List). The E.O. List identifies a list of products, by their country of origin, that the Department of Labor (DOL), in consultation and cooperation with the Department of State (DOS) and the Department of Homeland Security (DHS) (collectively, the Departments), has a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor.

The Departments proposed removing cotton from Uzbekistan from the E.O. List in a Notice of Initial Determination that was published in the **Federal Register** on July 31, 2018. After a thorough review of the comments received and information available, the Departments have determined that the use of forced child labor in the cotton harvest in Uzbekistan has been significantly reduced to isolated incidents. As a result, this product no longer meets the criteria for inclusion in the E.O. List.

This final determination is the fifth revision of the E.O. List required by E.O. 13126 in accordance with DOL's Procedural Guidelines for the Maintenance of the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor (Procedural Guidelines).

SUPPLEMENTARY INFORMATION:

I. Initial Determination

On July 31, 2018, DOL, in consultation and cooperation with DOS and DHS, published a Notice of Initial

Determination in the **Federal Register** proposing to remove cotton from Uzbekistan from the E.O. List.[1] The initial determination stated the Departments had preliminarily determined that the use of forced or indentured child labor in the production of that product had been significantly reduced and invited public comments until August 30, 2018 on whether cotton from Uzbekistan should be removed from the E.O. List, as well as any other issues related to the fair and effective implementation of E.O. 13126. The initial determination, and the public comments submitted, can be viewed at Docket ID No. DOL–2018–0004 or requested from Austin Pedersen at: Office of Child Labor, Forced Labor, and Human Trafficking (OCFT), Bureau of International Labor Affairs, Room S–5317, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–4843, email: *Pedersen.Austin.M@dol.gov.* Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the Federal Information Relay Service at 1–877–889–5627.

II. Public Comment Period

During the public comment period, six comments were submitted. Two comments were letters: One from the Cotton Campaign on behalf of 36 members of the Cotton Campaign coalition, opposing the initial determination, and one from the Government of Uzbekistan, supporting the initial determination. Two comments were summaries of DOL meetings: The first with the International Labor Rights Forum (ILRF, a lead organization of the Cotton Campaign coalition) and the second with the Ambassador of Uzbekistan to the United States, both of which occurred during the comment period. Finally, two comments were electronic messages related to those meetings. All comments are available for public viewing at *http://www.regulations.gov* (reference Docket ID No. DOL–2018–0004).

In its letter,[2] the Cotton Campaign indicated its opposition to the removal of cotton from Uzbekistan from the E.O List. The letter stated that there were incidents during the 2017 cotton harvest of forced child labor in the Karakalpakstan region and of child labor in the Andijan region, and that some cotton pickers had been coached to tell observers they worked voluntarily. It stated that there was no conclusive evidence that forced child labor had ended. Additionally, it asserted that, due to pressure stemming from the government's quota system, parents sometimes brought their children to cotton fields to pick cotton, and it pointed to evidence that children in a few schools were required to bring cotton to school in order for the school to meet the cotton quota imposed on it. It further stated that the government's investigations and prosecutions of officials who violated laws against forced child labor were sporadic.

In their meeting with DOL on August 9, 2018,[3] the ILRF representatives encouraged DOL not to issue a final determination until after the 2018 cotton harvest season and pointed to instances of forced child labor in Uzbekistan in 2017 as indicated in an Uzbek-German Forum report.[4] The ILRF representatives also discussed the Cotton Campaign's forthcoming report on the spring weeding season.[5]

Email messages exchanged by DOL officials and the ILRF[6] were sent to schedule the aforementioned meeting and inform the ILRF of the comment period.

In its letter,[7] the Government of Uzbekistan supported the initial determination. The government discussed the country's legal framework prohibiting forced labor and its work with human rights organizations, activists monitoring the 2017 cotton harvest, and the World Bank Third Party Monitoring system implemented by the International Labor Organization (ILO). The Government of Uzbekistan also cited its efforts to investigate child labor and forced labor complaints and to punish violators. It noted the creation of a Parliamentary Commission on Labor Rights and explained the Commission's responsibility to work with state and local authorities to ensure compliance with international labor standards and national law. It further noted the accomplishments of its Decent Work Country Program agreement with the ILO and the extension of that agreement to 2020. The Government of Uzbekistan's submission also detailed its ongoing efforts to improve working conditions in the cotton sector, including through raising pickers' payment rates and piloting structural reforms of the industry to improve productivity and encourage private competition.

During a meeting with DOL officials on August 10, 2018,[8] the Ambassador of Uzbekistan discussed his government's goals of reducing forced labor in all cotton fields. In addition, the Ambassador noted efforts to improve transparency of the cotton harvest to international civil society organizations.

The email from the Embassy of Uzbekistan[9] thanked DOL officials for the meeting.

III. Analysis of Comments Submitted

Following the close of the public comment period on August 30, 2018, the Departments have carefully reviewed and considered all public comments received.[10] In so doing, the Departments considered and weighed the factors identified in the Procedural Guidelines: The source of the information presented, the date of the

[1] 83 FR 36969.

[2] Cotton Campaign. Letter. August 29, 2018. *https://www.regulations.gov/document?D=DOL-2018-0004-0004.*

[3] DOL. Record of Contact with Outside Party—ILRF. August 9, 2018. *https://www.regulations.gov/document?D=DOL-2018-0004-0002.*

[4] Uzbek-German Forum for Human Rights. ''*We Pick Cotton Out of Fear*'': *Systematic Forced Labor and the Accountability Gap in Uzbekistan.* May 19, 2018. *http://uzbekgermanforum.org/we-pick-cotton-out-of-fear-systematic-forced-labor-and-the-accountability-gap-in-uzbekistan/.*

[5] Uzbek-German Forum for Human Rights. ''*We want farmers to have full freedom*'': *No Need for Forced Labor when Farmers are Empowered to Pay Decent Wages: Spring Cotton Fieldwork 2018.* September 10, 2018. *http://uzbekgermanforum.org/we-want-farmers-to-have-full-freedom-no-need-for-forced-labor-when-farmers-are-empowered-to-pay-decent-wages-spring-cotton-fieldwork-2018/.*

[6] DOL. Record of Contact with Outside Party—Email Correspondence with ILRF. Sent between July 31 and August 10, 2018. *https://www.regulations.gov/document?D=DOL-2018-0004-0006.*

[7] Government of Uzbekistan. Aide-Memoire on Measures to Eradicate Child and Forced Labor. August 2018. *https://www.regulations.gov/document?D=DOL-2018-0004-0003.*

[8] DOL. Record of Contact with Outside Party—Ambassador of Uzbekistan. August 10, 2018. *https://www.regulations.gov/document?D=DOL-2018-0004-0005.*

[9] Record of Contact with Outside Party—Email Correspondence with Uzbek Ambassador. Sent August 13, 2018. *https://www.regulations.gov/document?D=DOL-2018-0004-0007.*

[10] The Departments also note available reporting on the 2018 cotton harvest season. *See, e.g.,* Cotton Campaign. *Forced Labor in Uzbekistan's Cotton Fields Was Present in 2018 Harvest.* December 14, 2018. *https://laborrights.org/releases/forced-labor-uzbekistan%E2%80%99s-cotton-fields-was-present-2018-harvest.*

Grove, Thomas. ''Uzbekistan Says It Is Working to End Forced Labor in Cotton Fields.'' *Wall Street Journal.* December 17, 2018. *https://www.wsj.com/articles/uzbekistan-picks-away-at-forced-labor-in-its-cotton-fields-11545042600.*

Guilbert, Kieran. ''Campaigners challenge U.N. over forced labor in Uzbekistan's cotton industry.'' Reuters. November 23, 2018. *https://www.reuters.com/article/us-uzbekistan-labour-workers/campaigners-challenge-un-over-forced-labor-in-uzbekistans-cotton-industry-idUSKCN1NS1S6.*

Uzbek-German Forum for Human Rights. *Despite Commitment and Efforts, Systematic Forced Labor in Uzbekistan's Cotton Fields was Present During the 2018 Harvest.* December 14, 2018. *http://uzbekgermanforum.org/despite-commitment-and-efforts-systematic-forced-labor-in-uzbekistan-s-cotton-fields-was-present-during-the-2018-harvest/.*

information, the extent of corroboration of the information, whether the information involved more than an isolated incident, and whether recent and credible efforts are being made to address forced or indentured child labor in the country and industry.[11]

The reports cited in the Cotton Campaign's letter document no more than five cases of forced child labor, including cases in which, according to sources cited in the letter, children were required to pick cotton and bring it to school in order for it to meet the cotton quota. In one of these cases, a local inspector imposed fines on the school director for requiring students to bring cotton.[12] The submission does not indicate whether the government took actions to remedy the other cases. However, based on other information that DOL collected, as a general matter, the government made improvements in investigating and remedying such cases.[13] For example, during a research trip to Uzbekistan in the spring of 2018, DOL found that, unlike previous years, upon receiving allegations of child labor from independent activists, the government made efforts to investigate and remediate such cases, and that at least three individuals were convicted [14] and 14 local officials were subjected to administrative penalties.[15]

The Cotton Campaign letter also refers to other cases of child labor, rather than forced child labor. However, these cases highlight that the government has made improvements in investigating and remedying such cases. ILO monitoring in 2017 identified 12 children ages 10 to 14 engaged in child labor in one field in Karakalpakstan. In this case, according to the ILO, the district *hokim* (governor) and other community members took the situation seriously and immediately removed the children from the field. The local *mahalla* (community association) leader, the local Ministry of Education representative, the district prosecutor, and the *hokim* all participated in the investigation of the issue. ILO monitors concluded that the case was an isolated incident based on the fact that the farmer, the children's parents, the *mahalla* leader, and a representative of the local Department of Education all appeared unaware of the children's presence in the fields.[16] Separately, the Uzbek government-led Coordination Council on Decent Work's national monitoring effort, without specifying the location, identified 18 children in the cotton fields, four of whom were picking cotton.[17] The Government of Uzbekistan issued administrative penalties when investigations identified violations of labor laws.[18] These two cases were not considered directly relevant to E.O. List, since they were cases of child labor, rather than forced child labor.

With respect to the evidence submitted by the Cotton Campaign regarding the ability to freely conduct monitoring in the sector, DOL notes that there are three monitoring mechanisms active during the cotton harvest, as well as other mechanisms in place to receive complaints.[19] The existence of such mechanisms, and their increased use each year, points to the opportunity that workers have to be candid about the terms and conditions of their work, including forced child labor.

The first of these mechanisms is monitoring by the Coordination Council.[20] The second is monitoring conducted by independent human rights activists; for example, the Uzbek-German Forum for Human Rights, a Berlin-based NGO, releases reports on the harvest based on these activists' monitoring.[21] Third, the ILO, in collaboration with the Federation of Trade Unions of Uzbekistan, conducts Third-Party Monitoring of the cotton harvest.[22] This mechanism was established in 2015 through an agreement between the World Bank and the ILO; it is funded by a Bank-managed multi-donor trust fund to monitor labor issues under World Bank development projects for agriculture, water, and education in Uzbekistan.[23]

DOL also notes the existence of multiple, active feedback mechanisms for worker complaints. Uzbekistan's Ministry of Employment and Labor Relations operates a hotline [24] and the Federation of Trade Unions operates legal clinics in each province to process labor complaints.[25] Two World Bank projects have their own specific feedback mechanisms for participant concerns.[26] In addition, the President of Uzbekistan in 2017 established a general hotline for members of the public to raise issues with the Uzbek government.[27]

Portions of the comments submitted in response to the initial determination were not directly related to the use of forced child labor in the cotton harvest in Uzbekistan, but do point to the continued existence of adult forced labor in the sector. For instance, the Cotton Campaign referred to the quota system for the cotton harvest in Uzbekistan and, in a meeting with DOL, ILRF stated that the forced labor of adults continues to be prevalent. These comments cited incidents of school officials denying pupils the right to attend class if their parents did not pick cotton or pay for a replacement. The government's letter pointed to various efforts it had made to, in part, combat the forced labor of adults in the cotton sector, such as the mechanization of the cotton harvest, diversification of agricultural crops, increasing cotton pickers' wages by 40 percent or more, increasing the price of cotton so that farmers could hire voluntary workers, and government directives to strictly prosecute violators.

[11] 66 FR 5351, at 5352. (Jan. 18, 2001). *https://www.federalregister.gov/documents/2001/01/18/01-952/bureau-of-international-labor-affairs-procedural-guidelines-for-the-maintenance-of-the-list-of.*

[12] Uzbek-German Forum for Human Rights. ''*We Pick Cotton Out of Fear*'': *Systematic Forced Labor and the Accountability Gap in Uzbekistan.* May 19, 2018. *http://uzbekgermanforum.org/we-pick-cotton-out-of-fear-systematic-forced-labor-and-the-accountability-gap-in-uzbekistan/.*

[13] *Ibid.* Kozyreva, Anna. ''The Fields of Hopelessness: Uzbekistan's Children Remain as Hostages in the Battle for the Cotton Crop,'' *Fergana News.* November 14, 2017. On File.

[14] U.S. Embassy—Tashkent. Reporting. January 9, 2018.

[15] International Labor Organization. *Third-Party Monitoring of Measures Against Child Labor and Forced Labor During the 2017 Cotton Harvest in Uzbekistan.* February 1, 2018. *http://www.ilo.org/ipec/Informationresources/WCMS_543130/lang--en/index.htm.*

[16] International Labor Organization. *Third-Party Monitoring of Measures Against Child Labor and Forced Labor During the 2017 Cotton Harvest in Uzbekistan.* February 1, 2018. *http://www.ilo.org/ipec/Informationresources/WCMS_543130/lang--en/index.htm.*

[17] U.S. Embassy—Tashkent. Reporting. January 9, 2018.

[18] *Ibid.*

[19] Department of Labor. ''Uzbekistan'' in *Findings on the Worst Forms of Child Labor.* September 2018. *https://www.dol.gov/agencies/ilab/resources/reports/child-labor/uzbekistan.*

[20] Government of Uzbekistan. Response to FRN. On File.

[21] Uzbek-German Forum for Human Rights. *Cotton Harvest 2017: Summary of Key Findings.* March 2018. On File.

[22] International Labor Organization. *Third-Party Monitoring of Measures Against Child Labor and Forced Labor During the 2017 Cotton Harvest in Uzbekistan.* February 1, 2018. *http://www.ilo.org/ipec/Informationresources/WCMS_543130/lang--en/index.htm.*

[23] International Labor Organization. *Third-Party Monitoring of Measures Against Child Labor and Forced Labor During the 2017 Cotton Harvest in Uzbekistan.* February 1, 2018. *http://www.ilo.org/ipec/Informationresources/WCMS_543130/lang--en/index.htm.*

[24] U.S. Embassy—Tashkent. Reporting. January 9, 2018.

[25] International Labor Organization. *Third-Party Monitoring of Measures Against Child Labor and Forced Labor During the 2017 Cotton Harvest in Uzbekistan.* February 1, 2018. *http://www.ilo.org/ipec/Informationresources/WCMS_543130/lang--en/index.htm.*

[26] *Ibid.*

[27] U.S. Embassy—Tashkent. Reporting. January 9, 2018.

IV. Final Determination

The Departments have carefully reviewed, analyzed, and considered the comments submitted in determining whether to remove cotton from Uzbekistan from the E.O. List. In addition, the Departments have continued to monitor the cotton harvest since the issuance of the Initial Determination, and will continue to monitor future cotton harvests in the course of maintaining the E.O. List. The Departments conclude that based on available information, the use of forced child labor in the cotton harvest in Uzbekistan has been significantly reduced to isolated incidents and, as a result, this product no longer meets the criteria for inclusion in the E.O. List.

In 2010, when DOL added cotton from Uzbekistan to the E.O. List, forced child labor was pervasive in Uzbekistan's cotton sector. The Environmental Justice Foundation reported that tens of thousands of children were forced to pick cotton in the annual harvest, including an estimated 200,000 children in the Ferghana valley. School children were coerced into participation in the harvest with threats of physical and verbal abuse, threats of expulsion, and threats that their grades would suffer if they did not meet assigned quotas.[28] The *Human Rights Report* noted that between 2 and 19 percent of children participated in the cotton harvest, based on statistics available in 2006. While most child pickers were reportedly older than 15, children as young as 11 were also forced to work in the harvest. Living conditions for cotton pickers, including children, were reportedly poor, and children were exposed to harmful chemicals and pesticides in the fields.[29] DOS confirmed that children were mobilized by their schools as a result of national cotton production quotas, also noting that many schools closed for a full month during the harvest while children picked cotton.[30]

In contrast, during the 2017 harvest season, available reporting documented five cases of forced child labor: (1) A class of children from a school in the Ulugnor District of the Andijan Region picked cotton; (2) a class of children from a school in the Balichki District of the Andijan Region picked cotton, and the head of the school was later fined for sending the children to pick cotton; (3) one child stated that he and other students were instructed by school officials to pick cotton in their spare time in the Balichki District of the Andijan Region; (4) students of a school in the Balichki District of the Andijan Region were told to pick cotton in their free time [31] and (5) a *mahalla* leader in the Turtkul District of the Karakalpakstan Region ordered every house in the area to send someone to pick cotton, some of whom were children.[32]

As a result of the significant reduction in the use of forced child labor to isolated incidents, the Departments have determined to remove cotton from Uzbekistan from the E.O. List.

V. Background

E.O. 13126 was signed on June 12, 1999, and published in the **Federal Register** on June 16, 1999. 64 FR 32383. E.O. 13126 declared that it was ''the policy of the United States Government . . . that executive agencies shall take appropriate actions to enforce the laws prohibiting the manufacture or importation of goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by forced or indentured child labor.'' The E.O. defines ''forced or indentured child labor'' as:

> [A]ll work or service (1) exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or (2) performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

Pursuant to E.O. 13126, and following public notice and comment, DOL published in the January 18, 2001 **Federal Register** the first E.O. List of products, along with their respective countries of origin, that DOL, in consultation and cooperation with the Department of State and the Department of the Treasury (relevant responsibilities now within DHS), had a reasonable basis to believe might have been mined, produced or manufactured by forced or indentured child labor.[33]

The Department also published the Procedural Guidelines on January 18, 2001, which provide procedures for the maintenance, review, and, as appropriate, revision of the E.O. List.[34] The Procedural Guidelines provide that the E.O. List may be revised through consideration of submissions by individuals and on the Department's own initiative. When proposing a revision to the E.O. List, DOL must publish a notice of initial determination in the **Federal Register**, which includes any proposed alteration to the E.O. List. The Departments will consider all public comments prior to the publication of a final determination of a revised E.O. List. The E.O. List was subsequently revised on July 20, 2010; [35] on May 31, 2011; [36] on April 3, 2012; [37] and on July 23, 2013.[38] The most recent E.O. List, finalized on October 3, 2016, includes 35 products from 26 countries.[39]

Under a final rule by the Federal Acquisition Regulatory Council, which also implements E.O. 13126, federal contractors who supply products that appear on the E.O. List are required to certify, among other things, that they have made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of child labor.[40]

The current E.O. List and the Procedural Guidelines can be accessed at *http://www.dol.gov/ilab/reports/child-labor/list-of-products/* or can be obtained from: OCFT, Bureau of International Labor Affairs, Room S–5313, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–4843; fax (202) 693–4830.

Authority: E.O. 13126, 64 FR 32383.

Signed at Washington, DC, on March 13, 2019.

Martha E. Newton,

Deputy Undersecretary for International Affairs.

[FR Doc. 2019–05360 Filed 3–22–19; 8:45 am]

BILLING CODE 4510–28–P

[28] Environmental Justice Foundation. *Child Labor and Cotton in Uzbekistan. http://www.ejfoundation.org/page145.html* and *White Gold: The True Cost of Cotton.* 2005. *http://www.ejfoundation.org/pdf/white_gold_the_true_cost_of_cotton.pdf.*

[29] U.S. Department of State. ''Uzbekistan'' in *Country Reports on Human Rights Practices 2007.* March 11, 2008. *http://www.state.gov/g/drl/rls/hrrpt/2007/100623.htm.*

[30] U.S. Embassy—Tashkent. Reporting. June 6, 2008.

[31] The information available about this case is limited. It is possible that this case may overlap with the third one outlined in this paragraph.

[32] The Departments note that according to available reporting, during the 2018 harvest season, limited evidence pointed to isolated incidents of possible child labor in the cotton harvest. U.S. Embassy—Tashkent. Reporting. December 21, 2018.

[33] 66 FR 5353.

[34] 66 FR 5351.

[35] 75 FR 42164.

[36] 76 FR 31365.

[37] 77 FR 20051.

[38] 78 FR 44158.

[39] 81 FR 68062.

[40] *See* Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor, 66 FR 5346, 5347 (Jan. 18, 2001) (codified at 48 CFR 22.1503(c)).

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Brookwood-Sago Mine Safety Grants

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Funding Opportunity Announcement (FOA).

Announcement Type: New.

Funding Opportunity Number: FOA BS–2019–1.

Catalog of Federal Domestic Assistance (CFDA) Number: 17.603.

SUMMARY: The U.S. Department of Labor (DOL), Mine Safety and Health Administration (MSHA), is making up to $400,000 available in grant funds for education and training programs to help identify, avoid, and prevent unsafe working conditions in and around mines. The focus of these grants for Fiscal Year (FY) 2019 will be training programs and training materials on powered haulage safety (*i.e.* reducing vehicle-on-vehicle collisions, increasing seat belt use, and improving belt conveyor safety), examinations of working places at metal and nonmetal mines, mine emergency prevention and preparedness, or other programs to prevent unsafe conditions in and around mines.

This notice contains all of the information needed to apply for grant funding.

DATES: The closing date for applications will be no later than 11:59:00 p.m. EDST, 60 days after the published date of this FOA. MSHA will award grants on or before September 30, 2019.

ADDRESSES: Grant applications for this competition must be submitted electronically through the *Grants.gov* site at *www.grants.gov.* If applying online poses a hardship to any applicant, the MSHA Directorate of Educational Policy and Development will provide assistance Monday–Friday from 8:00:00 a.m. to 5:00:00 p.m. EDST to help applicants submit online.

FOR FURTHER INFORMATION CONTACT: Any questions regarding this FOA BS–2019–1 should be directed to Janice Oates at *oates.janice@dol.gov* or 202–693–9573 (this is not a toll-free number) or Cindy Hennigan at *hennigan.cindy@dol.gov* or 202–693–9570 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This solicitation provides background information and the requirements for projects funded under the solicitation.

This solicitation consists of eight parts:

- Part I provides background information on the Brookwood-Sago grants.
- Part II describes the size and nature of the anticipated awards.
- Part III describes the qualifications of an eligible applicant.
- Part IV provides information on the application and submission process.
- Part V explains the review process and rating criteria that will be used to evaluate the applications.
- Part VI provides award administration information.
- Part VII contains MSHA contact information.
- Part VIII addresses Freedom of Information Act requests and Office of Management and Budget (OMB) information collection requirements.

Applicants for the grants may be States and Territories (to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands) and private or public nonprofit entities, to include Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, and Native Hawaiian organizations. MSHA could award as many as eight grants. The amount of each individual grant will be at least $50,000, and the maximum individual award will be $400,000.

In addition, the General Services Administration (GSA) has implemented new procedures for the System for Award Management (SAM) registration process to prevent fraud. All applicants need an active SAM registration to apply for a grant under this FOA and should plan accordingly because these procedures may increase the time before an applicant may receive an active registration notice.

I. Program Description

A. Overview of the Brookwood-Sago Mine Safety Grant Program

Under Section 14 of the Mine Improvement and New Emergency Response Act of 2006 (MINER Act), the Secretary of Labor (Secretary) is required to establish a competitive grant program called the ''Brookwood-Sago Mine Safety Grants'' (Brookwood-Sago grants). 30 U.S.C. 965. This program provides funding for education and training programs to better identify, avoid, and prevent unsafe working conditions in and around mines. The program uses grant funds to establish and implement education and training programs or to create training materials and programs. The MINER Act requires the Secretary to give priority to mine safety demonstrations and pilot projects with broad applicability. The MINER Act also mandates that the Secretary emphasize programs and materials that target miners in smaller mines, including training mine operators and miners on new MSHA standards, high-risk activities, and other identified safety priorities.

B. Education and Training Program Priorities

MSHA priorities for the FY 2019 funding of the annual Brookwood-Sago grants will focus on powered haulage safety (*i.e.* reducing vehicle-on-vehicle collisions, increasing seat belt use, and improving belt conveyor safety), examinations of working places at metal and nonmetal mines, mine emergency prevention and preparedness, or other programs to prevent unsafe conditions in and around mines. MSHA expects Brookwood-Sago grantees to develop training materials or to develop and provide mine safety training or educational programs, recruit mine operators and miners for the training, and conduct and evaluate the training. MSHA will give special emphasis to programs and materials that target workers at smaller mines, including training miners and employers about new MSHA standards, high-risk activities, or hazards identified by MSHA.

MSHA expects Brookwood-Sago grantees to conduct follow-up evaluations with the people who received training in their programs to measure how the training promotes the Secretary's goal to ''promote safe jobs and fair workplaces for all Americans'' and MSHA's goal to ''prevent fatalities, disease, and injury from mining and secure safe and healthful working conditions for America's miners.'' Evaluations will focus on determining how effective the subject training was in either reducing hazards, improving skills for the selected training topics, or in improving the conditions in mines. Grantees must also cooperate fully with MSHA evaluators of their programs, which may include data collection or provision of training curricula, materials, or mechanisms.

II. Federal Award Information

A. Award Amount for FY 2019

MSHA is providing up to $400,000 for the 2019 Brookwood-Sago grant program which could be awarded in a maximum of eight separate grants of no less than $50,000 each. Applicants requesting less than $50,000 or more than $400,000 for a 12-month

performance period will not be considered for funding.

B. Period of Performance

The performance period for these grants will begin when the grant is awarded. MSHA may approve one no-cost period of performance extension upon reviewing the success of the project and other relevant factors. See 2 CFR 200.308(d)(2).

III. Eligibility Information

A. Eligible Applicants

Applicants for the grants may be States and Territories (to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands) and private or public nonprofit entities, to include Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, and Native Hawaiian organizations. Eligible entities may apply for funding independently or in partnership with other eligible organizations. For partnerships, a lead organization must be identified.

Applicants other than States, Territories, State-supported or local government-supported institutions of higher education, and tribal governments and tribal-supported institutions of higher education will be required to submit evidence of nonprofit status, preferably from the Internal Revenue Service (IRS). A nonprofit entity, as described in 26 U.S.C. 501(c)(4), which engages in lobbying activities, is not eligible for a grant award. See 2 U.S.C. 1611.

B. Legal Rules Pertaining to Inherently Religious Activities by Organizations That Receive Federal Financial Assistance

The government generally is prohibited from providing direct Federal financial assistance for inherently religious activities. See 29 CFR part 2, subpart D. Grants under this solicitation may not be used for religious instruction, worship, prayer, proselytizing, or other inherently religious activities. Neutral, non-religious criteria that neither favor nor disfavor religion will be employed in the selection of grant recipients and must be employed by grantees in the selection of contractors and subcontractors.

C. Cost-Sharing or Matching

Cost-sharing or matching of funds is not required for eligibility.

IV. Application and Submission Information

A. Application Package

This announcement includes all information, including forms, regulations, and links needed to apply for this funding opportunity. The full application is available through the *Grants.gov* website, *www.grants.gov* and the *FedConnect.net* portal. Applicants, however, must apply for this funding opportunity through the *Grants.gov* website. You may request paper copies of the package by contacting the Directorate of Educational Policy and Development at 202–693–9570.

For *Grants.gov*, click ''Search Grants,'' and enter the ''Opportunity Number,'' the ''Catalog of Federal Domestic Assistance'' (CFDA), or both, and click the Search button. The Opportunity Number is BS–2019–1. The CFDA number for this opportunity is 17.603. If an applicant has problems downloading the application package from *Grants.gov*, contact the *Grants.gov* Contact Center at 1–800–518–4726, or by email at *support@grants.gov.*

The full application package is also available online at *FedConnect.net* portal, *https://www.fedconnect.net.* Click the ''Search Public Opportunities Only'' section, enter the Title or FOA number of the document, and click search to find the application package.

If applying online poses a hardship to any applicant, please notify the MSHA Directorate of Educational Policy and Development as early as possible and we will provide assistance to help applicants submit online and provide any applicable notices.

For the *FedConnect.net* portal, an applicant will register in FedConnect at *https://www.fedconnect.net.* To create an organization account, your organization's SAM Marketing Partner ID number (MPIN) is required. (See Section IV.C regarding new procedures for SAM Entity Administrator.) Only the SAM Entity Administrator for an entity may view the MPIN. For more information about registering in FedConnect, review DOL's Grant Management System Modernization Guide at *https://www.msha.gov/sites/default/files/Training_Education/Grants%20Management%20System%20Modernization.pdf* or on MSHA's website, *www.msha.gov* (Select ''Training and Education,'' click ''Training Programs and Courses,'' then select ''Grant Management System Modernization'').

1. FOA Modifications

MSHA will post any modifications to this announcement on *Grants.gov* and the *FedConnect.net* portal. *FedConnect.net* will provide an email notice of a modification or an announcement message if an applicant registers in *FedConnect.net* as an interested party for this FOA. If you request paper copies of the FOA, or notify MSHA regarding hardship in applying online, MSHA will attempt to timely notify you of any modifications with the contact information provided.

2. Questions

Questions regarding the content of the announcement must be submitted through the *FedConnect.net* portal. You must register with FedConnect to submit questions, and to view responses to questions. It is recommended that you register as soon after release of the FOA as possible.

Questions relating to the *Grants.gov* registration process, system requirements, how an application form works, or the submittal process must be directed to *Grants.gov* at 1–800–518–4726, or *support@grants.gov.*

If applying online poses a hardship to any applicant, please notify the MSHA Directorate of Educational Policy and Development as early as possible. Program questions should be submitted to the MSHA contacts listed in Section VII of this FOA.

B. Content and Form of the FY 2019 Application

Each grant application must address powered haulage safety (*i.e.* reducing vehicle-on-vehicle collisions, increasing seat belt use, and improving belt conveyor safety), mine emergency prevention and preparedness, examinations of working places at metal and nonmetal mines, or other programs to prevent unsafe conditions in and around mines. The application must consist of three separate and distinct sections. The three required sections are:

- Section 1—Project Forms and Financial Plan (No page limit).
- Section 2—Executive Summary (Not to exceed two pages).
- Section 3—Technical Proposal (Not to exceed 12 pages). Illustrative material can be submitted as an attachment.

The following are mandatory requirements for each section:

1. Project Forms and Financial Plan

This section contains the forms and budget section of the application. The Project Financial Plan will not count against the application page limits. A person with authority to bind the applicant must sign the grant application and forms. Applications

submitted electronically through *Grants.gov* do not need to be signed manually; electronic signatures will be accepted. All the following forms are part of the application package on *Grants.gov*, the *FedConnect.net* portal, and on MSHA's website, *www.msha.gov* (Select ''Training and Education,'' click on ''Training Programs and Courses,'' then select ''Brookwood-Sago Mine Safety Grants''):

(a) Completed SF–424, ''Application for Federal Assistance,'' (OMB No. 4040–0004, expiration: 12/31/2019). The SF–424 must identify the applicant clearly and be signed by an individual with authority to enter into a grant agreement. Upon confirmation of an award, the individual signing the SF–424 on behalf of the applicant shall be considered the representative of the applicant.

(b) Completed SF–424A, ''Budget Information for Non-Construction Programs,'' (OMB No. 4040–0006, expiration: 02/28/2022) and budget narrative. The project budget should demonstrate clearly that the total amount and distribution of funds is sufficient to cover the cost of all major project activities identified by the applicant in its proposal, and must comply with the Federal cost principles and the administrative requirements set forth in this FOA. (Copies of all regulations that are referenced in this FOA are available online at *Grants.gov*, *FedConnect.net* portal, and on MSHA's website, *www.msha.gov* [Select ''Training and Education,'' click on ''Training Programs and Courses,'' then select ''Brookwood-Sago Mine Safety Grants'']). The applicant must provide a concise narrative explaining the request for funds. The budget narrative should separately attribute the Federal funds to each of the activities specified in the technical proposal and if charging administrative costs as direct costs to the program, the budget narrative should discuss precisely how any administrative costs support the project goals. See 2 CFR 200.413(c).

If applicable, the applicant must provide a statement about its program income. See 2 CFR 200.80 and 200.307 and this FOA, Part IV.F.1(a) and (b).

The amount of Federal funding requested for the entire period of performance must be shown on the SF–424 and SF–424A forms.

(c) Completed SF–424B, ''Assurances for Non-Construction Programs,'' (OMB No. 4040–0007, expiration: 02/28/2022). Each applicant for these grants must certify compliance with a list of assurances.

(d) Completed Supplemental Certification Regarding Lobbying Activities Form, if applicable. If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of a grant or cooperative agreement, the applicant shall complete and submit SF–LLL, ''Disclosure Form to Report Lobbying,'' (OMB No. 4040–0013, expiration: 02/28/2022) in accordance with its instructions.

(e) Nonprofit status. Applicants must provide evidence of nonprofit status, preferably from the IRS, if applicable.

(f) Accounting System Certification. Under the authority of 2 CFR 200.207, MSHA requires that a new applicant that receives less than $1 million annually in Federal grants attach a certification stating that the organization (directly or through a designated qualified entity) has a functioning accounting system that meets the criteria below. The certification should attest that the organization's accounting system provides for the following:

(1) Accurate, current, and complete disclosure of the financial results of each federally-sponsored project.

(2) Records that adequately identify the source and application of funds for federally-sponsored activities.

(3) Effective control over and accountability for all funds, property, and other assets.

(4) Comparison of outlays with budget amounts.

(5) Written procedures to minimize the time elapsing between transfers of funds.

(6) Written procedures for determining the reasonableness, allocability, and allowability of costs.

(7) Accounting records, including cost accounting records that are supported by source documentation.

(g) Attachments. The application may include attachments, such as resumes of key personnel or position descriptions, exhibits, information on prior government grants, and signed letters of commitment to the project.

2. Executive Summary

The executive summary is a short one- to two-page abstract that succinctly summarizes the proposed project. The executive summary must include the following information:

(a) Applicant. Provide the organization's full legal name and address.

(b) Funding requested. List how much Federal funding is being requested.

(c) Grant Topic. List the grant topic and the location and number of mine operators and miners that the organization has selected to train or describe the training materials or equipment to be created with these funds.

(d) Program Structure. Identify the type of grant as ''annual.''

(e) Summary of the Proposed Project. Write a brief summary of the proposed project. This summary must identify the key points of the proposal, including an introduction describing the project activities and each milestone with the expected results.

3. Technical Proposal

The technical proposal must demonstrate the applicant's capabilities to plan and implement a project or create educational materials to meet the objectives of this solicitation. MSHA's focus for these grants is on training mine operators and miners and developing training materials on powered haulage safety (*i.e.* reducing vehicle-on-vehicle collisions, increasing seat belt use, and improving belt conveyor safety), examinations of working places in metal and nonmetal mines, mine emergency prevention and preparedness, or other programs to prevent unsafe conditions in and around mines. MSHA shall give special emphasis to programs and materials that target miners at smaller mines, including training miners and employers about new MSHA standards, high-risk activities, or hazards identified by MSHA. A Department of Labor Strategic Goal is to ''promote safe jobs and fair workplaces for all Americans, '' and MSHA's goal is to ''prevent fatalities, disease, and injury from mining and secure safe and healthful working conditions for America's miners.'' MSHA's award of the Brookwood-Sago grants supports these goals and strategies. To show how the grant projects promote these goals and strategies, grantees must report, at the end of each quarter, the following information (as applicable):

- Number of trainers trained
- Number of mine operators and miners trained
- Number of training events
- Number of course days of training provided to industry
- Course evaluations of trainer and training material
- Description of training materials created, to include target audience, goals and objectives, and usability in the mine training environment

The technical proposal narrative must not exceed 12 single-sided, double-spaced pages, using 12-point font, and must contain the following sections:

Program Design, Overall Qualifications of the Applicant, and Output and Evaluation. Any pages over the 12-page limit will not be reviewed. Attachments to the technical proposal are not counted toward the 12-page limit. Major sections and sub-sections of the proposal should be divided and clearly identified.

MSHA will review and rate the technical proposal in accordance with the selection criteria specified in Part V.

(a) Program Design

(1) Statement of the Problem/Need for Funds

Applicants must identify a clear and specific need for proposed activities. They must identify whether they are providing a training program, creating training materials, or both. Applicants also must identify the number of individuals expected to benefit from their training and education program; this should include identifying the type of mines, the geographic locations of the training, and the number of mine operators and miners.

(i) Quality of the Project Design

MSHA requires that each applicant include a 12-month workplan that correlates with the grant project period that will begin no later than TBD and end no later than TBD.

(ii) Plan Overview

Describe the plan for grant activities and the anticipated results. The plan should describe such aspects as the development of training materials, the training content, recruiting of trainees, where or how training will take place, and the anticipated benefits to mine operators and miners receiving the training.

(iii) Activities

Break the plan down into activities or tasks for each quarter. For each activity, explain what will be done, who will do it, when it will be done, and the anticipated results of the activity. For training, discuss the subjects to be taught, length of the training sessions, type of training (*i.e.* powered haulage safety, examinations of working places at metal and nonmetal mines, and mine emergency prevention and preparedness), and training locations (*i.e.* classroom, worksites). Describe how the applicant will recruit mine operators and miners for the training. (Note: Any commercially developed training materials the applicant proposes to use in its training must undergo an MSHA review before being used).

(iv) Quarterly Projections

For training and other quantifiable activities, estimate the quantities involved for data required to meet the grant goals located in Part IV.B.3. For example, estimate how many classes will be conducted and how many mine operators and miners will be trained each quarter of the grant. Also, provide the training number totals for the full year. Quarterly projections are used to measure the actual performance against the plan. A quarterly technical project report is due 30 days after the end of each quarter. Applicants planning to conduct a train-the-trainer program should estimate the number of individuals to be trained during the grant by those who received the train-the-trainer training. These second-tier training numbers should be included only if the organization is planning to follow up with the trainers to obtain this data during the grant.

(v) Materials

Describe each educational material to be produced under this grant. Provide a timetable, including milestones, for developing and producing the material. The timetable must include provisions for an MSHA review of draft and camera-ready products or evaluation of equipment. MSHA must review and approve training materials or equipment for technical accuracy and suitability of content before use in the grant program. Whether or not an applicant's project is to develop training materials only, the applicant should provide an overall plan that includes time for MSHA to review any materials produced.

(b) Qualifications of the Applicant

(1) Applicant's Background

Describe the applicant, including its mission and a description of its membership, if any. Provide an organizational chart (the chart may be included as a separate page which will not count toward the page limit). Identify the following:

(i) Project Director

The Project Director is the person who will be responsible for the day-to-day operation and administration of the program. Provide the name, title, street address and mailing address (if it is different from the organization's street address), telephone and fax numbers, and email address of the Project Director.

(ii) Certifying Representative or Authorizing Organization Representative (AOR)

The Certifying Representative, or the AOR, is the official in the organization who is authorized to enter into grant agreements. Provide the name, title, street address and mailing address (if it is different from the organization's street address), telephone and fax numbers, and email address of the Certifying Representative or AOR.

(2) Administrative and Program Capability

Briefly describe the organization's functions and activities, *i.e.,* the applicant's management and internal controls. Relate this description of functions to the organizational chart. If the applicant has received any other government (Federal, State or local) grant funding, the application must have, as an attachment (which will not count towards the page limit), information regarding these previous grants. This information must include each organization for which the work was done and the dollar value of each grant. If the applicant does not have previous grant experience, it may partner with an organization that has grant experience to manage the grant. If the organization uses this approach, the management organization must be identified and its grant program experience discussed. Lack of past experience with Federal grants is not a determining factor, but an applicant should show a successful experience relevant to the opportunity offered in the application. Such experience could also include staff members' experiences with other organizations.

(3) Program Experience

Describe the organization's experience conducting the proposed mine training program or other relevant experience. Include program specifics, such as program title, numbers trained, and duration of training. If creating training materials, include the title of other materials developed. Nonprofit organizations, including community-based and faith-based organizations that do not have prior experience in mine safety, may partner with an established mine safety organization to acquire safety expertise.

(4) Staff Experience

Describe the qualifications of the professional staff you will assign to the program. Attach resumes of staff already employed (resumes will not count towards the page limit). If some positions are vacant, include position descriptions and minimum hiring

qualifications instead of resumes. Staff should have, at a minimum, mine safety experience, training experience, or experience working with the mining community.

(c) Outputs and Evaluations

There are two types of evaluations that must be conducted. First, describe the methods, approaches, or plans to evaluate the training sessions or training materials to meet the data requirements in Part IV.B.3. Second, describe plans to assess the long-term effectiveness of the training materials or training conducted. The type of training given will determine whether the evaluation should include a process-related outcome, result-related outcome, or both. This will involve following up with an evaluation, or on-site review, if feasible, of miners trained. The evaluation should focus on what changes the trained miners made to abate hazards and improve workplace conditions, incorporate this training in the workplace, or both.

For training materials, include an evaluation from individuals trained on the clarity of the presentation, organization, and the quality of the information provided on the subject matter and whether they would continue to use the training materials. Include timetables for follow-up and for submitting a summary of the assessment results to MSHA.

C. Dun and Bradstreet Universal Numbering System (DUNS) Number and SAM—Required

Under 2 CFR 25.200(b)(3), every applicant for a Federal grant is required to include a DUNS number with its application. The DUNS number is a nine-digit identification number that uniquely identifies business entities. An applicant's DUNS number is to be entered into Block 8 of Standard Form (SF) 424. There is no charge for obtaining a DUNS number. To obtain a DUNS number, call 1–866–705–5711, or access the following website: *https://fedgov.dnb.com/webform.*

After receiving a DUNS number, all grant applicants must register as a vendor with the SAM through the website *https://www.sam.gov/SAM/.* Grant applicants must create a user account and register online. In addition, GSA has implemented new procedures for the SAM registration process to prevent fraud. One of these procedures requires new entities and entities renewing or updating their registration to submit an original, signed notarized letter confirming the authorized Entity Administrator *https://www.sam.gov/SAM/.* All applicants need an active SAM registration to apply for a grant under this FOA and should plan accordingly because these procedures may increase the time before an applicant may receive an active registration notice.

Submitted registrations will take up to 10 business days to process, after which time the applicant will receive an email notice that the registration is active. Once the registration is active in SAM, it takes an additional 24—48 hours for the registration to be active in *Grants.gov.* SAM registrations must be renewed annually. SAM will send notifications to the registered user via email prior to expiration of the registration. Under 2 CFR 25.200(b)(2), each grant applicant must maintain an active registration with current information at all times during which it has an active Federal award or an application under active consideration.

D. Submission Date, Times, and Addresses

The closing date for applications will be 60 days after the published date of this FOA (no later than 11:59:00 p.m. EDST). MSHA will award grants on or before September 30, 2019.

Grant applications must be submitted electronically through the *Grants.gov* website. The *Grants.gov* site provides all the information about submitting an application electronically through the site as well as the hours of operation. Interested parties can locate the downloadable application package by the FOA Number: BS–2019–1, or by the CFDA Number: 17.603.

1. Non-Compliant Applications

(a) Applications that are lacking any of the required elements or do not follow the format prescribed in Part IV.B will not be reviewed.

(b) Late Applications.

Applications should be submitted before the deadline to minimize the risk of late receipt. Applications received after the deadline will not be reviewed unless it is determined to be in the best interest of the Government.

Applications received by *Grants.gov* are date and time stamped electronically. See *https://www.grants.gov/help/html/help/index.htm?callingApp=custom#t=ManageWorkspaces%2FDetailsTab.htm&rhsearch=date%20stamp&rhhlterm=date%20stamp&rhsyns=%20*

An application must be fully uploaded and validated by the *Grants.gov* system before the application deadline date.

E. Intergovernmental Review

The Brookwood-Sago grants are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' MSHA reminds applicants that if they are not operating MSHA-approved State training grants, they should contact the State grantees and coordinate any training or educational program. Information about each state grant and the entity operating the state grant is provided online at: *https://arlweb.msha.gov/TRAINING/STATES/STATES.asp*

F. Funding Restrictions

MSHA will determine whether costs are allowable under applicable Federal cost principles and other conditions contained in the grant award.

1. Allowable Costs

Grant funds may be spent on conducting training and outreach, developing educational materials, recruiting activities (to increase the number of participants in the program), and on necessary expenses to support these activities. Allowable costs are determined by the applicable Federal cost principles identified in Part VI.B, which are attachments in the application package, or are located online at *https://www.fedconnect.net.* Click the ''Search Public Opportunities Only'' section, enter the Title or FOA number of the document, and click ''Search.'' These documents are also located on *www.msha.gov* (Select ''Training and Education,'' click on ''Training Programs and Courses,'' then select ''Brookwood-Sago Mine Safety Grants''). Paper copies of the material may be obtained by contacting the Directorate of Educational Policy and Development at 202–693–9570.

(a) If an applicant anticipates earning program income during the grant, the application must include an estimate of the income that will be earned. Program income earned must be reported on a quarterly basis.

(b) Program income is gross income earned by the grantee, which is directly generated by a supported activity, or earned as a result of the award. Program income earned during the award period shall be retained by the grantee, added to funds committed to the award, and used for the purposes and under the conditions applicable to the use of the grant funds. See 2 CFR 200.80 and 200.307.

2. Unallowable Costs

Grant funds may not be used for the following activities under this grant program:

(a) Any activity inconsistent with the goals and objectives of this FOA.

(b) Training on topics that are not targeted under this FOA.

(c) Purchasing any equipment unless pre-approved and in writing by the MSHA grant officer.

(d) Direct administrative costs that exceed 15 percent of the total grant budget.

(e) Indirect costs that exceed 10 percent of the modified total direct costs (as defined in 2 CFR 200.68), or the grantee's federally negotiated indirect cost rate reimbursement.

(f) Any pre-award costs.

(g) Building an information technology (IT) system. If a learning management system is proposed, an existing system from a partnering institution or *USALearning.gov* must be used.

Unallowable costs also include any cost determined by MSHA as not allowed according to the applicable cost principles or other conditions in the grant.

V. Application Review Information for FY 2019 Grants

A. Evaluation Criteria

MSHA will screen all applications to determine whether all required proposal elements are present and clearly identifiable. Those that do not comply with these mandatory requirements will not be evaluated. The technical panel will review grant applications and score them. Panel reviewers will award each application up to 100 points based on the evaluation criteria described below:

1. Program Design—40 Points Total

(a) Statement of the Problem/Need for Funds (3 Points)

The proposed training and education program or training materials must address powered haulage safety (*i.e.* reducing vehicle-on-vehicle collisions, increasing seat belt use, and improving belt conveyor safety), examinations of working places at metal and nonmetal mines, mine emergency prevention and preparedness, or other programs to prevent unsafe conditions in and around mines.

(b) Quality of the Project Design (25 Points)

(1) The proposal to train mine operators and miners clearly estimates the number to be trained and clearly identifies the types of mine operators and miners to be trained.

(2) If the proposal contains a train-the-trainer program, the following information must be provided:

- Name or type of support the grantee will provide to new trainers.
- The number of individuals to be trained as trainers.
- The estimated number of courses to be conducted by the new trainers.
- The estimated number of students to be trained by these new trainers and a description of how the grantee will obtain data from the new trainers documenting their classes and student numbers if conducted during the grant.

(3) The work plan activities and training are described.

- The planned activities and training are tailored to the needs and levels of the mine operators and miners to be trained. Any special constituency to be served through the grant program is described, *i.e.* smaller mines, limited English proficiency miners, etc. Organizations proposing to develop materials in languages other than English also will be required to provide an English version of the materials.
- If the proposal includes developing training materials, the work plan must include time during development for MSHA to review the educational materials for technical accuracy and suitability of content. If commercially developed training products will be used for a training program, applicants should also plan for MSHA to review the materials before using the products in their grant programs.
- The utility of the educational materials is described.
- The outreach or process to find mine operators, miners, or trainees to receive the training is described.

(c) Replication (4 Points)

The potential for a project to serve a variety of mine operators, miners, or mine sites, or the extent others may replicate the project.

(d) Innovation (3 Points)

The originality and uniqueness of the approach used.

(e) MSHA's Performance Goals (5 Points)

The extent the proposed project will contribute to MSHA's performance goals.

2. Budget—20 Points Total

(a) The budget presentation is clear and detailed. (15 points)

The budgeted costs are reasonable.

- No more than 15 percent of the total budget is for direct administrative costs.
- Indirect costs do not exceed 10 percent of the modified total direct costs (as defined in 2 CFR 200.68) or the grantee's federally negotiated indirect cost rate reimbursement.
- The budget complies with Federal cost principles (which can be found in the applicable Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and with MSHA budget requirements contained in the grant application instructions).

(b) The application demonstrates that the applicant has strong financial management and internal control systems. (5 points)

3. Overall Qualifications of the Applicant—25 Points Total

(a) Grant Experience (6 Points)

The applicant has administered, or will work with an organization that has administered, a number of different Federal or State grants. The applicant may demonstrate this experience by having project staff that has experience administering Federal or State grants.

(b) Mine Safety Training Experience (13 Points)

- The applicant applying for the grant demonstrates experience with mine safety teaching or providing mine safety educational programs. Applicants that do not have prior experience in providing mine safety training to mine operators or miners may partner with an established mine safety organization to acquire mine safety expertise.
- Project staff has experience in mine safety, the specific topic chosen, or in training mine operators and miners.
- Project staff has experience in recruiting, training, and working with the population the organization proposes to serve.
- Applicant has experience in designing and developing mine safety training materials for a mining program.
- Applicant has experience in managing educational programs.

(c) Management (6 Points)

Applicant demonstrates internal control and management oversight of the project.

4. Outputs and Evaluations—15 Points Total

The proposal should include provisions for evaluating the organization's progress in accomplishing the grant work activities and accomplishments, evaluating training sessions, and evaluating the program's effectiveness and impact to determine if the safety training and services provided resulted in workplace change or improved workplace conditions. The proposal should include a plan to follow up with trainees to determine the impact the program has had in abating hazards and reducing miner illnesses and injuries.

B. Review and Selection Process for FY 2019 Grants

A technical panel will rate each complete application against the criteria described in this FOA. One or more applicants may be selected as grantees on the basis of the initial application submission, or a minimally acceptable number of points may be established. MSHA may request final revisions to the applications, and then evaluate the revised applications. MSHA may consider any information that comes to its attention in evaluating the applications.

The panel recommendations are advisory in nature. The Assistant Secretary of Labor for Mine Safety and Health will make a final selection determination based on what is most advantageous to the government, considering factors such as panel findings, geographic presence of the applicants or the areas to be served, Agency priorities, and the best value to the government, cost, and other factors. The Assistant Secretary's determination for award under this FOA is final.

C. Anticipated Announcement and Award Dates

Announcement of the awards is expected to occur before September 30, 2019. The grant agreement will be signed no later than September 30, 2019.

VI. Award Administration Information

A. Award Process

Before September 30, 2019, organizations selected as potential grant recipients will be notified by a representative of the Assistant Secretary. An applicant whose proposal is not selected will be notified in writing. The fact that an organization has been selected as a potential grant recipient does not necessarily constitute approval of the grant application as submitted (revisions may be required).

Before the actual grant award and the announcement of the award, MSHA may enter into negotiations with the potential grant recipient concerning such matters as program components, staffing and funding levels, and administrative systems. If the negotiations do not result in an acceptable submittal, the Assistant Secretary reserves the right to terminate the negotiations and decline to fund the proposal.

B. Administrative and National Policy Requirements

All grantees will be subject to applicable Federal laws and regulations (including provisions of appropriations law). These requirements are attachments in the application package and are also located online at *https://www.fedconnect.netwww.msha.gov* (Click the ''Search Public Opportunities Only'' section, enter the Title or FOA number of the document, and click ''Search'') or at *www.msha.gov* (Select ''Training and Education,'' click on ''Training Programs and Courses,'' then select ''Brookwood-Sago Mine Safety Grants''). The grants awarded under this competitive grant program will be subject to the following administrative standards and provisions, if applicable:

- 2 CFR part 25, Universal Identifier and System for Award Management.
- 2 CFR part 170, Reporting Subawards and Executive Compensation Information.
- 2 CFR part 175, Award Term for Trafficking in Persons.
- 2 CFR part 180, OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) (Nov. 15, 2006).
- 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Dec. 19, 2014).
- 2 CFR part 2900, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- 2 CFR part 2998, Nonprocurement Debarment and Suspension.
- 29 CFR part 2, subpart D, Equal Treatment in Department of Labor Programs for Religious Organizations; Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries.
- 29 CFR part 31, Nondiscrimination in federally assisted programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964.
- 29 CFR part 32, Nondiscrimination on the basis of handicap in programs or activities receiving federal financial assistance.
- 29 CFR part 33, Enforcement of nondiscrimination on the basis of handicap in programs or activities conducted by the Department of Labor.
- 29 CFR part 35, Nondiscrimination on the basis of age in programs or activities receiving federal financial assistance from the Department of Labor.
- 29 CFR part 36, Nondiscrimination on the basis of sex in education programs or activities receiving federal financial assistance.
- 29 CFR part 93, New restrictions on lobbying.
- 29 CFR part 94, Government-wide requirements for drug-free workplace (financial assistance).
- Federal Acquisition Regulation (FAR) Part 31, Subpart 31.2, Contract cost principles and procedures (Codified at 48 CFR Subpart 31.2).

Unless specifically approved, MSHA's acceptance of a proposal or award of Federal funds to sponsor any program does not constitute a waiver of any grant requirement or procedure. For example, if an application identifies a specific sub-contractor to provide certain services, the MSHA award does not provide a basis to sole-source the procurement (to avoid competition).

C. Special Program Requirements

1. MSHA Review of Educational Materials

MSHA will review all grantee-produced educational and training materials for technical accuracy and suitability of content during development and before final publication. MSHA also will review training curricula and purchased training materials for technical accuracy and suitability of content before the materials are used. Grantees developing training materials must follow all copyright laws and provide written certification that their materials are free from copyright infringement.

When grantees produce training materials, they must provide copies of completed materials to MSHA before the end of the grant. Completed materials should be submitted to MSHA in hard copy and in digital format for publication on the MSHA website. Two copies of the materials must be provided to MSHA. Acceptable formats for training materials include Microsoft Word, PDF, PowerPoint, and any other format agreed upon by MSHA.

2. License

As stated in 2 CFR 200.315 and 2 CFR 2900.13, the Department of Labor has a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use for Federal purposes any work produced, or for which ownership was acquired, under a grant, and to authorize others to do so. Such products include, but are not limited to, curricula, training models, and any related materials. Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronic, or otherwise.

3. Acknowledgement on Printed Materials

All approved grant-funded materials developed by a grantee shall contain the following disclaimer: ''This material was produced under grant number [insert grant number] from the Mine Safety and Health Administration, U.S. Department of Labor. It does not

necessarily reflect the views or policies of the U.S. Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.''

When issuing statements, press releases, request for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds must clearly state:

(a) The percentage of the total costs of the program or project that will be financed with Federal money;

(b) The dollar amount of Federal financial assistance for the project or program; and

(c) The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

4. Use of U.S. Department of Labor (USDOL) or MSHA Logo

With written permission from MSHA, the USDOL and MSHA logos may be applied to the grant-funded materials including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications. The grantees must consult with MSHA on whether the logos may be used on any such items prior to final draft or final preparation for distribution. In no event shall the DOL or MSHA logo be placed on any item until MSHA has given the grantee written permission to use the logos on the item.

5. Reporting

Grantees are required by Departmental regulations to submit financial and project reports, as described below. Grantees are also required to submit final reports no later than 90 days after the end of the grant.

(a) Financial Reports

The grantee shall submit financial reports on a quarterly basis. Recipients are required to use the U.S. Department of Labor's Grantee Reporting Systems' electronic SF–425 (Federal Financial Report), (OMB No. 4040–0014, expiration: 02/28/2022), at *https://www.fedconnect.net,* to report the status of all funds awarded and, if applicable, program income received and expended, during the funding period. To create an organization account, your organization's SAM Marketing Partner ID number (MPIN) is required. (See Section IV.C regarding new procedures for SAM Entity Administrator.) Only the SAM Entity Administrator for an entity may view the MPIN. For more information about registering in FedConnect, review DOL's Grant Management System Modernization Guide at *https://www.msha.gov/sites/default/files/Training_Education/Grants%20Management%20System%20Modernization.pdf* or on MSHA's website, *www.msha.gov.* FedConnect will send a SF–425 form at the end of each quarter to be filled out, saved, and uploaded to submit to MSHA. All reports are due no later than 30 days after the end of the reporting period.

(b) Technical Project Reports

A grantee must submit a quarterly technical project report to MSHA no later than 30 days after established reporting periods. MSHA will provide the reporting periods upon the awarding of the grants. Technical project reports provide both quantitative and qualitative information and a narrative assessment of performance for the preceding three-month period. This should include the current grant progress against the overall grant goals as provided in Part IV.B.3.

Between reporting dates, the grantee shall immediately inform MSHA of significant developments or problems affecting the organization's ability to accomplish the work. See 2 CFR 200.328(d).

(c) Final Reports

At the end of the grant, each grantee must provide a project summary of its technical project reports, an evaluation report, and a close-out financial report. These final reports are due no later than 90 days after the end of the grant.

VII. Agency Contacts

Program Office

Janice Oates, Grants Program Manager, Educational Policy and Development, Mine Safety and Health Administration, U.S. Department of Labor, 201 12th Street South, Suite 401, Arlington, Virginia 22202, (202) 693–9573, (202) 693–9571 (FAX), *Oates.Janice@dol.gov*.

Cindy Hennigan, Management Officer, Educational Policy and Development, Mine Safety and Health Administration, U.S. Department of Labor, 201 12th Street South, Suite 401, Arlington, Virginia 22202, (202) 693–9581, (202) 693–9571 (FAX), *Hennigan.Cindy@dol.gov.*

Grants Office

Travis Munnerlyn, Grants Management Specialist, Mine Safety and Health Administration.U.S. Department of Labor, 201 12th Street South, Suite 401, Arlington, Virginia 22202, (202) 693–9833, (202) 693–9801 (FAX), *Munnerlyn.Travis@dol.gov*..

Emmanuel Ekwo, Grant Officer, Mine Safety and Health Administration, U.S. Department of Labor, 201 12th Street South, Suite 401, Arlington, Virginia 22202, (202) 693–9635, (202) 693–9801 (FAX), *Ekwo.Emmanuel.M@dol.gov.*

The telephone numbers listed above are not toll-free numbers.

VIII. Other Information

A. Freedom of Information Act

Any information submitted in response to this FOA will be subject to the provisions of the Freedom of Information Act, as appropriate.

B. Office of Management and Budget Information Collection Requirements

This FOA requests information from applicants. This collection of information is approved under OMB Control No. 1225–0086 (expiration: May 31, 2019).

In accordance with the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for the grant application is estimated to average 10 hours per response, for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Each recipient who receives a grant award will be required to submit four technical performance reports and a final report to MSHA.

Send comments about the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Office of the Chief Information Officer, Attention: Departmental Clearance Officer, 200 Constitution Avenue NW, Room N1301, Washington, DC 20210. Comments may also be emailed to *DOL_PRA_PUBLIC@dol.gov.*

Please do not return your grant application to this address. Only send comments about the burden caused by the collection of information to this address. Send your grant application to the sponsoring agency as specified earlier in this announcement.

This information is being collected for the purpose of awarding a grant. DOL will use the information collected through this ''Funding Opportunity Announcement'' to ensure that grants are awarded to the applicants best suited to perform the functions of the

grant. This information is required to be considered for this grant.

David G. Zatezalo,

Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 2019–05594 Filed 3–22–19; 8:45 am]

BILLING CODE 4510–43–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 19–01]

Notice of Open Meeting

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, the Millennium Challenge Corporation (MCC) Advisory Council was established as a discretionary advisory committee on July 14, 2016. Its charter was renewed for a second term on July 11, 2018. The MCC Advisory Council serves MCC in a solely advisory capacity and provides insight regarding innovations in infrastructure, technology and sustainability; perceived risks and opportunities in MCC partner countries; new financing mechanisms for developing country contexts; and shared value approaches. The MCC Advisory Council provides a platform for systematic engagement with the private sector and other external stakeholders and contributes to MCC's mission—to reduce poverty through sustainable, economic growth.

DATES: Thursday, April 11, 2019, from 9:00 a.m.–12:00 p.m. EDT.

ADDRESSES: The meeting will be held at the Millennium Challenge Corporation, 1099 14th St. NW, Suite 700, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Jennifer Rimbach 202.521.3932 *MCCAdvisoryCouncil@mcc.gov* or visit *https://www.mcc.gov/about/org-unit/advisory-council.*

SUPPLEMENTARY INFORMATION:

Agenda. During the Spring 2019 meeting of the MCC Advisory Council, members will be provided an overview and update of MCC's work. A guest speaker will present a ''Progress to Date'' on MCC Regional Compacts. The MCC Advisory Council will also provide advice on the compact development process and MCC's investment strategy in Burkina Faso.

Public Participation: The meeting will be open to the public. Members of the public may file written statement(s) before or after the meeting. If you plan to attend, please submit your name and affiliation no later than Thursday, April 5, 2019 to *MCCAdvisoryCouncil@mcc.gov* to be placed on an attendee list.

Dated: March 19, 2019.

Jeanne M. Hauch,

VP/General Counsel and Corporate Secretary.

[FR Doc. 2019–05670 Filed 3–22–19; 8:45 am]

BILLING CODE 9211–03–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 19–02]

Notice of Open Meeting

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, the Millennium Challenge Corporation (MCC) Economic Advisory Council was established as a discretionary advisory committee on October 5, 2018. The Economic Advisory Council serves MCC in a solely advisory capacity and provides provide advice and guidance to MCC economists, evaluators, leadership of the Department of Policy and Evaluation, and senior MCC leadership regarding relevant trends in development economics, applied economic and evaluation methods, poverty analytics, as well as modeling, measuring, and evaluating development interventions. In doing so, an overarching purpose of the Economic Advisory Committee will be to sharpen MCC's analytical methods and capacity in support of continuing development effectiveness. It will also serve as a sounding board and reference group for assessing and advising on strategic policy innovations and methodological directions in MCC.

DATES: Monday, April 15, 2019, from 9:00 a.m.–3:00 p.m. EST which includes a working lunch.

ADDRESSES: The meeting will be held at the Millennium Challenge Corporation, 1099 14th St. NW, Suite 700, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Brian Epley, 202.772.6515 *MCCEACouncil@mcc.gov* or visit *www.mcc.gov/about/org-unit/economic-advisory-council.*

SUPPLEMENTARY INFORMATION:

Agenda. During the inaugural meeting of the Economic Advisory Council, members will be provided an overview of MCC's work and the context and function of the Economic Advisory Council within MCC's mission, including consideration of the bylaws for the Economic Advisory Council. The Economic Advisory Council will also discuss issues related to MCC's core functions, including the following topics: (i) Poverty Reduction through Economic Growth: Reinforcing MCC's Core Mission; (ii) Mobilizing Private Finance for Development: What works and how can MCC contribute?; and (iii) Identifying analytic approaches to MCC's Regional Compact Development. In addition, a guest speaker will discuss Cost-Benefit Analysis and Development Impact.

Public Participation: The meeting will be open to the public. Members of the public may file written statement(s) before or after the meeting. If you plan to attend, please submit your name and affiliation no later than Thursday, April 11, 2019 to *MCCEACouncil@mcc.gov* to be placed on an attendee list.

Dated: March 19, 2019.

Jeanne M. Hauch,

VP/General Counsel and Corporate Secretary.

[FR Doc. 2019–05672 Filed 3–22–19; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8030; email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On February 4, 2019, the National Science Foundation published a notice in the **Federal Register** of permit applications received. The permits were issued on March 6, 2019 and March 19, 2019, respectively, to:

1. Daniel P. Zitterbart, Permit No. 2019–018
2. Robert Sanders, Permit No. 2019–017

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2019–05558 Filed 3–22–19; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0043]

Credibility Assessment Framework for Critical Boiling Transition Models

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft NUREG; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft NUREG (U.S. Nuclear Regulatory Commission technical report designation), knowledge management NUREG (NUREG/KM) -0013, ''Credibility Assessment Framework for Critical Boiling Transition Models.'' This NUREG describes NRC past practice and staff experience in determining the credibility of critical heat flux and critical power models and, based on that experience, presents an assessment framework that combines aspects of goal structuring notation and maturity assessment.

DATES: Submit comments by May 24, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: Please refer to Docket ID NRC–2019–0043 when contacting the NRC about the availability of information regarding this document. You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0043. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Joshua Kaizer, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1532, email: *Joshua.Kaizer@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0043 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0043.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Document collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. Draft NUREG/KM–0013 is available in ADAMS under Accession No. ML19073A249.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2019–0043 in your comment submission. The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov,* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

Critical boiling transition (CBT) occurs when a flow regime that has a higher heat transfer rate transitions to a flow regime that has a significantly lower heat transfer rate. Models that predict a CBT are a necessary part of reactor safety analysis because they are used to determine plant safety limits. Therefore, the review of CBT models has been a focus of the NRC since its inception in 1975.

Draft NUREG/KM–0013 describes NRC practice and staff experience in evaluating CBT models and organizes that practice and staff experience in the form of a credibility assessment framework that combines aspects of goal structure notation and maturity assessment. The NRC has performed many such assessments in the past and has generated this framework based on the experience of the current NRC staff and previous reviews performed by the staff as summarized in its evaluations. This document includes a survey of the important technical and regulatory literature; a detailed technical discussion of CBT models and their application; and a framework for CBT models that reflects NRC practice as a whole, including the level of evidence previously accepted to address the various issues relevant to the evaluation of CBT models. Accordingly, the NRC is requesting comments on the NUREG–0013/KM description of the NRC practice and experience in evaluating CBT models and the adequacy of the assessment framework presented.

The framework presented in NUREG–0013/KM is intended as a ''textbook'' reference for those interested in the assessment of the credibility of CBT models, particularly as applied to reactor safety analysis. Nonetheless, Draft NUREG–0013/KM is not guidance to the NRC staff, applicants for NRC licenses, or current NRC licensees, and, if finalized, would not constitute backfitting, as defined in title 10 of the *Code of Federal Regulations* (10 CFR) 50.109 (the Backfit Rule), or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. In the future, the NRC staff may decide to reference NUREG–0013/KM in guidance to the NRC staff or guidance to applicants or licensees, *i.e.,* through an update to the Standard Review Plan or new Interim Staff Guidance, or update to a Regulatory Guide, respectively. Should the NRC staff decide to do so, the NRC staff will seek public comment on the use of NUREG–0013/KM as guidance and will assess any 10 CFR 50.109 backfitting and part 52 issue

finality considerations arising from such use.

Dated at Rockville, Maryland, this 20th day of March 2019.

For the Nuclear Regulatory Commission.

Robert G. Lukes,

Chief, Nuclear Performance and Code Review, Division of Safety Systems, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–05606 Filed 3–22–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0106]

Information Collection: Form 790, Classification Record

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Form 790, Classification Record.''

DATES: Submit comments by April 24, 2019.

ADDRESSES: Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150–0052), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0106 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0106. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2018–0106 on this website.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession ML19057A122. The supporting statement is available in ADAMS under Accession No. ML19057A037.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''NRC Form 790, Classification Record.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on November 14, 2018 (83 FR 56885).

1. *The title of the information collection:* NRC Form 790, ''Classification Record.''

2. *OMB approval number:* 3150–0052.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Form 790.

5. *How often the collection is required or requested:* On occasion. NRC Form 790 is required each time an authorized classifier makes a classification determination to classify, declassify, or downgrade a document.

6. *Who will be required or asked to respond:* NRC licensees, licensees' contractors, and certificate holders who classify and declassify NRC information.

7. *The estimated number of annual responses:* 500.

8. *The estimated number of annual respondents:* 2.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 54 hours.

10. *Abstract:* Completion of the NRC Form 790 is a mandatory requirement for NRC licensees, licensees' contractors, and certificate holders who classify and declassify NRC information in accordance with Executive Order 13526, ''Classified National Security Information,'' the Atomic Energy Act, and implementing directives. The NRC uses the information on the form to report statistics related to its security classification program on an annual basis to the Information Security Oversight Office.

Dated at Rockville, Maryland, this 20th day of March 2019.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–05604 Filed 3–22–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

663rd Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor

Safeguards (ACRS) will hold meetings on May 2–4, 2019, Two White Flint North, 11545 Rockville Pike, ACRS Conference Room T2D10, Rockville, MD 20852.

Thursday, May 2, 2019, Conference Room T2D10

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

*8:35 a.m.–12:00 p.m.: NuScale Safety Evaluation Report for Chapters 4, and 5** (Open/Closed)—The Committee will have briefings by and discussion with representatives of the NRC staff and NuScale regarding the identified chapters. [*Note:* This session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]

1:00 p.m.–3:00 p.m.: Appendix D to NEI–9607 and Associated Draft Regulatory Guide for Digital Upgrades Under 10 CFR 50.59 (Open)—The Committee will have briefings by and discussion with the NRC staff regarding the subject topic.

3:15 p.m.–6:00 p.m.: Preparation of ACRS Reports/Retreat (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports and retreat items. [*Note:* A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]. [*Note:* A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

Friday, May 3, 2019, Conference Room T2D10

8:30 a.m.–10:00 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee and Reconciliation of ACRS Comments and Recommendations (Open/Closed)—The Committee will hear discussion of the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings. [*Note:* A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]. [*Note:* A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy].

10:15 a.m.–12:00 p.m.: Preparation of ACRS Reports/Retreat (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports and retreat items. [*Note:* A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]. [*Note:* A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy].

1:00 p.m.–6:00 p.m.: Preparation of ACRS Reports/Retreat (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports and retreat items. [*Note:* A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]. [*Note:* A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

Saturday, May 4, 2019, Conference Room T2D10

8:30 a.m.–12:00 p.m.: Preparation of ACRS Reports/Retreat (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports and retreat items. [*Note:* A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C 552b(c)(4)]. [*Note:* A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy].

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on December 7, 2018 (83 FR 26506). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff (Telephone: 301–415–5844, Email: *Quynh.Nguyen@nrc.gov*), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience. The bridgeline number for the meeting is 866–822–3032, passcode 8272423#.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) of Public Law 92–463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System component of NRC's document system (ADAMS) which is accessible from the NRC website at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/#ACRS/*.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Ms. Paula Dorm, ACRS Audio Visual Technician (301–415–7799), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: March 20, 2019.

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2019–05593 Filed 3–22–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0228]

Information Collection: Operators' Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, Operators' Licenses.''

DATES: Submit comments by April 24, 2019.

ADDRESSES: Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150–0090), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0228 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0228. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2018–0228 on this website.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting document is available in ADAMS under ML19028A274.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, 10 CFR part 55, Operators' Licenses. The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on November 28, 2018 (83 FR 61169).

1. *The title of the information collection:* 10 CFR part 55, Operators' Licenses.

2. *OMB approval number:* 3150–0018.

3. *Type of submission:* Extension.

4. *The form number if applicable:* Not applicable.

5. How often the collection is required or requested: As necessary for the NRC to meet its responsibilities to determine the eligibility for applicants and operators.

6. Who will be required or asked to respond: Holders of, and applicants for, facility (*i.e.,* nuclear power and non-power research and test reactor) operating licenses and individual operator licensees.

7. *The estimated number of annual responses:* 449 (353 reporting responses + 96 recordkeepers).

8. *The estimated number of annual respondents:* 96.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 172,915 hours (150,869 hours reporting + 22,046 hours recordkeeping).

10. *Abstract:* Part 55 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Operators' Licenses,'' specifies information and data to be provided by applicants and facility licensees so that the NRC may make determinations concerning the licensing and requalification of operators for nuclear reactors, as necessary to promote public health and safety. The reporting and recordkeeping requirements contained in 10 CFR part 55 are mandatory for the affected facility licensees and applicants.

Dated at Rockville, Maryland, this 20th day of March 2019.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–05596 Filed 3–22–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0024]

Information Collection: ''Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance''

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on this proposed collection of information OR the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance''.

DATES: Submit comments by May 24, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0024. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0024 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0024. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the for further information contact section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession Nos. ML18333A272 and ML18333A284. The supporting statement and title of documents are available in ADAMS under Accession No. ML18333A261.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2019–0024 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* ''Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.''

2. *OMB approval number:* 3150–0209.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC 781, ''SBCR Compliance Review'' and NRC 782, ''Complaint Form.''

5. *How often the collection is required or requested:* Title 10 of the *Code of Federal Regulations* (10 CFR) part 5 follows provisions covered in 10 CFR part 4, section 4.331. Compliance Reviews, which indicates that the NRC may conduct compliance reviews and Pre-Award reviews of recipients or use other similar procedures that will permit it to investigate and correct violations of the act and these regulations. The NRC may conduct these reviews even in the absence of a complaint against a recipient. The reviews may be as comprehensive as necessary to determine whether a violation of these regulation has occurred.

6. *Who will be required or asked to respond:* Recipients of federal financial assistance (FFA) provided by the NRC (including educational institutions, other nonprofit organizations receiving FFA, and Agreement States).

7. *The estimated number of annual responses:* 800.

8. *The estimated number of annual respondents:* 200.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 3,600.

10. *Abstract:* The proposed collection of information is necessary to ensure nondiscrimination and compliance with Federal civil rights regulations in NRC's FFA programs and activities.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 20th day of March 2019.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–05605 Filed 3–22–19; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Health Benefits Election Form, Standard Form 2809

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Healthcare & Insurance/ Federal Employee Insurance Operations (FEIO), Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection, Health Benefits Election Form, Standard Form 2809.

DATES: Comments are encouraged and will be accepted until April 24, 2019.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0160) was previously published in the **Federal Register** on December 4, 2018, at 83 FR 62630, allowing for a 60-day public comment period. No comments were received for this collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. 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;

2. 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;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Standard Form 2809 is used by Federal employees, annuitants other than those under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) including individuals receiving benefits from the Office of Workers' Compensation Programs, former spouses eligible for benefits under the Spouse Equity Act of 1984, and separated employees and former dependents eligible to enroll under the Temporary Continuation of Coverage provisions of the FEHB law (5 U.S.C. 8905a). A different form (OPM 2809) is used by CSRS and FERS annuitants whose health benefit enrollments are administered by OPM's Retirement Operations.

Analysis

Agency: Federal Employee Insurance Operations, Office of Personnel Management.

Title: Health Benefits Election Form.

OMB Number: 3206–0160.

Frequency: On Occasion.

Affected Public: Individuals or Households.

Number of Respondents: 18,000.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 9,000.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2019–05559 Filed 3–22–19; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85363; File No. SR–NYSEARCA–2019–13]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .02 to Rule 6.72–O To Specify That Replacement Issues May Be Added to the Penny Pilot Quarterly

March 19, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 7, 2019, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .02 to Rule 6.72–O to specify that replacement issues may be added to the Penny Pilot (''Pilot'') on a quarterly basis, without altering the expiration date of the Pilot, which is June 30, 2019. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

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

The Exchange proposes to amend Commentary .02 to Rule 6.72–O, regarding the Pilot, to specify that replacement issues may be added to the Pilot on a quarterly basis, without altering the expiration date of the Pilot, which is June 30, 2019.

The Exchange recently filed to extend the Pilot until June 30, 2019 (from December 31, 2018) and also updated the rule text to provide that replacement issues may be added to the Pilot on the second trading day following January 1, 2019.[4] The Rule authorizes the Exchange to replace any options issues in the Pilot that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the Program, based on trading activity in the previous six months.[5] The Exchange proposes to modify Commentary .02 to Rule 6.72–O to allow the Exchange to add replacement issues (for Pilot issues that have been delisted) on a quarterly basis. The Exchange added replacement issues in January 2019 and would add eligible to add eligible replacement issues in April, July and October. The Exchange believes this change would allow the Exchange to update issues eligible for the Pilot (by replacing delisted issues) on a quarterly basis (as opposed to semi-annual) and would enable further analysis of the Pilot and a determination of how the Pilot should be structured in the future.

As is the case today, the Exchange will determine replacement issues based on trading activity in the previous six months (the ''six month lookback'') but will not use the month immediately preceding the addition of a replacement to the Pilot. Thus, a replacement class to be added on the second trading day following April 1, 2019 would be identified based on The Option Clearing Corporation's trading volume data from August 1, 2018 through February 28, 2019.[6] Although the Exchange proposes to add new issues to the Pilot on a quarterly basis, it will continue to use the six-month lookback to determine the most active issues for Pilot eligibility. The Exchange believes the six month lookback is appropriate because this time period would help reduce the impact of unusual trading activity as a result of unique market events, such as a corporate action (*i.e.,* it would result in a more reliable measure of average daily trading volume than would a shorter period).

This filing does not propose any substantive changes to the Pilot: All classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[7] of the Act, in general, and furthers the objectives of Section 6(b)(5),[8] 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, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

The Exchange believes the proposal to allow the addition of replacement issues the Pilot on a quarterly basis would result in the a more current list of Pilot-eligible issues and would enable further analysis of the Pilot, including for a determination of how the Pilot should be structured in the future. Further, the Exchange believes the six month lookback is appropriate because this time period would help reduce the impact of unusual trading activity as a result of unique market events, such as a corporate action (*i.e.,* it would result in a more reliable measure of average daily trading volume than would a shorter period). Thus, the Exchange believes this proposal would promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanisms of a free and open market and a national market system.

The Exchanges notes that it not making any other substantive changes to the Pilot, other than modifying the timing for replacement issues and therefore the Exchange will continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it.

The Exchange believes that the Pilot would continue to promote just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options to the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that allowing the Exchange to add replacement issues to the Pilot on a quarterly basis would make the list of Pilot-eligible issues more current and would enable further analysis of the Pilot, including for a determination of how the Pilot should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The Pilot Program is an industry-wide initiative supported by all other option exchanges. The Exchange believes that the proposed change would allow for continued competition between Exchange market participants trading similar products as their counterparts on other exchanges, while at the same time allowing the Exchange to continue to compete for order flow with other exchanges in option issues trading as part of the Pilot.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the

[4] *See* Securities Exchange Act Release No. 84873 (December 19, 2018), 83 FR 66798 (December 27, 2018) (SR–NYSEArca–2017–96). On January 3, 2019, the Exchange added new issues to replace delisted Pilot issues, as announced by Trader Update, *available here, https://www.nyse.com/publicdocs/nyse/notifications/trader-update/Penny%20Pilot%20Replacements%20January%202018.pdf.*

[5] *See* Commentary .02 to Rule 6.72–O.

[6] The Rule continues to obligate the Exchange to announce the replacement issues by Trader Update. *See id.*

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule

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)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] 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 Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The change will allow the Exchange to add classes to the pilot that are actively traded at the start of the second quarter (*i.e.,* in April 2019) and replace those that have been delisted and are no longer trading on a more frequent basis. This will help ensure that the top 363 most actively traded, multiply-listed classes are included in the Pilot, which will enable further analysis of the Pilot.[13]

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)[14] of the Act to determine whether the proposed rule change should be approved or disapproved.

change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(2)(B).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2019–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2019–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2019–13 and should be submitted on or before April 15, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05568 Filed 3–22–19; 8:45 am]

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[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85356; File No. SR–NASDAQ–2019–014]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4703 To Make Clarifying Changes

March 19, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 6, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4703 (Order Attributes) to make clarifying changes to the Midpoint Trade Now and Trade Now Order Attributes.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 4703 (Order Attributes) to make clarifying changes to the Midpoint Trade Now and Trade Now Order Attributes.

Midpoint Trade Now

On November 9, 2018, the Exchanged filed an immediately effective filing to adopt Midpoint Trade Now,[3] which has not yet been implemented.[4] Midpoint Trade Now will be an Order Attribute [5] that allows a resting Order that becomes locked at its non-displayed price by an incoming Midpoint Peg Post-Only Order [6] to automatically execute against crossing or locking interest, including potentially against the Midpoint Peg Post-Only Order that locked the resting Order, as a liquidity taker. The new Order Attribute was designed to primarily address execution with Midpoint Peg Post-Only Order locking interest and the rule was drafted as such; however, executions may occur following the Exchange's priority rules [7] whereby a Midpoint Peg Post-Only Order may trigger Midpoint Trade Now, yet not receive a full or partial execution with the resting Order with Midpoint Trade Now.

In certain scenarios, the System [8] will allow the resting Order with Midpoint Trade Now to resolve both the locked condition against the Midpoint Peg Post-Only Order triggering Midpoint Trade Now, as well as other locking or crossing Orders that have execution priority over the Midpoint Peg Post-Only Order.[9] For example, assuming that the National Best Bid and Offer (''NBBO'') is $10.00 × $10.01, Order #1 to buy 300 shares at the midpoint with Midpoint Trade Now posts at $10.005 and Order #2 is a Post-Only Order to sell 200 shares with a limit $10.00 that posts to the Nasdaq Book at $10.00 and is displayed at $10.01, if Order #3 is a Midpoint Peg Post-Only Order to sell 200 shares posts to the Nasdaq Book at $10.005, Midpoint Trade Now would be triggered. Under the Midpoint Trade Now, Order #3 would not be the first Order that resting Order #1 would execute against. Instead, Order #1 would execute 200 shares against Order #2 at $10.00, and then execute 100 shares against Order #3. In another example, assuming that the NBBO is $10.00 × $10.02, Order #1 to buy 200 shares at the midpoint with Midpoint Trade Now posts at $10.01, and Order #2 is a Non-Displayed Order to sell 500 shares with a Minimum Quantity Order Attribute of 300 shares that posts at $10.01. Both resting Orders will not execute because the size of Order #1 does not satisfy the Minimum Quantity requirement of Order #2. If Order #3 arrives as an Order to buy 400 shares, it would execute against Order #2 leaving 100 shares of Order #2.[10] If Order #4 then arrives as a Midpoint Peg Post-Only Order to sell 300 shares, it would trigger Midpoint Trade Now for Order #1 and Order #1 would first execute against the remaining 100 shares of Order #2, and then execute 100 shares against Order #4.

There is also the possibility that the Midpoint Peg Post-Only Order will not receive an execution at all, notwithstanding that it initiated the Midpoint Trade Now functionality. Using the first example above, if Order #2 was entered, as a Post-Only Order to sell for 300 shares, under the Midpoint Trade Now, Order #1 would execute in full against Order #2 at $10.00. Thus, although the Midpoint Peg Post-Only Order triggered Midpoint Trade Now, it would not receive an execution with the Midpoint Trade Now Order.

As noted above, the rule text adopted by the Exchange does not account for executions against locking or crossing interest other than Midpoint Peg Post-Only Orders when Midpoint Trade Now is triggered. Specifically, the rule states that the resting Order that becomes locked at its non-displayed price by an incoming Midpoint Peg Post-Only Order would execute against ''that Midpoint Peg Post-Only Order.'' Thus, the rule as currently drafted does not address the executions described above. To account for how the functionality will operate, the Exchange is proposing to eliminate the text ''that Midpoint Peg Post-Only Order'' from Rule 4703(n) and to replace it with ''a locking or crossing Order(s),'' which will expressly allow the executions described above to occur.

Trade Now

The Exchange is also proposing a related clarifying change to the Trade Now Order Attribute.[11] Trade Now allows a resting Order that becomes locked by an incoming Displayed Order to execute against the available size of the contra-side locking Order as a liquidity taker, and any remaining shares of the resting Order will remain posted on the Nasdaq Book with the same priority. Like an Order with Midpoint Trade Now, an Order with Trade Now may execute against both locking and crossing Orders; [12] however, the current rule does not account for crossing Orders. Consequently, the Exchange is proposing to amend Rule 4703(m) to note that a Trade Now execution may also occur against an Order that crosses a resting Order with Trade Now.[13] For example, assuming

[3] *See* Securities Exchange Act Release No. 84621 (November 19, 2018), 83 FR 60514 (November 26, 2018) (SR–NASDAQ–2018–090).

[4] The Exchange plans on implementing Midpoint Trade Now in the first quarter of 2019. *Id.*

[5] The term ''Order'' means an instruction to trade a specified number of shares in a specified System Security submitted to the Nasdaq Market Center by a Participant. An ''Order Type'' is a standardized set of instructions associated with an Order that define how it will behave with respect to pricing, execution, and/or posting to the Nasdaq Book when submitted to Nasdaq. An ''Order Attribute'' is a further set of variable instructions that may be associated with an Order to further define how it will behave with respect to pricing, execution, and/or posting to the Nasdaq Book when submitted to Nasdaq. The available Order Types and Order Attributes, and the Order Attributes that may be associated with particular Order Types, are described in Rules 4702 and 4703. One or more Order Attributes may be assigned to a single Order; provided, however, that if the use of multiple Order Attributes would provide contradictory instructions to an Order, the System will reject the Order or remove non-conforming Order Attributes. *See* Rule 4701(e).

[6] A Midpoint Peg Post-Only Order is an Order Type with a Non-Display Order Attribute that is priced at the midpoint between the NBBO and that will execute upon entry only in circumstances where economically beneficial to the party entering the Order. The Midpoint Peg Post-Only Order is available during Market Hours only. *See* Rule 4702(b)(5).

[7] The Exchange follows a Price/Display/Time Execution Algorithm, whereby better priced Orders are presented for execution first, equally priced Orders with a Display Attribute will be ranked in time priority, and Orders with a Non-Display Attribute, including the Non-Displayed portion of an Order with Reserve Size, are ranked in time priority. *See* Rule 4757.

[8] The term ''Nasdaq Market Center,'' or ''System'' means the automated system for order execution and trade reporting owned and operated by The Nasdaq Stock Market LLC. *See* Rule 4701(a).

[9] Thus, the System treats the Order similar to any new incoming Orders by executing against resting Orders in Price/Display/Time priority.

[10] The minimum quantity value of Order #2 is reduced to equal the number of shares remaining following its partial execution against Order #3, since its size has become less than the minimum quantity originally specified. *See* Rule 4703(m).

[11] *Id.*

[12] *See* Supra note 9.

[13] The Exchange is adding rule text that clarifies that an Order with Trade Now may execute against locking or crossing interest to both the introductory paragraph of the rule as well as under the second bullet thereunder, which describes how Trade Now functions under the OUCH and FLITE protocols. The Exchange is not adding rule text to the first bullet thereunder, which describes how Trade Now functions under the RASH and FIX protocols, because the existing text describes what automatically triggers the functionality (*i.e.,* a locked Order) and does not address the nature of the interest that may be executed against (*i.e.,* locking and crossing interest), as described by this proposal.

that the NBBO is $10.00 × $10.02, Order #1 is a Non-Displayed Order to buy 500 shares with a Minimum Quantity Order Attribute of 300 shares posts at $10.01, and Order #2 is a Non-Displayed Order to sell 200 shares that posts at $10.00. Both resting Orders will not execute because the size of Order #2 does not satisfy the Minimum Quantity requirement of Order #1. Order #3 arrives as a Post-Only Order to sell 300 shares at $10.01 and it posts at $10.01. A Trade Now instruction for Order #1 would result in Order #1 executing 200 shares of Order #2 first, and then execute 300 shares against Order #3.

Another example involves a security priced below $1. Assuming that the NBBO is $0.9970 × $1.00, Order #1 is a Non-Displayed Order with Trade Now to sell 500 shares at $0.9970 resting on the Nasdaq Book. Order #2 is subsequently entered as a Post Only Order to buy 400 shares at $0.9999, which posts to the book, crossing Order #1. If Order #3 is thereafter entered as a Post Only Order to buy 500 shares at $0.9970 thereby locking Order #1, Order #3 would trigger Trade Now for Order #1 resulting in an execution between Order #1 and Order #2 for 400 shares, and an execution between Order #1 and Order #3 for 100 shares.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by clarifying the operation of new functionality, which is effective but not yet implemented. The proposed change will allow the Midpoint Trade Now functionality to operate consistent with the Exchange's priority rules. Similarly, the proposed change to the Trade Now rule will clarify that a resting Order with Trade Now may execute against locking or crossing resting Orders. These clarifying changes will ensure that the Trade Now and Midpoint Trade Now rules are consistent with the rules governing priority of Orders on the Exchange and more fully describe their operation, respectively. Accordingly, the Exchange believes that the proposed changes are consistent with the Section 6(b)(5) of the Act.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes do not impose any burden on competition because they clarify the operation of rules so that they are consistent with the Exchange's rules concerning priority. Thus, the changes are done for non-competitive reasons and may promote competition to the extent that they better explain the operation of the two Order Attributes, allowing competitor exchanges and other market venues to make an informed decision on whether such functionality is warranted on those venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [18] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [19] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed changes may be made at the earliest time possible, thereby minimizing any market participant confusion that may be caused by the current rules.[20] The Exchange further states that the proposal would make its rules for Trade Now and Midpoint Trade Now consistent with its rules governing priority. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2019–014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2019–014. 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

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] The Exchange states that Trade Now is currently available and Midpoint Trade Now will be implemented soon.

[21] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2019–014 and should be submitted on or before April 15, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05567 Filed 3–22–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85357; File No. SR–ICC–2019–001]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICE CDS Clearing: Back-Testing Framework

March 19, 2019.

I. Introduction

On January 28, 2019, ICE Clear Credit LLC (''ICC'') 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 (SR–ICC–2019–001) to update and formalize the ICE CDS Clearing: Back-Testing Framework (''Back-Testing Framework'').[3] The proposed rule change was published in the **Federal Register** on February 8, 2019.[4] The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

The proposed rule change would update and formalize the Back-Testing Framework. The Back-Testing Framework would describe ICC's back-testing process, reporting of back-testing results, and procedures for remediating poor back-testing results.

A. Back-Testing Process

Generally, ICC's back-testing process would count the number of occurrences, also referred to as exceedances, when the observed loss for a Clearing Participant's (''CP'') portfolio over a given time horizon is greater than the risk measure projected by ICC's Risk Management Model (the ''Model'').[5] ICC would then evaluate the total number of exceedances against the number of exceedances acceptable at the 99.5% risk quantile.[6] Under the Framework, the ICC Risk Management Department (''ICC Risk'') would perform daily, weekly, monthly, and quarterly portfolio-level back-testing analyses.[7]

The Back-Testing Framework would calculate the observed loss for a CP's portfolio as the worst unrealized profit/loss (''P/L'') over the Margin Period of Risk (''MPOR''), using the changes in net asset values (''NAVs'').[8] The Back-Testing Framework would use the greatest MPOR for all of the instruments in the considered portfolio, rounded up to the nearest integer.[9] For example, if an instrument is subject to 5.5-day MPOR estimations and no other instrument in the portfolio has a longer MPOR, then ICC would perform the back-testing analysis by comparing the N-day worst unrealized P/L against the model projected risk measure with N=6.[10]

The Back-Testing Framework would define the model projected risk measure as the sum of the following selected initial margin components: Integrated spread response, basis risk, and interest rate sensitivity (collectively, the ''Back-Tested Components'').[11] The Back-Testing Framework would not test the other components of initial margin (Jump-To-Default, Wrong-Way-Risk, Concentration Charge, and Liquidity Charge) because those components are not always market observed and statistically modeled.[12]

For multi-currency portfolios, the Back-Testing Framework would require that the back-testing analysis be performed in the clearinghouse base currency (U.S. Dollar) and would account for the foreign exchange risk exposure.[13]

Under the Back-Testing Framework, ICC would utilize the Basel Traffic Light System (''BTLS'') to assess the soundness of the Model.[14] The BTLS would be based on three zones: Green, yellow, and red, with each zone defined by the maximum number of acceptable exceedances.[15] Under the Back-Testing Framework, ICC would consider the model well calibrated if the number of exceedances across all CP-related portfolios is consistent with the 99.5% risk quantile.[16]

In addition to analyzing all CP-related portfolios, the Back-Testing Framework would also analyze a range of hypothetical portfolios. The Back-Testing Framework would refer to these portfolios as special strategy portfolios.[17] ICC would use the back-testing results for the special strategy portfolios to identify and assess potential weaknesses in the Model's assumptions.[18]

Finally, in addition to assessing the Model's performance by back-testing, the Back-Testing Framework would direct ICC Risk to assess the Model by conducting monthly parameter reviews and parameter sensitivity analyses.

B. Reporting of Results

The Back-Testing Framework would require a number of reports regarding the back-testing analysis of CP portfolios. First, daily portfolio back-testing results would be reported for each CP based on the appropriate MPOR.[19] For each day in the back-testing period, the report would provide all components of initial margin and

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms used herein but not otherwise defined have the meaning set forth in the ICC Rules or the Back-Testing Framework. *Available at https://www.theice.com/publicdocs/clear_credit/ICE_Clear_Credit_Rules.pdf.*

[4] Securities Exchange Act Release No. 34–85047 (Feb. 4, 2019), 84 FR 2938 (Feb. 8, 2019) (SR–ICC–2019–001) (''Notice'').

[5] Notice, 84 FR at 2938.

[6] Notice, 84 FR at 2939.

[7] Notice, 84 FR at 2938.

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] Notice, 84 FR at 2938.

[12] Notice, 84 FR at 2939.

[13] Notice, 84 FR at 2938.

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] Notice, 84 FR at 2939.

[18] *Id.*

[19] *Id.*

identify the back-tested components and non-back-tested components.[20] The report would also provide the sum of the back-tested components alongside the unrealized P/L and the associated shortfall.[21] Second, the Back-Testing Framework would require a report of the back-testing results for the full period of the MPOR.[22] Third and finally, with each set of back-testing results (daily and full period), the Back-Testing Framework would require an exceedance summary showing the total number of exceedances in the back-testing period and the maximum number of exceedances that satisfy each zone in the BTLS.[23] This report would show the back-tested components and the N-day P/L results for every back-tested day for each portfolio associated with a given CP.[24]

In addition to reporting results per a given CP, the Back-Testing Framework would also require that ICC Risk report, periodically and as appropriate depending on market conditions, instrument and Risk Factor (''RF'') [25] level results.[26] Specifically, with this report, ICC Risk would compute the unrealized worst P/Ls over the appropriate time period, projected risk measures and exceedances for each RF and present the results as an average over all SN RFs for five groups of benchmark tenors.

C. Remediation of Poor Results

The Back-Testing Framework would provide guidelines for remediating poor back-testing results. The Back-Testing Framework would identify back-testing results as poor if the number of observed exceedances falls in the red zone of the BTLS.[27] The Back-Testing Framework would also note that red-zone results coming from overlapping back-testing periods should not be automatically classified as poor back-testing results if the effects of one adverse observation are responsible for a cluster of exceedances.[28] In that case, the Back-Testing Framework would make the Chief Risk Officer and Risk Oversight Officer responsible for determining whether the number of exceedances is indicative of poor back-testing results, basing their determination in part on an additional back-testing analysis without overlapping periods.[29]

The Back-Testing Framework would describe various actions to be taken upon the identification of poor back-testing results, including seeking feedback from the Risk Working Group and consulting with the Risk Committee on any necessary remedial action.[30] Moreover, if poor back-testing results are identified and confirmed at the portfolio level, the Back-Testing Framework would require an analysis of individual RF back-testing results.[31] Finally, the Back-Testing Framework would empower ICC Risk to recommend enhancements to the Risk Committee and the Board.[32]

The Back-Testing Framework would also describe the actions to take if the number of exceedances falls in the yellow zone, including a review by ICC Risk to determine the cause of the Model's performance and, if necessary, a complimentary back-testing analysis without overlapping back-testing periods.[33]

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[34] For the reasons given below, the Commission finds that the proposal is consistent with Section 17A(b)(3)(F) of the Act [35] and Rules 17Ad–22(b)(2), 17Ad–22(b)(3), and 17Ad–22(d)(8) thereunder.[36]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible, and, in general, to protect investors and the public interest.[37]

As discussed above, the proposed rule change would update and formalize ICC's Back-Testing Framework. The Commission believes that, in general, the Back-Testing Framework would help ensure the sound operation of ICC's Model. Specifically, the Commission believes that the Back-Testing Framework, in describing in detail ICC's process for conducting back-testing of the Model, would help assure the soundness of the Model by ensuring that ICC has a means for determining whether the Model's margin requirements cover possible losses under CP portfolios at the 99.5% risk quantile. The Commission further believes that the Back-Testing Framework, in setting out the requirements for reporting the results of the back-testing process, would help assure that ICC personnel are informed of the results and therefore able to take action to correct the Model if necessary. Finally, the Commission believes that the Back-Testing Framework, in mandating action to remediate poor back-testing results, would assure that ICC corrects deficiencies in the Model.

By helping to assure the sound operation of the Model and ICC's margin requirements, which ICC uses to manage the credit exposures associated with clearing security based swap transactions, the Commission believes that the proposed rule change would help improve ICC's ability to avoid the losses that could result from the miscalculation of ICC's credit exposures. Because such losses could disrupt ICC's ability to operate and thus clear and settle security based swap transactions, the Commission finds the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions. Because such losses could also threaten access to securities and funds in ICC's control, the Commission finds the proposed rule change would help assure the safeguarding of securities and funds that are in the custody or control of ICC or for which it is responsible. Likewise, for both of these reasons, the Commission finds the proposed rule change would, in general, help protect investors and the public interest.

Therefore, the Commission finds that the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds in ICC's custody and control, and, in general, protect investors and the public interest,

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] Notice, 84 FR at 2939.

[24] *Id.*

[25] ICC deems each index, sub-index, or underlying single name (''SN'') reference entity a separate RF.

[26] *Id.*

[27] Notice, 84 FR at 2939.

[28] *Id.*

[29] Notice, 84 FR at 2939.

[30] *Id.*

[31] *Id.*

[32] *Id.*

[33] *Id.*

[34] 15 U.S.C. 78s(b)(2)(C).

[35] 15 U.S.C. 78q–1(b)(3)(F).

[36] 17 CFR 240.17Ad–22(b)(2), (b)(3), and (d)(8).

[37] 15 U.S.C. 78q–1(b)(3)(F).

consistent with the Section 17A(b)(3)(F) of the Act.[38]

B. Consistency With Rules 17Ad–22(b)(2) and 17Ad–22(b)(3)

Rule 17Ad–22(b)(2) requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements and review such margin requirements and the related risk-based models and parameters at least monthly.[39] Rule 17Ad–22(b)(3) requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions.[40]

As discussed above, the Commission believes that the proposed rule change would help ensure the soundness of the Model by formalizing ICC's process for conducting back-testing, reporting the results of back-testing, and remediating poor results. The Commission believes that the proposed rule change would therefore help ICC to maintain margin requirements to limit its credit exposures to participants under normal market conditions. Moreover, as discussed above, the Back-Testing Framework would also require that ICC Risk conduct monthly parameter reviews and parameter sensitivity analyses. The Commission believes that this aspect of the Back-Testing Framework would help ICC to review margin requirements and the related risk-based models and parameters at least monthly. Finally, as discussed above, the Back-Testing Framework would also require reporting the results of the back-testing process. The Commission believes that this aspect of the proposed rule change would help ICC to use risk-based models and parameters to set margin requirements by helping assure that ICC personnel are informed of the results of back-testing and therefore able to take action to improve the Model if necessary. The Commission therefore finds that the proposed rule is consistent with is consistent with Rule 17Ad–22(b)(2).[41]

Moreover, the amount a CP must contribute to ICC's Guaranty Fund is equal to the expected losses to ICC associated with the default of that CP, calculated using ICC's stress test methodology, and taking into account, among other things, the loss after application of initial margin.[42] Thus, ICC's guaranty fund is based on the initial margin requirements. The Commission therefore believes that, in helping to maintain the soundness of ICC's Model and therefore margin requirements, the proposed rule change would also help ICC to maintain sufficient financial resources to withstand, at a minimum, a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions. The Commission therefore finds that the proposed rule is consistent with is consistent with Rule 17Ad–22(b)(3).[43]

Therefore, for these reasons, the Commission finds that the proposed rule change is consistent with Rules 17Ad–22(b)(2) and 17Ad–22(b)(3).[44]

C. Consistency with Rule 17Ad–22(d)(8)

Rule 17Ad–22(d)(8) requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to have governance arrangements that are clear and transparent to fulfill the public interest requirements in Section 17A of the Act and to promote the effectiveness of ICC's risk management procedures.[45]

As described above, the proposed rule change would make a number of ICC personnel responsible for reporting and remediating back-testing results. Specifically, the Back-Testing Framework would require that ICC Risk periodically report results in terms of each CDS instrument, depending on market conditions. If red-zone results appear from overlapping back-testing periods, the Back-Testing Framework would make the Chief Risk Officer and Risk Oversight Officer responsible for determining whether the number of exceedances is indicative of poor back-testing results. Moreover, if the number of exceedances falls in the yellow zone, the Back-Testing Framework would require ICC Risk to determine the cause of the Model's performance. Finally, as discussed above, the Back-Testing Framework would also require that ICC Risk conduct monthly parameter reviews and parameter sensitivity analyses.

The Commission believes that in assigning these responsibilities, the proposed rule change would establish governance arrangements relating to the Back-Testing Framework that are clear and transparent to fulfill the public interest requirements in Section 17A of the Act by clearly assigning and documenting responsibilities for reporting and acting on the results of back-testing. Moreover, the Commission believes that in setting out specific actions to remediate poor back-testing results the proposed rule change would promote the effectiveness of ICC's risk management procedures by requiring specific actions to correct deficiencies in the Model.

Therefore, for this reason, the Commission finds that the proposed rule change is consistent with Rule 17Ad–22(d)(8).[46]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act[47] and Rules 17Ad–22(b)(2), 17Ad–22(b)(3), and 17Ad–22(d)(8) thereunder.[48]

It is therefore ordered pursuant to Section 19(b)(2) of the Act[49] that the proposed rule change (SR–ICC–2019–001) be, and hereby is, approved.[50]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[51]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05572 Filed 3–22–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85362; File No. SR–NASDAQ–2018–079]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Amend Nasdaq Rules 5705 and 5710 To Adopt a Disclosure Requirement for Certain Securities

March 19, 2019.

I. Introduction

On November 29, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities

[38] 15 U.S.C. 78q–1(b)(3)(F).

[39] 17 CFR 240.17Ad–22(b)(2).

[40] 17 CFR 240.17Ad–22(b)(3).

[41] 17 CFR 240.17Ad–22(b)(2).

[42] *See* ICC Rule 801(a).

[43] 17 CFR 240.17Ad–22(b)(3).

[44] 17 CFR 240.17Ad–22(b)(2), (b)(3).

[45] 17 CFR 240.17Ad–22(d)(8).

[46] 17 CFR 240.17Ad–22(d)(8).

[47] 15 U.S.C. 78q–1(b)(3)(F).

[48] 17 CFR 240.17Ad–22(b)(2), (b)(3), and (d)(8).

[49] 15 U.S.C. 78s(b)(2).

[50] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[51] 17 CFR 200.30–3(a)(12).

and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Nasdaq Rules 5705 and 5710 to adopt a disclosure requirement for certain securities. The proposed rule change was published for comment in the **Federal Register** on December 19, 2018.[3] On January 29, 2019, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On March 5, 2019, the Exchange filed Amendment No. 1 to the proposed rule change.[6] On March 19, 2019, the Exchange filed Amendment No. 2 to the proposed rule change.[7] The Commission has received no comments on the proposed rule change. This order grants approval of the proposed rule change, as modified by Amendment No. 2.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 2[8]

The Exchange proposes to amend Nasdaq Rule 5705(b)(1)(B) relating to Index Fund Shares and Nasdaq Rule 5710(d) relating to Linked Securities. Specifically, the Exchange proposes to require issuers of leveraged or inverse Index Fund Shares and Linked Securities that seek returns on a daily basis to provide additional website disclosure highlighting the daily return feature of these products and the risks associated with holding these products for longer than one day. The Exchange proposes to amend Nasdaq Rules 5705(b)(1)(B) and 5710(d) to require issuers of such Index Fund Shares or Linked Securities to include on each such product's website a statement that the product seeks returns for a single day,[9] and that, due to the compounding of returns, holding periods of longer than one day can result in investment returns that are significantly different than the product's target returns. The proposed disclosure would also direct investors to consult the prospectus for further information on the calculation of the returns and other risks associated with investing in this type of product. The Exchange represents that, while issuers' websites already typically contain language similar to the disclosure proposed herein, Nasdaq believes that providing example language enhances the transparency of the proposed listing standard.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[10] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act,[11] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Currently, Nasdaq rules permit the listing and trading of Index Fund Shares and Linked Securities that seek investment results to exceed by a multiple of the performance (leveraged), or exceed by a multiple of the inverse of the performance (inverse), of an underlying index or reference asset. According to the Exchange, these products are designed to track the daily performance of an underlying instrument, and holding these products for longer than a day can result in investment returns that are significantly different than the target return. The Exchange states that some investors may not fully understand this risk. The Commission believes that the proposed amendments requiring additional disclosure for these types of Index Fund Shares and Linked Securities listed on the Exchange are consistent with investor protection because the disclosure would provide investors with additional information regarding the investment risks associated with these products.

This approval order is based on all of the Exchange's representations, including those set forth above and in Amendment No. 2.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act[12] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–NASDAQ–2018–079), as modified by Amendment No. 2 be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05571 Filed 3–22–19; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 84812 (December 13, 2018), 83 FR 65184.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 85000, 84 FR 1525 (February 4, 2019).

[6] Amendment No. 1, which amends and replaces the proposed rule change in its entirety, is available at: *https://www.sec.gov/comments/sr-nasdaq-2018-079/srnasdaq2018079-5020213-183007.pdf.*

[7] In Amendment No. 2, which amends and replaces the proposed rule change, as modified by Amendment No. 1, in its entirety, the Exchange removes (i) the proposed definition of Closing Indicative Value relating to Linked Securities, and (ii) all of the proposed changes in the first paragraph of Nasdaq Rule 5710(d). Because Amendment No. 2 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, it is not subject to notice and comment. Amendment No. 2 is available at: *https://www.sec.gov/comments/sr-nasdaq-2018-079/srnasdaq2018079-5146426-183370.pdf.*

[8] For more information regarding the proposal, including the proposed amendments to Nasdaq Rules 5705 and 5710, *see* Amendment No. 2, *supra* note 7.

[9] The Exchange notes that the proposed rule change is limited to Multiple/Inverse Daily Products.

[10] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SURFACE TRANSPORTATION BOARD

[Docket No. AB 55 (Sub-No. 789X)]

CSX Transportation, Inc.—Discontinuance of Service Exemption—in Miami-Dade County, Fla.

CSX Transportation, Inc. (CSXT), has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over an approximately 12.5-mile rail line on its Jacksonville Division, Homestead Subdivision between milepost SXH 54.5 and milepost SXH 67.0 in Miami-Dade County, Fla. (the Line). The Line traverses U.S. Postal Service Zip Codes 33177, 33187, 33170, 33031, and 33030.

CSXT has certified that: (1) No freight traffic has moved over the Line for at least two years; (2) any overhead traffic on the Line can be rerouted over other

lines; (3) no formal complaint filed by a user of rail service on the Line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) [1] to subsidize continued rail service has been received, this exemption will be effective on April 24, 2019, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2) [2] must be filed by April 4, 2019.[3] Petitions for reconsideration must be filed by April 12, 2019, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001.

A copy of any petition filed with Board should be sent to CSXT's representative, Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

[1] The Board modified its OFA procedures effective July 29, 2017. Among other things, the OFA process now requires potential offerors, in their formal expression of intent, to make a preliminary financial responsibility showing based on a calculation using information contained in the carrier's filing and publicly available information. *See Offers of Financial Assistance,* EP 729 (STB served June 29, 2017); 82 FR 30,997 (July 5, 2017).

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,800. *See* 49 CFR 1002.2(f)(25).

[3] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.

Board decisions and notices are available at *www.stb.gov.*

Decided: March 19, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2019–05653 Filed 3–22–19; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR–2019–0001]

2019 Generalized System of Preferences (GSP): Notice of Annual GSP Product and Country Review; Deadline for Filing Petitions

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of statistics availability and announcement of annual GSP review.

SUMMARY: The Office of the United States Trade Representative (USTR) will consider petitions to modify the GSP status of GSP beneficiary developing countries (BDCs) because of country practices; add products to GSP eligibility; remove products from GSP eligibility for one or more countries; waive competitive need limitations (CNLs); deny *de minimis* waivers for products eligible for *de minimis* waivers; and redesignate currently excluded products. This review will include separate hearings on product petitions and country eligibility reviews, which USTR will announce in the **Federal Register** at a later date.

DATES: April 18, 2019 at midnight EST: Deadline for petitions to modify the GSP status of certain GSP beneficiary developing countries because of country practices; petitions requesting waivers of CNLs; petitions on GSP product eligibility additions or removals; petitions to deny *de minimis* waivers; petitions to redesignate an excluded product; and petitions for continuation of CNLs that have exceeded certain thresholds. USTR will not consider petitions submitted after the April 18, 2019 deadline. USTR will announce the petitions accepted for review, along with a schedule for any related public hearings and the opportunity for the public to provide comments, at a later date.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments in section III below. The docket number is USTR–2019–0001. For alternatives to on-line submissions, please contact Lauren Gamache at *gsp@ustr.eop.gov,* or 202–395–2974.

FOR FURTHER INFORMATION CONTACT: Lauren Gamache at *gsp@ustr.eop.gov,* or 202–395–2974.

SUPPLEMENTARY INFORMATION:

I. 2018 Import Statistics Related to CNLs, De Minimis Waivers, and Product Redesignations

The GSP program provides for the duty-free treatment of designated articles when imported from designated beneficiary developing countries. The GSP program is authorized by Title V of the Trade Act of 1974, as amended (Trade Act) (19 U.S.C. 2461–2467), and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

USTR posted the 2018 import statistics relating to CNLs, *de minimis* waivers, and product redesignations on the USTR website at *https://ustr.gov/sites/default/files/IssueAreas/gsp/2018_Import_Statistics_Relating_to_CNLs_De_Minimis_Waivers_and_Product_Redesignations.pdf* These statistics include four lists.

I. List I identifies GSP-eligible articles from BDCs that exceeded a CNL by having been imported into the United States in 2018 in excess of $185 million, or in a quantity equal to or greater than 50 percent of the total U.S. import value for this product in 2018. Unless the President grants a waiver in response to a petition filed by an interested party, these products will be removed from GSP eligibility on November 1, 2019.

II. List II identifies GSP-eligible articles from BDCs that are above the 50 percent CNL but that are eligible for a *de minimis* waiver since total U.S. imports of the product are less than $24 million. Articles eligible for de minimis waivers automatically are considered in the GSP annual review process without the filing of a petition. As described below, USTR will only accept petitions in opposition to a potential *de minimis* waiver for a particular product.

III. List III identifies GSP-eligible articles from certain BDCs that currently are not receiving GSP duty-free treatment but may be considered for GSP redesignation based on 2018 trade data and consideration of certain statutory factors. Note that products exceeding the 50 percent CNL may be considered for redesignation if there was no U.S. production of a like or directly competitive product in the last three years.

IV. List IV identifies GSP-eligible articles from BDCs that currently have a CNL waiver but have exceeded 150 percent of the CNL threshold. Unless the President grants a continuation of the waiver in response to a petition filed by an interested party, these products will be removed from GSP eligibility on November 1, 2019.

II. 2019 Annual GSP Review

A. Country Practice Review Petitions

An interested party may submit a petition to review the GSP eligibility of any beneficiary developing country with respect to any of the designation criteria listed in sections 502(b) and 502(c) of the Trade Act (19 U.S.C. 2462(b) and (c)).

B. GSP Product Review Petitions

An interested party may submit the following petitions:

- *Product addition petitions:* Petitions to designate additional articles as eligible for GSP benefits, including designating articles as eligible only if the articles are imported from countries designated as least-developed beneficiary developing countries, or as beneficiary sub-Saharan African countries under the African Growth and Opportunity Act (AGOA). Petitioners seeking to add products to eligibility for GSP benefits should note that, as provided in section 503(b) of the Trade Act (19 U.S.C. 2463(b)), certain articles may not be designated as eligible articles under GSP.
- *Product withdrawal petitions:* Petitions to withdraw, suspend, or limit the application of duty-free treatment accorded under GSP with respect to any article.
- *Competitive need limitation waiver petitions:* Any interested party may submit a petition seeking a waiver of the 2019 CNL for individual beneficiary developing countries with respect to specific GSP-eligible articles (these limits, however, do not apply to least-developed beneficiary developing countries or AGOA beneficiary countries). Interested parties filing CNL waiver petitions should indicate whether there was production of a like or directly competitive product in the United States during the previous three calendar years (that is, 2016 to 2018).
- *Petitions for denial of de minimis waivers:* USTR automatically will consider all *de minimis* waivers. Thus, USTR only will accept petitions to deny *de minimis* waivers. Interested parties may submit comments in support of particular *de minimis* waivers that USTR will consider in its decision making process.
- *Petitions for redesignation:* Interested parties may file petitions to grant redesignation of products for which imports are below the dollar value CNL ($185 million for 2018) and that are below 50 percent of total U.S. imports. If a petitioner believes there has been no U.S. production of a like or directly competitive product in the past three years, USTR also will consider petitions to grant redesignation of products for which imports are below the dollar value CNL ($185 million for 2018) but imports exceed 50 percent of total U.S. imports.
- *Petitions for continuation of CNL waiver:* Interested parties may file petitions to grant a continuation of the current CNL waiver of articles from BDCs that currently have had a CNL waiver in effect for 5 years or more and have exceeded 150 percent of the CNL threshold or 75 percent of total U.S. imports.

III. Requirements for Submissions

A. General Requirements

All submissions for the GSP Annual Review must conform to the GSP regulations set forth at 15 CFR part 2007 (*https://www.ecfr.gov/cgi-bin/text-idx?SID=2688e93e7a801d4294d011d7afcc7347&mc=true&node=pt15.3.2007&rgn=div5*), except as modified below.

All submissions in response to this notice must be in English and must be submitted electronically via *http://www.regulations.gov,* using docket number USTR–2019–0001. USTR will not accept hand-delivered submissions. USTR will not accept submissions that do not provide the information required by sections 2007.0 and 2007.1 of the GSP regulations, unless the petitioner explains in detail that they made a good faith effort to obtain the information required.

To make a submission via *http://www.regulations.gov,* enter the docket number for this review—USTR–2019–0001—in the 'search for' field on the home page and click 'search.' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting 'notice' under 'document type' in the 'filter results by' section on the left side of the screen and click on the link entitled 'comment now.' For additional information on using the *http://www.regulations.gov* website, please consult the resources provided on the website by clicking on 'how to use this site' on the left side of the home page.

The *regulations.gov* website allows users to provide comments by filling in a 'type comment' field or by attaching a document using the 'upload file(s)' field. USTR prefers that submissions be provided in an attached document. Submissions must include, at the beginning of the submission, or on the first page (if an attachment), the following text (in bold and *underlined*): (1) 2019 GSP Annual Review and (2) the eight or ten digit HTSUS subheading number in which the product is classified (for product petitions) or the name of the country (for country practice petitions).

Furthermore, petitions that request action with respect to specific products also should list at the beginning of the submission, or on the first page (if an attachment) the following information: (1) The requested action and (2) if applicable, the beneficiary developing country. Submissions should not exceed 30 single-spaced, standard letter-size pages in 12-point type, including attachments. Any data attachments to the submission should be included in the same file as the submission itself, and not as separate files.

You will receive a submission tracking number that you should keep for you records upon completion of the submission procedure at *http://www.regulations.gov.* The tracking number is your confirmation that the submission was received into *http://www.regulations.gov.* USTR is not responsible for any delays in a submission due to technical difficulties, nor is it able to provide any technical assistance for the regulations.gov website. USTR may not consider documents that you do not submit in accordance with these instructions. If you cannot provide submissions as requested, please contact Lauren Gamache at (202)396–2974 to arrange for an alternative method of transmission.

B. Business Confidential Petitions

A submitter requesting that USTR treat information contained in a submission as business confidential information must certify that the information is business confidential and would not customarily be released to the public by the submitter. You must clearly designate confidential business information by marking the submission 'BUSINESS CONFIDENTIAL' at the top and bottom of the cover page and each succeeding page, and indicating, via brackets, the specific information that is confidential. Additionally, you must include 'business confidential' in the 'type comment.' field. For any submission containing business confidential information, you also must submit a separate non-confidential version (*i.e.,* not as part of the same

submission with the confidential version), indicating where confidential information has been redacted. USTR will place the non-confidential version in the docket and it will be open to public inspection.

Business confidential submissions that are submitted without the required markings, or are not accompanied by a properly marked non-confidential version, as set forth above, might not be accepted or may be considered public documents.

C. Public Viewing of Review Submissions

Submissions in response to this notice, except for information granted business confidential status under 15 CFR part 2003.6, will be available for public viewing pursuant to 15 CFR part 2007.6 at *http://www.regulations.gov* upon completion of processing. You can view submissions by entering the docket number USTR–2019–0001 in the search field at *http://www.regulations.gov.*

Erland Herfindahl,

Deputy Assistant U.S. Trade Representative for the Generalized System of Preferences Office of the U.S. Trade Representative.

[FR Doc. 2019–05614 Filed 3–22–19; 8:45 am]

BILLING CODE 3290–F9–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusions.

SUMMARY: Effective July 6, 2018, the U.S. Trade Representative (Trade Representative) imposed additional duties on goods of China with an annual trade value of approximately $34 billion (the $34 billion action) as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The Trade Representative's determination included a decision to establish a product exclusion process. The Trade Representative initiated the exclusion process in July 2018, and stakeholders have submitted requests for the exclusion of specific products. In December 2018, the Trade Representative granted an initial set of exclusion requests. This notice announces the Trade Representative's determination to grant additional exclusion requests, as specified in the Annex to this notice. The Trade Representative will continue to issue decisions on pending requests on a periodic basis.

DATES: The product exclusions announced in this notice will apply as of the July 6, 2018 effective date of the $34 billion action, and will extend for one year after the publication of this notice. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Assistant General Counsels Philip Butler or Megan Grimball, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annex to this notice, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see the prior notices issued in the investigation, including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), and 83 FR 40823 (August 16, 2018), 83 FR 47974 (September 21, 2018), 83 FR 65198 (December 19, 2018), 83 FR 67463 (December 28, 2018), and 84 FR 7966 (March 5, 2019).

Effective July 6, 2018, the Trade Representative imposed additional 25 percent duties on goods of China classified in 818 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $34 billion. *See* 83 FR 28710. The Trade Representative's determination included a decision to establish a process by which U.S. stakeholders may request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the $34 billion action from the additional duties. The Trade Representative issued a notice setting out the process for the product exclusions, and opening a public docket. *See* 83 FR 32181 (the July 11 notice).

Under the July 11 notice, requests for exclusion had to identify the product subject to the request in terms of the physical characteristics that distinguish the product from other products within the relevant 8-digit subheading covered by the $34 billion action. Requestors also had to provide the 10-digit subheading of the HTSUS most applicable to the particular product requested for exclusion, and could submit information on the ability of U.S. Customs and Border Protection to administer the requested exclusion. Requestors had to provide the quantity and value of the Chinese-origin product that the requestor purchased in the last three years. With regard to the rationale for the requested exclusion, requests had to address the following factors:

- Whether the particular product only is available from China and specifically whether the particular product and/or a comparable product is available from sources in the United States and/or third countries.
- Whether the imposition of additional duties on the particular product would cause severe economic harm to the requestor or other U.S. interests.
- Whether the particular product is strategically important or related to ''Made in China 2025'' or other Chinese industrial programs.

The July 11 notice stated that the Trade Representative would take into account whether an exclusion would undermine the objective of the Section 301 investigation.

The July 11 notice required submission of requests for exclusion from the $34 billion action no later than October 9, 2018, and noted that the Trade Representative would periodically announce decisions. In December 2018, the Trade Representative granted an initial set of exclusion requests. *See* 83 FR 67463. The Trade Representative regularly updates the status of each pending request and posts the status at *https://ustr.gov/issue-areas/enforcement/section-301-investigations/request-exclusion.*

B. Determination To Grant Certain Exclusions

Based on the evaluation of the factors set out in the July 11 notice, which are summarized above, pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, and in accordance with the advice of the interagency Section 301 Committee, the Trade Representative has determined to grant the product exclusions set out in the Annex to this notice. The Trade Representative's determination also takes into account advice from advisory committees and any public comments on the pertinent exclusion requests.

As set out in the Annex to this notice, the exclusions are established in two different formats: (1) As an exclusion of an existing 10-digit subheading from within an 8-digit subheading covered by the $34 billion action, or (2) as an

exclusion reflected in specially prepared product descriptions. In particular, the exclusions take the form of three 10-digit HTSUS subheadings, and 30 specially prepared product descriptions.

In accordance with the July 11 notice, the exclusions are available for any product that meets the description in the Annex, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the 10-digit headings and product descriptions in the Annex to this notice, and not by the product descriptions set out in any particular request for exclusion.

The exclusions in the Annex cover approximately 87 separate exclusion requests: The excluded 10-digit subheadings cover 24 separate requests, and the 30 specially drafted product descriptions cover approximately 63 separate requests.

Paragraph B of the Annex to this notice corrects a typographical error in U.S. note 20(h)(ix) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States, as set out in the Annex of the notice published at 83 FR 67463 (December 28, 2018).

As stated in July 11 Notice, the exclusions will apply as of the July 6, 2018 effective date of the $34 billion action, and extend for one year after the publication of this notice. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

The Trade Representative will continue to issue determinations on pending requests on a periodic basis.

Stephen P. Vaughn,

General Counsel, Office of the U.S. Trade Representative.

BILLING CODE 3290–F8–P

Annex

A. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 6, 2018, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified:

1. by inserting the following new heading 9903.88.06 in numerical sequence, with the material in the new heading inserted in the columns of the HTSUS labeled "Heading/Subheading", "Article Description", "Rates of Duty 1-General", respectively:

Heading/ Subheading	Article Description	Rates of Duty		
		1		2
		General	Special	
"9903.88.06	Articles the product of China, as provided for in U.S. note 20(i) to this subchapter, each covered by an exclusion granted by the U.S. Trade Representative	The duty provided in the applicable subheading"		

2. by inserting the following new U.S. note 20(i) to subchapter III of chapter 99 in numerical sequence:

"(i) The U.S. Trade Representative determined to establish a process by which particular products classified in heading 9903.88.01 and provided for in U.S. notes 20(a) and 20(b) to this subchapter could be excluded from the additional duties imposed by heading 9903.88.01. See 83 Fed. Reg. 28710 (June 20, 2018) and 83 Fed. Reg. 32181 (July 11, 2018). Pursuant to the product exclusion process, the U.S. Trade Representative has determined that the additional duties provided for in heading 9903.88.01 shall not apply to the following particular products, which are provided for in the enumerated statistical reporting numbers:

(1) 8412.21.0045

(2) 8430.31.0040

(3) 8607.21.1000

(4) Submersible centrifugal pumps, each powered by 36 V motor (described in statistical reporting number 8413.70.2004)

(5) Breast pumps, whether or not with accessories or batteries (described in statistical reporting number 8413.81.0040)

(6) Impeller housings of cast iron (described in statistical reporting number 8413.91.9095, effective January 1, 2019; described in statistical reporting number 8413.91.9080, effective prior to January 1, 2019)

(7) Impellers of plastic designed for centrifugal pumps, each of the foregoing with outside diameter of 73 mm or more but not more than 74 mm (described in statistical reporting number 8413.91.9095, effective January 1, 2019; described in statistical reporting number 8413.91.9080, effective prior to January 1, 2019)

(8) Compressor housings designed for turbochargers (described in statistical reporting number 8414.90.4165)

(9) Salad spinners, of plastics, not electrically powered (described in statistical reporting number 8421.19.0000)

(10) Machinery for filtering water, submersible, powered by batteries, manually operated, such machinery designed for use in pools, basins, aquariums, spas or similar contained bodies of water (described in statistical reporting number 8421.21.0000)

(11) Machinery designed for removing waste from water in saltwater aquariums by injecting air bubbles then filtering such bubbles (described in statistical reporting number 8421.21.0000)

(12) Electronic water oxidizers designed for purifying water for household washing machines (described in statistical reporting number 8421.21.0000)

(13) Hand-held ultraviolet water purifiers, powered by batteries (described in statistical reporting number 8421.21.0000)

(14) Filters designed to remove sulfites from wine (described in statistical reporting number 8421.22.0000)

(15) Filter housings, covers, or couplings, the foregoing of steel and comprising parts of machinery or apparatus for filtering liquids (described in statistical reporting number 8421.99.0040)

(16) Steel L-shaped bucket elevators, each comprising steel buckets bolted to a steel chain with guide wires and drive system (described in statistical reporting number 8428.32.0000)

(17) Vulcanized rubber tracks, each incorporating cords and cleats of steel, designed for use on construction equipment (described in statistical reporting number 8431.49.9095)

(18) Rotors designed to agitate paper and water into pulp, of stainless steel, the foregoing comprising parts of machinery for making pulp of fibrous cellulosic materials (described in statistical reporting number 8439.91.9000)

(19) Automated data processing storage units (other than magnetic disk drive units), not assembled in cabinets for placing on a table or similar place, not presented with any other unit of a system (described in statistical reporting number 8471.70.6000)

(20) Bituminous pavers, self-propelled, each with a weight exceeding 14.9 metric tons but not exceeding 18.2 metric tons, with working width of 2.4 m or more but not over 8.6 m (described in statistical reporting number 8479.10.0060)

(21) Check valves, of acrylonitrile butadiene styrene (ABS), each weighing 120 g or less (described in statistical reporting number 8481.30.9000)

(22) Check valves, of plastics (described in statistical reporting number 8481.30.9000)

(23) Electric motors, AC, permanent split capacitor type, each in a housing with outside diameter of 84 mm or less, with output of 6 W or more but not exceeding 16 W (described in statistical reporting number 8501.10.4020)

(24) DC motors rated at 739.6 W, each with a housing with external diameter of 85 mm or more but not exceeding 90 mm and weight of 257 g or less (described in statistical reporting number 8501.31.5000)

(25) Electrical transformers, each with a power handling capacity rating of 1.8 kVA, with external dimensions measuring approximately 13.3 cm by 12.7 cm by 11.4 cm (described in statistical reporting number 8504.32.0000)

(26) Battery powered soldering irons or soldering guns, not over 18 cm in length (described in statistical reporting number 8515.11.0000)

(27) Knobs of injection molded plastics (described in statistical reporting number 8538.90.6000)

(28) Molybdenum foil filament assemblies, designed for use in ultraviolet lamps (described in statistical reporting number 8539.90.0000)

(29) Thin-film-transistor, light-emitting diode (LED) backlit flat panel liquid crystal display modules, each with an aluminum bezel and a video display diagonal measuring 113 mm or more but not over 339 mm (described in statistical reporting number 9013.80.7000)

(30) Depth-sounding apparatus with digital display, each designed for installation in a 63.5 mm hole in dashboard, designed for recreational boating use (described in statistical reporting number 9014.80.2000)

(31) Restraint packs designed for use with chest compressors, each containing one torso restraint, consisting of a cotton strap which fastens with hook and loop fasteners to the compressor, and one cover for a head stabilizer (described in statistical reporting number 9018.90.7580)

(32) Inoculator sets of plastics, each consisting of a plate with multiple wells, a display tray, and a lid; when assembled, the set measuring 105 mm or more but not exceeding 108 mm in width, 138 mm or more but not exceeding 140 mm in depth, and 6.5 mm or less in thickness (described in statistical reporting number 9027.90.5650)

(33) Tuners designed to clip onto musical instruments and indicate whether the instrument is in tune (described in statistical reporting number 9031.80.8085)

3. by amending the last sentence of the first paragraph of U.S. note 20(a) to subchapter III to chapter 99 by inserting after the phrase "provided for in heading 9903.88.05 and U.S. note 20(h)" the following phrase:

", or provided for in heading 9903.88.06 and U.S. note 20(i)";

4. by amending the first sentence of U.S. note 20(b) to subchapter III to chapter 99 by inserting after the phrase "provided for in heading 9903.88.05 and U.S. note 20(h)" the following phrase:

", or provided for in heading 9903.88.06 and U.S. note 20(i)"; and

5. by amending the Article Description of heading 9903.88.01:

a. by deleting: "Except as provided in heading 9903.88.05," and

b. inserting in lieu thereof: "Except as provided in headings 9903.88.05 or 9903.88.06,".

B. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 6, 2018, U.S. note 20(h)(ix) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified by deleting "not over 34.6 mm" and inserting "not over 254 mm" in lieu thereof.

C. In U.S. note 20(h) to subchapter III of chapter 99, subdivisions (h)(i) through (h)(xxxi) are re-designated as subdivisions (h)(1) through (h)(31), respectively.

[FR Doc. 2019–05588 Filed 3–22–19; 8:45 am]
BILLING CODE 3290–F8–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed New Restricted Category Aircraft—Special Purpose Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability and request for public comments.

SUMMARY: This notice announces the availability of and requests comment on the proposed addition of several new restricted category special purpose operations pursuant to Title 14 of the Code of Federal Regulations. These include Humanitarian Assistance/Disaster Relief, and An expansion of Patrolling to include patrolling of railroads, waterways and harbors.

Comments Invited: Interested persons are invited to comment on the proposed new special purpose operations for restricted category by submitting such written data, views, or arguments, in favor or opposed. Please forward you comments to Federal Aviation Administration, Aircraft Certification Service, Policy & Innovation Division, Certification Procedures Section (AIR–6C1), 950 L'Enfant Plaza SW, Washington, DC 20024. ATTN: Mr. Graham Long. Comments must be received on or before April 24, 2019.

FOR FURTHER INFORMATION CONTACT: Federal Aviation Administration, Aircraft Certification Service, Policy & Innovation Division, Certification Procedures Section (AIR–6C1) at 950 L'Enfant Plaza SW, Washington, DC 20024.

ATTN: Mr. Graham Long. You may contact Mr. Long at (202) 267–1624, Fax (202) 267–1813, or Email: *graham.long@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA is considering several new restricted category aircraft—special purpose operations pursuant to 14 CFR 21.25(b)(7). Approval of these new special purpose operations would improve the usability of restricted category aircraft and support the public welfare. The proposed new special purpose operations are: (1) Humanitarian Assistance/Disaster Relief, and (2) an expansion of Patrolling to include patrolling of Railroads, Waterways and Harbors. These operations are intended to be performed within the scope of ''aerial work operations.'' Note, pursuant to § 91.313, the operating limitations and the noise requirements pursuant to 14 CFR part 36, will apply to these special purpose operations in restricted category, unless otherwise waived.

1. Humanitarian Assistance/Disaster Relief: Recent natural disasters in the United States (notably Hurricane Katrina in 2005 and multiple hurricanes in 2017) have prompted the FAA to consider allowing restricted category aircraft to operate under these types of circumstances to make available additional aviation resources to provide humanitarian assistance and/or disaster relief. The proposed mission involves bringing in needed materials and supplies (*i.e.,* cargo only—no passengers) to the affected area, or moving materials and supplies within the area. This approval is intended to be performed within the scope of ''aerial work operations'' and would be available to both rotary wing and fixed wing aircraft. In addition, this operation would potentially include aerial delivery/airdropping of supplies. FAA is considering limiting this approval to periods when a government agency has made a declaration of a state of emergency, or similar declaration.

2. Patrolling Railroads, Waterways and Harbors: Restricted category aircraft, both rotary wing and fixed wing, are currently able to be used for patrolling pipelines, power lines, and canals. We are considering expanding Patrolling to include patrolling railroads, waterways and harbors to enable the use of restricted category aircraft in these missions. FAA further wants to clarify that patrolling operations are to be for inspection, security, and safety purposes, and are intended to be performed within the scope of ''aerial work operations.''

Issued in Washington, DC.

Melvin J. Johnson,

Deputy Director, Policy & Innovation Division, AIR–601, Aircraft Certification Service.

[FR Doc. 2019–05662 Filed 3–22–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2019–0010]

Agency Information Collection Activities: Notice of Request for Approval of a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for approval of a new information collection.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for approval of a new information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on December 12, 2018. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by April 24, 2019.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. All comments should include the Docket No. FHWA–2019–0010.

FOR FURTHER INFORMATION CONTACT: Kelly Morton 602–382–8976, *Kelly.Morton@dot.gov;* Office of Safety, Federal Highway Administration, Department of Transportation, New Jersey Avenue SE, Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Drug Offender's Driver's License Suspension Certification.

OMB Control Number: 2125–0579.

Background: States are legally required to enact and enforce laws that revoke or suspend the drivers licenses of any individual convicted of a drug offense and to make annual certifications to the FHWA on their actions. The Department of Transportation's implementing regulations (23 CFR part 192) of 23 U.S.C. 159 require annual certifications by the Governors. In this regard, the State must submit by January 1 of each year either a written certification, signed by the Governor, stating that the State is in compliance with 23 U.S.C. 159; or a written certification stating that the Governor is opposed to the enactment or enforcement, and that the State legislature has adopted a resolution expressing its opposition to 23 U.S.C. 159.

Beginning in Fiscal Year 2012, States' failure to comply by October 1 of each fiscal year resulted in a withholding penalty of 8 percent from States' apportionments for the fiscal year. Any Funds withheld from a State under 23 U.S.C 159 shall not be available for apportionment to that State.

Respondents: 50 States and the District of Columbia and Puerto Rico.

Estimated Annual Burden Hours: Annual average of 5 hours for each respondent; 260 total annual burden hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: March 14, 2019.

Michael Howell,

Information Collection Officer.

[FR Doc. 2019–05381 Filed 3–22–19; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0046]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel DR. SIC (48′ Sport Fisher); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 24, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0046 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0046 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0046, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel DR. SIC is:

—*Intended Commercial Use of Vessel*: ''Owner intends to Charter Vessel in high end, limited load sport fish capacity as well as high end bay and sunset cruise charter work.''

—*Geographic Region Including Base of Operations*: ''California'' (Base of Operations: San Diego, CA)

—*Vessel Length and Type*: 48′ sport fisher.

The complete application is available for review identified in the DOT docket as MARAD–2019–0046 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2019–0046 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records

notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: March 20, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–05640 Filed 3–22–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0044]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel TWISTED ANGEL (40′ Sailing Catamaran); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 24, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0044 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0044 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0044, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel TWISTED ANGEL is:

—*Intended Commercial Use of Vessel:* ''Sailing charters only''

—*Geographic Region Including Base of Operations:* ''Mississippi, Alabama, Florida'' (Base of Operations: Ocean Springs, MS)

—*Vessel Length and Type:* 40′ sailing catamaran

The complete application is available for review identified in the DOT docket as MARAD–2019–0044 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2019–0044 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Dated: March 20, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.

Secretary, Maritime Administration.

[FR Doc. 2019–05642 Filed 3–22–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0045]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ENCORE (63′ Sailboat); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 24, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0045 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0045 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2019–0045, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ENCORE is:

—*Intended Commercial Use of Vessel:* ''Weekly Charters''

—*Geographic Region Including Base of Operations:* ''Rhode Island, Massachusetts, New Hampshire, Maine, Connecticut'' (Base of Operations: Newport, RI)

—*Vessel Length and Type:* 63′ sailboat

The complete application is available for review identified in the DOT docket as MARAD–2019–0045 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2019–0045 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

Date: March 20, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–05641 Filed 3–22–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0064; Notice 2; Docket No. NHTSA–2018–0005; Notice 2]

Autocar Industries, LLC and Hino Motors Sales U.S.A., Inc., Grant of Petitions for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petitions.

SUMMARY: Autocar Industries, LLC (Autocar Industries) and Hino Motors Sales U.S.A., Inc., (Hino), have determined that certain model year (MY) 2014–2018 Autocar Xpert trucks and certain MY 2014–2018 Hino heavy-duty trucks do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays.* The petitioners have requested that NHTSA deem the subject noncompliances inconsequential to motor vehicle safety. This notice announces the grant of these petitions.

FOR FURTHER INFORMATION CONTACT: Joshua Campbell, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366–5307, facsimile (202) 366–3081.

SUPPLEMENTARY INFORMATION:

I. Overview

Autocar Industries has determined that certain MY 2014–2018 Autocar Xpert trucks do not fully comply with Table 2 of FMVSS No. 101, *Controls and Displays* (49 CFR 571.101). Autocar Industries filed a report dated June 12, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Autocar Industries also petitioned NHTSA on June 19, 2017, and later submitted a supplemental petition on August 29, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, 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. Notice of receipt of Autocar Industries' petition was published with a 30-day public comment period on August 16, 2017, in the **Federal Register** (82 FR 38997). No comments were received.

Hino has determined that certain MY 2014–2018 Hino heavy duty trucks do not fully comply with the requirements of Table 2 of FMVSS No. 101, *Controls and Displays.* Hino filed a report dated December 11, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Hino also petitioned NHTSA on December 21, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, 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. Notice of receipt of Hino's petition was published with a 30-day public comment period on February 22, 2018, in the **Federal Register** (83 FR 7846). No comments were received.

II. Vehicles Involved

Approximately 522 MY 2014–2018 Autocar Xpert trucks, manufactured between September 05, 2013 and September 05, 2017, are potentially involved.

Approximately 30,025 MY 2014–2018 Hino NJ8J, NV8J, and NH8J heavy-duty trucks, manufactured between September 1, 2013, and October 30, 2017, are potentially involved.

III. Noncompliance

The petitioners explain that the subject noncompliance is the low brake air pressure telltale for air brake systems displays the International Standards Organization (ISO) symbol for brake malfunction rather than the words ''Brake Air'' as specified in Table 2 of FMVSS No. 101. Both petitioners stated that the ISO telltale is accompanied by an audible alert and pressure gauges.

IV. Regulatory Requirements

Paragraphs S5 and S5.2.1 of FMVSS No. 101 include the requirements relevant to this petition:

- Each passenger car, multipurpose passenger vehicle, truck and bus that is fitted with a control, a telltale, or an indicator listed in Table 1 or Table 2, must meet the requirements of FMVSS No. 101 for the location, identification, color, and illumination of that control, telltale or indicator.
- Each control, telltale, and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2.

V. Summary of Petitions

The petitioners described the subject noncompliance and stated their belief that the noncompliance is inconsequential as it relates to motor vehicle safety. In support, the petitioners submitted the following arguments:

1. Both petitioners noted that the purpose of the low brake air pressure telltale is to alert the driver to a low air condition, consistent with the requirements of FMVSS No. 121, S5.1.5 (warning signal). The vehicles in question display the ISO symbol for brake malfunction instead of ''Brake Air,'' along with an audible alert that would alert the driver to an air issue with the brake system. Once alerted, the driver can check the actual air pressure by reading the primary and secondary air gauges and seeing the contrasting color on the gauges indicating low pressure.

2. Autocar Industries cited that in a 2005 FMVSS No. 101 rulemaking, NHTSA stated that the reason for including vehicles over 10,000 pounds GVWR in the application of the standard is that drivers of heavier vehicles need to see and identify their displays just like drivers of lighter vehicles. See 70 FR 48295, 48298 (Aug. 17, 2005). Drivers of commercial vehicles conduct pre-trip daily inspections. For vehicles with pneumatic brake systems, there is an in-cab air brake diagnostic that checks for a warning light and buzzer at 60 PSI, and this would familiarize the driver with the specific telltale and audible warning used in the event a low-air condition occurred during operation.

3. Hino stated that when the air pressure drops below 79 psi, the ISO symbol illuminates and the audible alert sounds, both of which are described in the Driver's/Owner's Manual of the subject vehicles. Therefore, even if the telltale does not use the required ''Brake Air'' display, the driver is alerted that the air pressure is low.

4. Both petitioners noted that there are two scenarios when a low brake air pressure condition could exist: A parked vehicle and a moving vehicle. In both conditions, the driver would be alerted to a low-air condition by the following means:

- Red contrasting color of the ISO brake malfunction telltale.
- Audible alert to the driver as long as the vehicle has low air (and park brake is released).
- Dual indicator air pressure gauge for the primary and secondary air reservoirs, clearly indicating the level of air pressure in the system.
- Red contrasting color on the air gauges indicating low air pressure.

The functionality and performance of both the parking brake system and the service brake system remain unaffected by using the ISO symbol for brake malfunction instead of ''Brake Air'' for the telltale in the subject vehicles.

5. NHTSA Precedents—The petitioners noted that NHTSA has previously granted petitions for decisions of inconsequential noncompliance for the following similar brake telltale issues:

- Docket No. NHTSA–2017–0011, 82 FR 33551 (July 20, 2017), grant of petition for Daimler Trucks North America, LLC.
- Docket No. NHTSA–2014–0046, 79 FR 78559 (December 30, 2014), grant of petition for Chrysler Group, LLC.
- Docket No. NHTSA–2012–0004, 78 FR 69931 (November 21, 2013), grant of petition for Ford Motor Company.
- Docket No. NHTSA–2017–011, 82 FR 33551 (July 20, 2017), Grant of Petition for Decision of Inconsequential Noncompliance for Daimler Trucks North America, LLC.

In these instances, the vehicles displayed an ISO symbol for the brake telltale instead of the wording required under FMVSS No. 101. The ISO symbol, in combination with other available warnings, was deemed sufficient to provide the necessary driver warnings.

The petitioners concluded by expressing their belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that NHTSA should grant their petitions 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.

The petitioner's complete petitions and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: *https://www.regulations.gov* and following the online search instructions to locate the docket numbers listed in the title of this notice.

VI. NHTSA's Analysis

NHTSA has considered the arguments presented by the petitioners and has determined that the subject noncompliance is inconsequential to motor vehicle safety. NHTSA believes that the subject noncompliance poses no risk to motor vehicle safety because multiple sources of information, as described in the petition and discussed below, are simultaneously activated to warn the driver of a low air pressure condition in the brake system.

1. When a low air pressure situation exists, for both a parked or moving vehicle, the ISO symbol will illuminate in red with a black background. The petitioner's use of red is an accepted color representing an urgent condition and provides a definitive indication of a situation that needs attention.

2. Simultaneous to illumination of the ISO symbol is activation of an audible alert, further notifying the operator that a malfunction exists, requiring corrective action. Although the alert would not, in and of itself, identify the problem, a driver would be prompted by the warning tone to heed the telltale (*i.e.*, ISO symbol).

3. In a low-pressure situation, the operator is provided additional feedback by the primary and secondary instrument cluster air gauges which are marked with numerical values in PSI units along with red contrasting colors on the gauges during a low-pressure condition.

4. Further, NHTSA agrees with the petitioners that the functionality of the parking brake system and the braking performance of the service brake system remain unaffected by use of the ISO symbol instead of the words ''Brake Air'' on the subject vehicles.

5. Lastly, NHTSA believes that, as the affected trucks are predominately used as commercial vehicles with professional drivers, operators will monitor their vehicle's condition and take note of any warning signs and gauge readings to ensure proper functionality of all systems. The petitioners stated, and the agency agrees, that professional drivers will become familiar with the meaning of telltales and other warnings and that the feedback provided to the driver in these vehicles, if a low brake pressure condition exists, would be well understood. This learning process is reinforced by the in-cab function check for the brake pressure telltale and audible warning.

6. The ISO symbol has been used on U.S.-certified vehicles for many years. If the driver is not familiar with its meaning, the Owner's manual can be referenced which will explain the relationship with the brake system. Over time, the ISO symbol has evolved to become increasingly recognizable and understandable to drivers so if it is activated, they would likely be alerted to a possible brake system malfunction which needs to be remedied.

NHTSA concludes that simultaneous activation of the red ISO symbol with a black contrasting background, an audible alert for a low air pressure condition, along with the primary and secondary air gauge indicators, and the reduced drivability of the vehicles under a low air pressure condition, provide adequate notification to the operator that a brake malfunction exists. NHTSA further concludes that the discrepancy with the telltale requirement is unlikely to lead to any misunderstanding since other sources of correct information beyond the ''Brake Air'' telltale are provided when a low air pressure condition exists.

VII. NHTSA's Decision

In consideration of the foregoing, NHTSA finds that Autocar Industries and Hino have met their burden of persuasion that the FMVSS No. 101 noncompliance is, in each case, inconsequential as it relates to motor vehicle safety. Accordingly, Autocar Industries and Hino's petitions are hereby granted, and they are exempted from the obligation to provide notification of and remedy for, the subject noncompliance in the affected vehicles under 49 U.S.C. 30118 and 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, this decision only applies to the subject vehicles that Autocar Industries and Hino no longer controlled at the time it determined that the noncompliance existed. However, the granting of 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 Autocar Industries and Hino notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120, delegations of authority at 49 CFR 1.95 and 501.8.

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2019–05600 Filed 3–22–19; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2015–0271]

Agency Request for Renewal of a Previously Approved Information Collection: Prioritization and Allocation Authority Exercised by the Secretary of Transportation Under the Defense Production Act

AGENCY: Office of the Secretary of Transportation, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Department of Transportation (DOT) invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves information required in an application to request Special Priorities Assistance. The information to be collected is necessary to facilitate the supply of civil transportation resources to promote the national defense. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995, Public Law 104–13.

DATES: Written comments should be submitted by May 24, 2019.

ADDRESSES: You may submit comments [identified by Docket No. DOT–OST–2015–0271] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Anita Womack, 202–366–2250, Office of Intelligence, Security and Emergency Response, Office of the Secretary of Transportation, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2105–0567.

Title: Prioritization and Allocation Authority Exercised by the Secretary of Transportation Under the Defense Production Act.

Form Numbers: OST F 1254.

Type of Review: Renewal of a previously approved information collection.

Background

The Defense Production Act Reauthorization of 2009 (Pub. L. 111–67, September 30, 2009) requires each Federal agency with delegated authority under section101 of the Defense Production Act of 1950, as amended (50 U.S.C. App. § 2061 *et seq.*) to issue final rules establishing standards and procedures by which the priorities and allocations authority is used to promote the national defense. The Secretary of Transportation has the delegated authority for all forms of civil transportation. DOT's final rule, Transportation Priorities and Allocation System (TPAS), published October 2012, requires this information collection. Form OST F 1254, Request for Special Priorities Assistance, would be filled out by private sector applicants, such as transportation companies or organizations. The private sector applicant must submit company information, the services or items for which the assistance is requested, and specific information about those services or items.

Respondents: Private sector applicants, such as transportation companies or organizations.

Number of Respondents: We estimate 6 respondents.

Total Annual Burden: We estimate an average burden of 30 minutes per respondent for an estimated total annual burden of 3 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Issued in Washington, DC, on March 20, 2019.

Donna O'Berry,

Deputy Director, Office of Intelligence, Security and Emergency Response.

[FR Doc. 2019–05650 Filed 3–22–19; 8:45 am]

BILLING CODE 4910–9X–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 FURTHER INFORMATION CONTACT: *OFAC:* 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; Assistant Director for Regulatory Affairs, tel. 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

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 (*www.treasury.gov/ofac*).

Notice of OFAC Actions

On March 15, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. MEDVEDEV, Gennadiy (a.k.a. MEDVIEDIEV, Gennadiy Nikolayevich); DOB 14 Sep 1959; citizen Russia; Gender Male; Deputy Director of the Border Guard Service of the Federal Security Service of the Russian Federation (individual) [UKRAINE–EO13661].

Designated pursuant to section 1(a)(ii)(A) of Executive Order 13661 of March 16, 2014, ''Blocking Property of Additional Persons Contributing to the Situation in Ukraine'' (E.O. 13661), for being an official of the Government of the Russian Federation.

2. NAYDENKO, Aleksey Alekseevich (Cyrillic: НАЙДЕНКО, Алексей Алексеевич) (a.k.a. NAIDENKO, Aleksey; a.k.a. NAYDENKO, Oleksii Oleksiyovych (Cyrillic: НАЙДЕНКО, Олексій Олексійович); DOB 02 Jun 1980; POB Donetsk, Ukraine; Gender Male (individual) [UKRAINE–EO13660].

Designated pursuant to section 1(a)(i)(B) of Executive Order 13660 of March 10, 2014 ''Blocking Property of Certain Persons Contributing to the Situation in Ukraine'' (E.O. 13660), for being responsible for or complicit in, or having engaged in, directly or indirectly, actions or policies that threaten the peace, security, stability, sovereignty, or territorial integrity of Ukraine.

3. ROMASHKIN, Ruslan (a.k.a. ROMASHKIN, Ruslan Aleksandrovich (Cyrillic: РОМАШКИН, Руслан Александрович); DOB 15 Jun 1976; Gender Male; Head of the Service Command Point of the Federal Security Service of the Russian Federation for the Republic of Crimea and Sevastopol (individual) [UKRAINE–EO13661].

Designated pursuant to section 1(a)(ii)(A) of E.O. 13661 for being an official of the Government of the Russian Federation.

4. SHEIN, Andrey (a.k.a. SHEIN, Andrey Borisovich); DOB 19 Jun 1971; POB Ivanovskaya Oblast, Russia; citizen Russia; Gender Male; Deputy Head of the Border Directorate—Head of the Coast Guard Unit of the Federal Security Service of the Russian Federation (individual) [UKRAINE–EO13661].

Designated pursuant to section 1(a)(ii)(A) of E.O. 13661 for being an official of the Government of the Russian Federation.

5. STANKEVICH, Sergey (a.k.a. STANKEVICH, Sergey Nikolayevich); DOB 27 Jan 1963; POB Kaliningrad; citizen Russia; Gender Male; Head of the Border Directorate of the Federal Security Service of the Russian Federation (individual) [UKRAINE–EO13661].

Designated pursuant to section 1(a)(ii)(A) of E.O. 13661 for being an official of the Government of the Russian Federation.

6. VYSOTSKY, Vladimir Yurievich (Cyrillic: ВЫСОЦКИЙ, Владимир Юрьевич) (a.k.a. VYSOTSKIY, Vladimir Yurievich; a.k.a. VYSOTSKYI, Volodymyr Yuriyovych (Cyrillic: ВИСОЦЬКИЙ, Володимир Юрійович); DOB 07 Apr 1985; POB Crimea, Ukraine; Gender Male (individual) [UKRAINE–EO13660].

Designated pursuant to section 1(a)(i)(B) of E.O. 13660 for being responsible for or complicit in, or having engaged in, directly or indirectly, actions or policies that threaten the peace, security, stability, sovereignty, or territorial integrity of Ukraine.

Entities

1. AO KONTSERN OKEANPRIBOR (Cyrillic: АО КОНЦЕРН ОКЕАНПРИБОР) (a.k.a. AKTSIONERNOE OBSHCHESTVO KONTSERN OKEANPRIBOR (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО КОНЦЕРН ОКЕАНПРИБОР); a.k.a. JOINT STOCK COMPANY CONCERN OKEANPRIBOR; a.k.a. JSC CONCERN OKEANPRIBOR; a.k.a. KONTSERN OKEANPRIBOR, PAO), 46, Chkalovskii Prospect, St. Petersburg 197376, Russia; website *www.oceanpribor.ru;* Registration ID 1067847424160 (Russia); Tax ID No. 7813341546 (Russia) [UKRAINE–EO13662].

Designated pursuant to section 1(a)(i) of Executive Order 13662 of March 20, 2014, ''Blocking Property of Additional Persons Contributing to the Situation in Ukraine'' (E.O. 13662), for operating in the defense and related material sector of the Russian Federation economy.

2. AO ZAVOD FIOLENT (Cyrillic: АО ЗАВОД ФИОЛЕНТ) (a.k.a. AKTSIONERNOE OBSHCHESTVO ZAVOD FIOLENT (Cyrillic: АКЦИОНЕРНОЕ ОБЩЕСТВО ЗАВОД ФИОЛЕНТ); a.k.a. JOINT STOCK COMPANY FIOLENT PLANT; a.k.a. JSC FIOLENT PLANT; a.k.a. ZAVOD FIOLENT, PAT), House 34/2, Kievskaya Street, Simferopol, Crimea 295017, Ukraine; website *www.phiolent.com;* Tax ID No. 9102048745 (Russia); Registration Number 1149102099640 (Russia) [UKRAINE–EO13685].

Designated pursuant to section 2(a)(i) of E.O. 13685 of December 19, 2014, ''Blocking Property of Certain Persons and Prohibiting Certain Transactions with Respect to the Crimea Region of Ukraine'' (E.O. 13685), for operating in the Crimea region of Ukraine.

3. GUP RK KTB SUDOKOMPOZIT (Cyrillic: ГУП РК КТБ СУДОКОМПОЗИТ) (a.k.a. GOSUDARSTVENNOE UNITARNOE PREDPRIYATIE RESPUBLIKI KRIM KONSTRUKTORSKO-TECHNOLOGICHESKOE BYURO SUDOKOMPOZIT (Cyrillic: ГОСУДАРСТВЕННОЕ УНИТАРНОЕ ПРЕДПРИЯТИЕ РЕСПУБЛИКИ КРЫМ КОНСТРУКТОРСКО ТЕХНОЛОГИЧЕСКОЕ БЮРО СУДОКОМПОЗИТ); a.k.a. KTB SUDOKOMPOZIT, GUP; a.k.a. STATE UNITARY ENTERPRISE IN THE REPUBLIC OF CRIMEA DESIGN-TECHNOLOGY BUREAU SUDOKOMPOZIT; a.k.a. SUDOKOMPOZIT DESIGN AND TECHNOLOGICAL BUREAU), House 14, Kuibysheva Street, Feodosia, Crimea 298100, Ukraine; website *http://sudocompozit.ru/;* Tax ID No. 9108007745 (Russia); Government Gazette Number 00745510 (Russia); Registration Number 1149102094680 (Russia) [UKRAINE–EO13685].

Designated pursuant to section 2(a)(i) of E.O. 13685 for operating in the Crimea region of Ukraine.

4. LLC NOVYE PROEKTY (a.k.a. NOVYE PROYEKTY; a.k.a. NOVYYE PROEKTY), Km Mzhd Kievsko 5–I d. 1, Str. 1, 2, Komnata 21, Moscow 121059, Russia; Tax ID No. 9102196207 (Russia); Government Gazette Number 00998197 (Russia); Registration Number 1159102120550 (Russia) [UKRAINE–EO13685].

Designated pursuant to section 2(a)(i) of E.O. 13685 for operating in the Crimea region of Ukraine.

5. LLC SK CONSOL-STROI LTD (a.k.a. LIMITED LIABILITY COMPANY CONSTRUCTION COMPANY CONSOL-STROI LTD; a.k.a. LIMITED LIABILITY COMPANY KONSTRUCTION COMPANY KONSOL STROI LTD; a.k.a. LLC CONSOL-STROI LTD; a.k.a. LLC CONSOL-STROI LTD CONSTRUCTION COMPANY; a.k.a. OBSHCHESTVO S OGRANICHENNOI OTVETSTVENNOSTYU STROITELNAYA KOMPANIYA KONSOL-STROI LTD; a.k.a. SK KONSOL-STROI LTD; a.k.a. SK KONSOL-STROI LTD, OOO; a.k.a. STROITELNAYA KOMPANIYA KONSOL-STROI LTD), House 16, Borodina Street, Simferopol, Crimea 295033, Ukraine; website *consolstroy.ru;* alt. Website *consol-stroi.ru;* Tax ID No. 9102070229 (Russia); Government Gazette Number 00823523 (Russia); Registration Number 1159102014170 (Russia) [UKRAINE–EO13685].

Designated pursuant to section 2(a)(i) of E.O. 13685 for operating in the Crimea region of Ukraine.

6. PAO ZVEZDA (Cyrillic: ПАО ЗВЕЗДА) (a.k.a. PJSC ZVEZDA; a.k.a. PUBLIC JOINT STOCK COMPANY ZVEZDA; a.k.a. PUBLICHNOE AKTSIONERNOE OBSHCHESTVO ZVEZDA (Cyrillic: ПУБЛИЧНОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО ЗВЕЗДА)), 123 Babushkina Street, St. Petersburg 192012, Russia; website *www.zvezda.spb.ru;* Tax ID No. 7811038760 (Russia); Registration Number 1037825005085 (Russia) [UKRAINE–EO13662].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

7. YAROSLAVSKY SHIPBUILDING PLANT (Cyrillic: ЯРОСЛАВСКИЙ СУДОСТРОИТЕЛЬНЫЙ ЗАВОД) (a.k.a. OJSC YAROSLAVSKY SHIPBUILDING PLANT; a.k.a. OJSC YAROSLAVSKY SHIPYARD; a.k.a. PJSC YAROSLAVSKY SHIPBUILDING PLANT (Cyrillic: ПАО ЯРОСЛАВСКИЙ СУДОСТРОИТЕЛЬНЫЙ ЗАВОД); a.k.a. YAROSLAVL SHIPYARD OPEN JOINT-STOCK COMPANY (Cyrillic: ПУБЛИЧНОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО ЯРОСЛАВСКИЙ СУДОСТРОИТЕЛЬНЫЙ ЗАВОД)), 1, Korabelnaya Str., Yaroslavl 150006, Russia [UKRAINE–EO13662].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

8. ZELENODOLSK SHIPYARD PLANT NAMED AFTER A.M. GORKY (a.k.a. JOINT STOCK COMPANY ZELENODOLSK PLANT NAMED AFTER A.M. GORKY (Cyrillic: ОТКРЫТОЕ АКЦИОНЕРНОЕ ОБЩЕСТВО ЗЕЛЕНОДОЛЬСКИЙ ЗАВОД ИМЕНИ А.М. ГОРЬКОГО); a.k.a. JSC ZELENODOLSK PLANT NAMED AFTER A.M. GORKY (Cyrillic: АО ЗЕЛЕНОДОЛЬСКИЙ ЗАВОД ИМЕНИ А.М. ГОРЬКОГО)), 5, Zavodskaya St., Zelenodolsk, Republic of Tatarstan 422546, Russia [UKRAINE–EO13662].

Designated pursuant to section 1(a)(i) of E.O. 13662 for operating in the defense and related materiel sector of the Russian Federation economy.

Dated: March 19, 2019.

Bradley T. Smith,

Deputy Director, Office of Foreign Assets Control.

[FR Doc. 2019–05580 Filed 3–22–19; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, April 10, 2019.

FOR FURTHER INFORMATION CONTACT: Antoinette Ross at 1–888–912–1227 or 202–317–4110.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section

10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be held Wednesday, April 10, 2019, at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Antoinette Ross. For more information please contact Antoinette Ross at 1–888–912–1227 or 202–317–4110, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: March 19, 2019.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2019–05573 Filed 3–22–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Special Projects Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, April 11, 2019.

FOR FURTHER INFORMATION CONTACT: Fred Smith at 1–888–912–1227 or (202) 317–3087.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be held Thursday, April 11, 2019, at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Fred Smith. For more information please contact Fred Smith at 1–888–912–1227 or (202) 317–3087, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.*

Dated: March 19, 2019.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2019–05574 Filed 3–22–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, April 10, 2019.

FOR FURTHER INFORMATION CONTACT: Robert Rosalia at 1–888–912–1227 or (718) 834–2203.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be held Wednesday, April 10, 2019, at 2:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Robert Rosalia. For more information please contact Robert Rosalia at 1–888–912–1227 or (718) 834–2203, or write TAP Office, 2 Metrotech Center, 100 Myrtle Avenue, Brooklyn, NY 11201 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: March 19, 2019.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2019–05575 Filed 3–22–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0095]

Agency Information Collection Activity: Pension Claim Questionnaire for Farm Income

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 24, 2019.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.regulations.gov* or to Nancy Kessinger, Veterans Benefits Administration (20M3), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0095'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Danny S. Green at (202) 421–1354.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on

respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 1503, 1521, 1522, 1541, 1542, 1543.

Title: Pension Claim Questionnaire for Farm Income, VA Form 21P–4165.

OMB Control Number: 2900–0095.

Type of Review: Extension without change of a currently approved collection.

Abstract: 38 U.S.C. 1521 establishes a pension benefit for Veterans of a period of war who are permanently and totally disabled. 38 U.S.C. 1541 and 38 U.S.C. 1542 establish a survivor's pension benefit for the surviving dependents of Veterans of a period of war.

Entitlement to pension benefits for Veterans and their surviving dependents is based on the family's countable annual income as required by 38 U.S.C. 1503 and net worth as required by 38 U.S.C. 1522.

The information collected will be used by VBA to evaluate a claimant's income and net worth related to the operation of a farm for the purpose of establishing entitlement to pension benefits and to evaluate a beneficiary's ongoing entitlement to pension benefits.

Affected Public: example: Individuals and households.

Estimated Annual Burden: 1,038 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 2,075.

By direction of the Secretary:

Danny S. Green,

Interim VA Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2019–05659 Filed 3–22–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0036]

Agency Information Collection Activity: Statement of Disappearance

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 24, 2019.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.regulations.gov* or to Nancy Kessinger, Veterans Benefits Administration (20M3), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0036'' in any correspondence. During the comment period, comments may be viewed online through

FOR FURTHER INFORMATION CONTACT: Danny S. Green at (202) 421–1354.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 108.

Title: Statement of Disappearance, VA Form 21P–1775.

OMB Control Number: 2900–0036.

Type of Review: Extension without change of a currently approved collection.

Abstract: The Department of Veterans Affairs (VA), through its Veterans Benefits Administration (VBA), administers an integrated program of benefits and services, established by law, for veterans, service personnel and their survivors. 38 U.S.C. 108 requires a formal ''presumption of death'' when a veteran has been missing for seven years. Entitlement to death benefits cannot be determined in these cases until VA has made a decision of presumption of death.

VA Form 21P–1775 is used to gather the necessary information to determine if a decision of presumptive death can be made for benefit payment purposes. It would be impossible to administer the survivor benefits program without this collection of information.

Affected Public: Individuals and households.

Estimated Annual Burden: 28 hours.

Estimated Average Burden per Respondent: 2 hours, 45 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 10.

By direction of the Secretary:

Danny S. Green,

Interim VA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2019–05660 Filed 3–22–19; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0086]

Agency Information Collection Activity Under OMB Review: Request for a Certificate of Eligibility for VA Home Loan Benefit

AGENCY: Loan Guaranty Service, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Loan Guaranty Service, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 24, 2019.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0086'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, Enterprise Records Service (005R1B), Department of Veterans Affairs, 811 Vermont Avenue NW, Washington, DC 20420, (202) 421–1354 or email *Danny.Green2@va.gov.* Please refer to ''OMB Control No. 2900–0086'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Request for a Certificate of Eligibility for VA Home Loan Benefit, VA Form 26–1880.

OMB Control Number: 2900–0086.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–1880 is used by VA to determine an applicant's eligibility for Loan Guaranty benefits, and the amount of entitlement available. Each completed form is normally accompanied by proof of military service and is submitted by the applicant to the appropriate VA office. If eligible, VA will issue the applicant a Certificate of Eligibility (COE) to be used in applying for Loan Guaranty benefits.

This form is also used in restoration of entitlement cases. Generally, if an applicant has used all or part of his or her entitlement, it may be restored if (1) the property has been sold and the loan has been paid in full or (2) a qualified veteran-transferee agrees to assume the balance on the loan and agrees to substitute his or her entitlement for the same amount of entitlement originally used by the applicant to get the loan. The buyer must also meet the occupancy and income and credit requirements of the law. Restoration is not automatic; an applicant must apply for it by completing VA Form 26–1880.

The Secretary is required by 38 U.S.C. 3702 (a), (b), and (c) to determine the applicant's eligibility for Loan Guaranty benefits, compute the amount of entitlement, and document the certificate with the amount and type of guaranty used and the amount, if any, remaining.

Affected Public: Individuals and households.

Estimated Annual Burden: 80,250 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 321,000.

By direction of the Secretary:

Danny Green,

Interim VA Clearance Officer, Office of Quality, Performance and Risk (OQPR), Department of Veterans Affairs.

[FR Doc. 2019–05663 Filed 3–22–19; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 84 Monday,
No. 57 March 25, 2019

Part II

Department of Agriculture

Animal and Plant Health Inspection Service

9 CFR Parts 54 and 79
Scrapie in Sheep and Goats; Final Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 54 and 79

[Docket No. APHIS–2007–0127]

RIN 0579–AC92

Scrapie in Sheep and Goats

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the scrapie regulations by changing the risk groups and categories established for individual animals and for flocks, increasing the use of genetic testing as a means of assigning risk levels to animals, reducing movement restrictions for animals found to be genetically less susceptible or resistant to scrapie, and simplifying, reducing, or removing certain recordkeeping requirements. We are also providing designated scrapie epidemiologists with more alternatives and flexibility when testing animals in order to determine flock designations under the regulations. We are changing the definition of high-risk animal, which will change the types of animals eligible for indemnity, and to pay higher indemnity for certain pregnant ewes and does and early maturing ewes and does. The changes will also make the identification and recordkeeping requirements for goat owners consistent with those for sheep owners. These changes affect sheep and goat producers, persons who handle sheep and goats in interstate commerce, and State governments.

DATES: Effective April 24, 2019.

FOR FURTHER INFORMATION CONTACT: Dr. Diane Sutton, National Scrapie Program Coordinator, Sheep, Goat, Cervid & Equine Health Center, Strategy and Policy, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1235; (301) 851–3509.

SUPPLEMENTARY INFORMATION:

Background

Scrapie is a degenerative and eventually fatal disease affecting the central nervous systems of sheep and goats. Scrapie belongs to the family of diseases known as transmissible spongiform encephalopathies (TSEs). In addition to scrapie, TSEs include, among other diseases, bovine spongiform encephalopathy (BSE) in cattle, chronic wasting disease in deer and elk, and variant Creutzfeldt-Jakob disease in humans. Control of scrapie is complicated because the disease has an extremely long incubation period without clinical signs of the disease.

To control the spread of scrapie within the United States, the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), administers regulations at 9 CFR part 79, which restrict the interstate movement of certain sheep and goats. APHIS also has regulations at 9 CFR part 54, which describe a voluntary scrapie-free flock certification program.

On September 10, 2015, we published in the **Federal Register** (80 FR 54660–54692, Docket No. APHIS–2007–0127) a proposal [1] to amend the regulations in parts 54 and 79 by changing the requirements for records needed to trace animals, and by adding provisions to link official individual animal identification applied by persons other than the flock owner to the flock of origin in the National Scrapie Database rather than just the person who applied the official identification. The current regulations address tracing exposed animals moved from a flock to another flock primarily in § 54.8(f) (regarding the responsibility of flock owners to disclose records to APHIS representatives or State representatives for the purpose of tracing animals), in § 79.2(b) (regarding the responsibility of persons applying eartags to maintain appropriate records that permit traceback of animals to the flock in which they originated), and in § 79.6(a)(5) (regarding State responsibilities to do epidemiologic investigations of source and infected flocks that include tracing animals). The changes we proposed would ensure that better records are available for tracing animals by adding requirements in new § 54.8(b), ''Records for flocks under a flock plan or PEMMP,'' § 79.2(f), ''Records required of persons who purchase, acquire, sell, or dispose of animals,'' and § 79.2(g), ''Records required of persons who apply official identification to animals.''

We also proposed to reduce some recordkeeping, primarily by eliminating the requirement in many cases to read and record individual identification that was applied before a new owner or shipper receives the animal. Further, by making the regulations easier to understand we hope to eliminate cases where owners and markets unnecessarily keep records or apply unneeded identification, or fail to do so, when required through lack of understanding. Also, in cases where genetic testing allows us to determine that all exposed animals in a flock are genetically resistant, use of genetic testing would allow some flocks to avoid being placed under a flock plan or post-exposure management and monitoring plan (PEMMP), thus avoiding the substantial recordkeeping requirements of § 54.8.

We solicited comments concerning our proposal for 60 days ending November 9, 2015. We reopened and extended the deadline for comments until December 9, 2015, in a document published in the **Federal Register** on November 16, 2015 (80 FR 70718, Docket No. APHIS–2007–0127). We received 59 comments by that date. The comments were from private citizens, sheep and goat breeders, operators of livestock markets, a foreign government, and industry associations. Two commenters supported the rule as proposed. Four commenters were generally opposed to the proposed rule but did not address any specific provisions. The remaining commenters raised a number of concerns related to the proposed rule and program standards. Those concerns are discussed below.

Definitions

One commenter asked us to clarify the definition of *exposed animal,* which appears in both §§ 54.1 and 79.1. The commenter stated that the phrase ''or in an enclosure off the premises of the flock'' is particularly confusing.

We agree with the commenter and have amended the definition to specify that an *exposed animal* is any animal or embryo that:

- Has been in a flock with a scrapie-positive female animal;
- Has been in an enclosure with a scrapie-positive female animal at any location;
- Resides in a noncompliant flock; or
- Has resided on the premises of a flock before or while it was designated an infected or source flock and before a flock plan was completed.

One commenter recommended the definition of *exposed animal* be revised to clarify that ''a date 2 years before the birth of the oldest scrapie-positive animal(s)'' means ''a date 2 years before the birth of the oldest scrapie-positive animal(s) born in that flock.'' We agree and have made the requested change.

One commenter stated that the flock identification number could be issued in a State database and then recorded in the National Scrapie Database. The commenter recommended amending the definition of *flock identification number* to reflect this.

[1] To view the proposed rule, supporting documents, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2007-0127.*

We agree with the commenter and will amend the definition in § 79.1 to read ''recorded in'' instead of ''issued through.''

One commenter stated that the definition of *genetically less susceptible exposed sheep* was unclear. Specifically, the commenter stated that currently most sheep are only genotyped at codon 171, so starting the definition with the words ''An exposed sheep or sheep embryo of genotype AA QR'' does not make sense. The commenter also asked why AA was used in the definition since most sheep are only genotyped at codon 171 and what ''where Q represents any genotype other than R at codon 171'' means and what it relates to.

AA QR is used in the definition because exposed sheep that are epidemiologically linked to a positive animal that has valine at codon 136 are tested at codon 136 and AV QR sheep may be treated differently than AA QR sheep when this occurs. All positive sheep are tested at a minimum for codon 171 and 136. The statement ''where Q represents any genotype other than R at codon 171'' means that sheep that have H, K or any other amino acid other than R will be treated the same as sheep that are Q at codon 171.

We do agree that the definition could be more clearly written, however, and are changing the definition in §§ 54.1 and 79.1 to define a *genetically less susceptible exposed sheep* as any sheep or sheep embryo that is:

- An exposed sheep or sheep embryo of genotype AA QR, unless the Administrator determines that it is epidemiologically linked to a scrapie-positive RR or AA QR sheep or to a scrapie type to which AA QR sheep are not less susceptible; or
- An exposed sheep or sheep embryo of genotype AV QR, unless the Administrator determines that it is epidemiologically linked to a scrapie-positive RR or QR sheep, to a flock that the Administrator has determined may be affected by valine-associated scrapie (based on an evaluation of the genotypes of the scrapie-positive animals linked to the flock), or to another scrapie type to which AV QR sheep are not less susceptible; or
- An exposed sheep or sheep embryo of a genotype that has been exposed to a scrapie type to which the Administrator has determined that genotype is less susceptible. In this definition R refers to codon 171 and A refers to codon 136, and Q represents any genotype other than R at codon 171 and V represents any genotype other than A at codon 136.

One commenter stated that the definition of *genetically susceptible animal* was unclear and that the phrase ''or sheep or sheep embryo of undetermined genotype where Q represents any genotype other than R at codon 171'' does not make sense.

We agree that this can be more clearly written and are amending the definition in §§ 54.1 and 79.1 to read ''*Genetically susceptible animal.* Any goat or goat embryo, sheep or sheep embryo of a genotype other than RR or QR, where Q represents any genotype other than R at codon 171 or a sheep or sheep embryo of undetermined genotype.''

One commenter asked what is meant by ''under continuous inspection'' in the definition for *slaughter channels.*

Continuous inspection means an inspector examines each animal before slaughter (antemortem inspection) and the carcass and parts after slaughter (postmortem inspection). For clarity we are amending the definition to specify that official slaughter establishments are under Food Safety and Inspection Service (FSIS) jurisdiction per the Federal Meat Inspection Act or under State inspection that FSIS has recognized as at least equal to Federal inspection or to a custom exempt slaughter establishment as defined by FSIS (9 CFR 303.1) for immediate slaughter, or to an individual for immediate slaughter for personal use or to a terminal feedlot.

One commenter asked if a definition for *tamper-resistant sampling kit* needed to be included in part 79 as well as part 54.

The term *tamper-resistant sampling kit* is used only in part 54. Since it is not used in part 79, it does not need to be defined in that part.

We have made minor changes to other definitions. Specifically, we have amended the definition of *destroyed* in § 54.1 to remove the portion of the definition that allowed for animals to be moved to quarantine facilities because we do not use the word in that sense in the regulations. We note that § 54.7(a)(3) provides for the movement of scrapie-positive and suspect animals for which indemnification is sought to an approved research facility.

We have amended the definition of *flock identification (ID) number* in § 79.1 to specify that APHIS may assign Tribal codes to any federally recognized Tribe that maintains sheep or goats on Tribal lands. We made this change to be consistent with the provisions of a final rule published in the **Federal Register** on January 9, 2013 (78 FR 2040, Docket No. APHIS–2009–0091) that established official identification and documentation requirements for the traceability of livestock moving interstate.

We have amended the definition of *genetically resistant sheep* to specify that the sheep or sheep embryo is of genotype RR at codon 171. We made this change because we had not specified the codon in the proposed rule. We have also amended the definition of *official identification device or method* to refer to § 79.2(a)(2), since that is where the requirements for sheep and goat identification are found.

We have also amended the definition of *slaughter channels* in § 79.1 to remove provisions regarding the sale of animals in slaughter channels. Those provisions now appear in § 79.3(g). We have also amended the definition of *slaughter channels* in § 54.1 to be consistent with the changes in § 79.1.

In addition, we have made nonsubstantive editorial changes to the definitions of *high-risk animal* and *owner/hauler statement* to improve clarity.

Non-Classical Scrapie

One commenter recommended that any reference to genetic resistance and susceptibility to scrapie, especially in the definitions, should prominently specify that the relationship between genotype and scrapie pertains to classical scrapie and not non-classical scrapie.

APHIS disagrees. While it is true that genetic susceptibility is different for classical and non-classical scrapie, the current language addresses this by including the words ''or to a scrapie type to which the sheep are susceptible.'' Leaving the text as currently written allows maximum flexibility in addressing all types of scrapie. We are making no changes in response to this comment.

One commenter recommended continuing monitoring of animals exposed to non-classical scrapie because non-classical scrapie has been shown to be transmitted through oral inoculation and has a peripheral distribution of infectivity despite the absence of the scrapie prion protein.

APHIS agrees that continued monitoring of animals exposed to non-classical scrapie is warranted. We intend to continue monitoring animals exposed to non-classical scrapie by requiring that they be officially identified with official identification devices or methods assigned to the flock of origin in the National Scrapie Database.

Four commenters recommended that APHIS continue to require identification of Nor98-like scrapie-exposed animals, and flockmates and offspring of these

animals, for a period of 5 years after the positive animal left the flock.

APHIS agrees that animals that are in Nor98-like scrapie infected and source flocks and animals originating from these flocks should be identified for a period of 5 years, and the flocks monitored through reporting and testing of clinical suspects and mature animals that die. We note that we have provided for this in the program standards in *Part VIII: Flock Cleanup Plans and PEMMPs,* so there is no need to make changes to the program standards in response to this comment.

Official Identification

Several commenters expressed concern that the rule would prohibit the use of registry tattoos as official identification. This is not the case. The rule, through the accompanying program standards, does allow the use of registry tattoos as official identification when the sheep or goat is legibly tattooed and accompanied by a copy of their registration certificate in the name of the current owner or a copy of a completed application for transfer of ownership dated within 60 days of the change in ownership or when accompanied by an interstate certificate of veterinary inspection that lists the flocks of origin and birth, the registry, and the registry tattoo.

Two commenters asked that we confirm that registration/recordation tattoos will continue to be allowed for animals in exhibition, educational events, in registry sales, private treaty transfer, and other movements not in slaughter channels or auction markets.

Yes, these animals may move with registry tattoos as currently allowed. The only change is that the registry prefix must be recorded in the premises record for the flock in the National Scrapie Database and documentation of this must accompany the animal, or the registry organization must be approved based on their ability and willingness to assist APHIS in tracing animals during a disease investigation.

One commenter asked, that for tattoo prefixes containing letters that are prohibited, that the prefix be linked in the National Scrapie Database with the flock identification.

APHIS notes that this rule allows, and the program standards encourage, the cross referencing of flock identification numbers with registry prefixes. No change is being made in response to this comment.

Several commenters expressed concern about how the identification requirements would apply to certain goat breeds. One commenter expressed concern that tail tags would cause unnecessary medical issues for small-eared or earless breeds of goats, such as La Mancha goats.

The rule states that the requirements for use of official identification devices will be maintained on the APHIS website. These requirements are posted on the website as part of the Scrapie Program Standards. There are no approved tags for application to the tail, and the application of an official eartag to any tissue other than the ear is specifically prohibited in the Scrapie Program Standards. APHIS provides for tail fold tattoos, Electronic Implantable Devices (EIDs), and neck collars as acceptable means of identification for very small-eared or earless goats.

One commenter expressed the concern that neck collars may pose a strangulation risk.

APHIS notes that neck collars are commonly used for dairy goats. We believe that, given this usage, the risk of strangulation is likely minimal or neck collars would not be in general use. Further, because the expectation of durability is the same as for eartags, using collars that will break before causing strangulation is allowed and considered desirable. Also, as we explain below, we are amending the program standards to allow the use of back tags for earless animals moving directly to slaughter as an alternative to using a neck collar.

One commenter requested that earless goats be exempted from the ID requirements.

We recognize that using tail fold tattoos, EIDs, or neck collars for earless goats may present some challenges for breeders; however, using these devices will result in being able to trace a higher percentage of the animals. Not using them will reduce the traceability of these animals. We agree that allowing the use of back tags for earless animals moving direct to slaughter is an acceptable option and are amending the program standards to reflect this.

One commenter stated that eartags are too big for miniature goat breeds and that tattoos should be allowed.

As we explained above, the use of registry tattoos and flock identification tattoos as official identification will be allowed. We also note that very small official eartags are available for use on miniature breeds.

Some commenters stated that we should not require a specific ear to be used for the eartag. One commenter recommended that the right ear forward edge be used for metal tags. Several other commenters recommended that APHIS standardize the placement of eartags in wool sheep to the left ear half way between base and tip of ear and in the middle between the ridges towards the lower edge. The commenters also stated that metal tags should be avoided in wool or fiber animals to minimize the risk of injury to shearers or damage to shearing equipment.

The rule does not require that a specific ear be used for the eartag. We agree that placement on the lower edge of the left ear is preferred for wool or fiber animals and will provide this guidance in the program standards. However, we will not make it a requirement because it would be overly burdensome to producers given the minimal improvement in traceability that would likely result.

One commenter asked that epidemiological evidence be independently compiled by an entity such as the Occupational Safety and Health Administration (OSHA) regarding the relative safety risk to shearers in flocks using metal vs. plastic tags.

OSHA makes information about planned and accident-related inspections, searchable by Standard Industrial Classification (SIC) codes, available on its website. There are only 17 incidents reported from all causes related to sheep and goat farms (SIC code 0214) in the last 5 years.[2] Given this small number of incidents, we do not believe there is sufficient data provided to OSHA on shearing injuries for a meaningful comparison. We will include a question on eartag-related shearing problems in the next sheep National Animal Health Monitoring System (NAHMS) study, which we anticipate doing in Fiscal Year 2022. The prior NAHMS was conducted under OMB control number 0579–0188.

One commenter recommended use of a uniform tag color to assist regulatory personnel to quickly and efficiently identify officially tagged sheep and goats.

We agree that a uniform official tag color would be beneficial in rapidly identifying official eartags. However, we also believe that there is a significant benefit for producers to have access to multiple tag colors for purposes of sorting their animals by age, sex, or other characteristics, so we will continue to allow the use of various colors of eartags. APHIS changed the color of metal tags provided by APHIS in 2018 to orange to make them more visible.

[2] *https://www.osha.gov/pls/imis/industry.search?p_logger=1&sic=0214&naics=&State=All&officetype=All&Office=All&endmonth=01&endday=01&endyear=2011&startmonth=12&startday=31&startyear=2015&owner=&scope=&FedAgnCode=.*

Two commenters asked that the program standards be revised to require all sheep and goats at exhibitions be tagged, regardless of whether they come from in or out of State, as an exhibition is a concentration or commingling point.

For practical purposes, sexually intact sheep and goats of any age and wethers 18 months of age and older that are exhibited are required to be officially identified. There is an exclusion, which would rarely apply, for animals that have never been in interstate commerce and that have not resided on a premises where animals that have been in interstate commerce have been received or from which animals are moved in interstate commerce, where the animals being moved for exhibition are not owned by a person who engages in the interstate commerce of animals, that are moved to exhibitions that are conducted at premises where the interstate commerce of animals does not occur, and where none of the animals exhibited has been in interstate commerce. We believe that this exclusion is required since if such an exhibit were to occur it would fall within the State's authority. We are revising the Scrapie Program Standards to clarify this.

One commenter opposed requiring identification for all sheep because it would be costly not only to producers, but also to auction markets and the veterinary personnel working at markets. Other commenters also opposed requiring identification for goats because of the additional costs.

We are aware that there are costs associated with the application of official identification for both producers and markets. However, the use of official identification is essential for the eradication of scrapie. To achieve scrapie-free status, we must be able to trace mature animals in order to conduct effective slaughter surveillance. Eradication is the goal because achieving scrapie-free status in the United States would significantly enhance trade opportunities and help to stabilize prices for sheep and goats and their products. Since the goal of the program is eradication and not just control of scrapie, maintaining a low prevalence in goats is not an option.

Three commenters raised concerns regarding the safety of applying eartags to range goats, particularly mature bucks that have horns. The commenters stated that these goats are wild animals, and that applying eartags to them presents a risk to both the animals and the people applying the eartags.

We agree that certain goats may pose a hazard to those applying eartags if appropriate equipment is not available to restrain the animals. The provisions in § 79.3(a)(2) allow these goats to move in single source groups to slaughter without official individual identification including through markets. This is one option for handling these goats. We will also revise the program standards to allow such goats to move direct to slaughter with official backtags as less restraint is required to apply backtags. We are also amending § 79.3(k) to allow compliance agreements or market agreements to include alternative methods for maintaining traceability or achieving acceptable surveillance levels when the Administrator and the State Animal Health Official agree that the application of an allowed official identification device or method is unsuitable for a specific circumstance. Further, we have amended the definition of *group/lot identification number (GIN)* in § 79.1 to provide that a group lot comprised of animals from a single flock of origin may be subdivided after leaving the premises on which the group lot was formed by adding an S followed by a sequential number to the end of the GIN to create a GIN for each sub group. This will provide additional flexibility in handling unidentified animals moving to slaughter as a single source lot.

Three commenters stated that veterinarians should be able to order and use official scrapie tags for use in regulatory testing, interstate certificates of veterinary inspection (ICVI), or any other reason requiring official identification. The commenters also stated that APHIS should maintain this traceability information in a user-friendly database. The commenters also stated that county 4-H sheep and goat offices should be assigned official scrapie tags.

In § 79.2(b) of the proposed rule, we proposed to continue to allow State Animal Health Officials and APHIS personnel responsible for States to issue sets of unique serial numbers or flock identification/production numbers for use on official individual identification devices or methods (such as eartags or tattoos). In § 79.2(b)(2), we also proposed to continue to allow the official responsible for issuing eartags in a State to assign serial numbers of official eartags to other responsible persons, such as 4–H leaders, if the State Animal Health Official and APHIS personnel responsible for the State involved agree that such assignments will improve scrapie control and eradication within the State. Distribution of tags is currently managed in the scrapie program utility of the Animal Identification Management System and in certain cases redistributed in the Surveillance Collaboration Services Scrapie (SCS SCR) system. APHIS intends to continue to work to improve the user experience with these systems.

One commenter sought clarification regarding whether the proposed rule would require individual animal identification numbers to be read more than once at approved livestock facilities.

This requires that eartags be read only when an ICVI is required for movement of the animals from the market in cases where flock identification tags were not used to identify the animals or the flock identification of the animals is unknown and the tags must be read to determine the flock of origin. If flock identification tags are present, the flock identification may be listed instead of the individual tag numbers. In the case of animals that arrive at a market on an ICVI, when allowed by the States involved, the original document may be attached to the new ICVI if the animal IDs of any animals not included in the shipment are struck off the old ICVI.

Recordkeeping

Several commenters had concerns regarding the recordkeeping associated with goat sales and our ability to trace goats based on these requirements.

This rule makes the identification requirements for goats in interstate commerce similar to those currently in place for sheep. The requirements for sheep have been in place since 2002 and have resulted in 82 percent of positive sheep being traced and a 98 percent decrease in the prevalence of scrapie-positive adult sheep slaughtered adjusted for face color.[3] We are confident that these requirements will be similarly successful with goats.

Several commenters asked that APHIS provide templates with required fields marked for owner/hauler statements and for any other required information or data as in the case of entities that acquire or dispose of animals.

We agree that such templates would be useful and will post templates on the APHIS Scrapie Program website when they have been approved.

Two commenters opposed the requirement to submit eartagging records to APHIS. Several other commenters indicated that the requirement to submit tagging records could be burdensome if not

[3] Historically, prevalence rates of scrapie varied by face color and our prevalence estimate is appropriately weighted to match the face color distribution within the U.S. sheep population.

implemented prudently following successful piloting, and that an option should be provided for electronic storage of required documents in an APHIS system rather than requiring the market to store the records long-term. One commenter stated that the regulations should clearly state that maintaining physical copies of these records at the market for 5 years also meets this requirement.

We agree with the commenters and have amended § 79.2(b)(3) to indicate that submission is required only when requested by APHIS. This will allow APHIS to work through issues that may negatively impact stakeholders in small pilots and to implement the requirement through the program standards when the process has been tested and the technology allows for efficient compliance. APHIS will also consider the feasibility of providing electronic document storage. With this change maintaining physical copies of these records at the market for 5 years meets the requirement unless the records are requested.

Some commenters recommended using an owner/hauler statement and lot/group identification for lots of sheep or goats moving directly to slaughter without official ID.

APHIS notes that § 79.3(a)(2) allows single source lots of cull sheep or goats to move unidentified direct to slaughter using an owner/hauler statement without official ID so no changes are being made in response to this comment. We will amend the program standards to improve clarity.

One commenter requested that we allow unidentified animals in interstate commerce that do not cross State lines to move unidentified to markets that are not approved markets.

APHIS notes that as currently written, the regulations allow unidentified animals to move to unapproved in-State markets for sale, provided that the markets tag the animals once they arrive. However, if the person selling the animal through an unapproved in-State market engages in the interstate commerce of animals, they must identify the animals before loading them at their premises. In response to the comment, we are amending § 79.2(a)(1)(iv) to allow producers not already allowed to move animals unidentified to unapproved in-State markets under the regulations to do so if the animals' owner provides tags assigned to his or her flock for the market to apply. As an alternative, such markets may request approval under § 71.20.

We are also amending § 79.2(a)(1)(iv) to add ''or the owner of the animal'' after ''the owner of the premises'' since it would be inequitable to apply a different standard to people who rent as opposed to own the premises on which their animals reside.

In § 79.2(a)(1), we had proposed to remove paragraph (vi) because the newly amended paragraph (iv) included animals moved across a State line. However, from questions received during the comment period it became apparent that the removal of this paragraph reduced clarity. Therefore, we will not be removing paragraph (vi). We have made nonsubstantive, editorial changes to the paragraph to update and simplify its language.

One commenter indicated support for the opportunity for markets to enter into agreements with USDA to receive unidentified animals that cannot be traced to their flock of birth or origin if they place a slaughter only tag on them and sell them through slaughter channels, but did not support the reporting requirement for non-compliant shipments. The commenter stated that this requirement asks markets to act against the interests of their customers.

APHIS recognizes that this presents a conflict for markets. Markets may either decline to handle non-compliant shipments or report such shipments to USDA as part of a compliance agreement. No change is being made in response to this comment.

Interstate Certificates of Veterinary Inspection

One commenter recommended that each copy of an ICVI be signed by the issuing veterinarian.

We agree with the commenter and are amending § 79.5(a)(4) to specify that the ICVI must be signed by the issuing State, Federal, Tribal or accredited veterinarian and the signature must be legible on each copy of the ICVI.

One commenter asked us to clarify the flock identification exception in § 79.5(a)(2). The commenter specifically asked what animals could move with flock identification that is assigned to the flock of origin and to explain how ''flock of origin tags'' differ from tags issued to flock owners with individual flock identification numbers.

We amended that paragraph to refer to ''official identification devices or methods that include the flock identification number assigned to the flock of origin in the National Scrapie Database and an individual animal number unique within the flock,'' to clarify the requirements.

One commenter asked for clarification of the requirement to record official genotype tests on an ICVI. Another commenter recommended eliminating the requirement to record official genotyping tests on an ICVI in § 79.5(a)(3) as the value of doing so is small and would be impractical to enforce.

We agree with the second commenter that recording official genotype test information on the ICVI is not needed and have removed the requirement.

Surveillance

One commenter stated that the proposed rule does not encourage slaughter surveillance and expressed concern that focus on achieving State sampling minimums will adversely impact slaughter surveillance efforts.

We agree that sampling animals at slaughter is critical and needs to be maintained. This work is currently being done almost entirely by APHIS and its contractors. This final rule requires Consistent States to assist APHIS in sampling in slaughter establishments that are under State inspection or that do not engage in interstate commerce and to meet sampling minimums for animals originating in their State. It is critical to get adequate sampling from all areas of the United States to minimize the risk that cases will go undetected. Further, should the State sampling minimums adversely impact overall surveillance, APHIS has the ability under the rule to reduce the minimums. For these reasons no change is being made in response to the comment.

Three commenters stated that APHIS should help States ensure their Consistent State status by promoting Regulatory Scrapie Slaughter Surveillance (RSSS) for interstate testing, especially for those States not able to do adequate surveillance testing. The commenters also stated that APHIS should work with State officials to reach out to producers and enlist producer support to alert producers when surveillance levels are not meeting expected levels to retain Consistent State status. The commenters further stated that APHIS or State employees should actively select and test older goats in poor condition for RSSS.

APHIS is committed to working with States to exceed State sampling minimums, and we have prioritized RSSS collections. Goats in a thin or wasted condition are among those targeted for collection.

One commenter recommended that the breed of exposed animals be considered in deciding whether an animal is designated as a high-risk animal.

There is insufficient evidence to demonstrate that any breed of sheep or

goat is resistant to scrapie; therefore, no change is being made in response to this comment.

One commenter expressed concern that when APHIS lists a breed as having had a case of scrapie, the animal may not be purebred despite being registered, and that this could have a negative impact on the breed.

APHIS does rely on registry records to determine the breed of an animal and this may result in animals with incorrect pedigrees being considered purebred. The science is not sufficiently mature to reliably and cost-effectively determine the breed of a sheep based on genotype. We note, however, that the breed of a sheep does not affect the regulatory requirements in any way.

One commenter recommended excluding rare breeds that have been historically free of scrapie from being considered high-risk if they are scrapie exposed. The commenter referenced the work of H.B. Parry [4] in support of this recommendation.

APHIS notes that rare breeds are by definition few in number. Therefore, they would not be frequently tested for scrapie and would appear to be ''historically free'' as a result; however, this appearance could be misleading because of the small sample size.

Parry's work did not include the genotypes of the sheep involved and it is unclear if his observations were a widespread breed trait separate from the genotype at codons 171 and 136 or the result of the genotype at these codons. Further, Parry's work was done in the United Kingdom where the predominant scrapie type is valine dependent, strains to which AA QQ sheep are resistant. As a result, his work may not be relevant to the United States where the predominant scrapie type is valine independent, strains to which AA QQ sheep are susceptible. As the commenter noted, three breeds considered resistant by Parry have contracted scrapie in the United States. We are making no change in response to this comment as there is adequate flexibility through the pilot project provision and the low-risk exposed animal definition to allow such sheep to be exempted if there is sufficient scientific evidence available to warrant an exemption.

One commenter raised the concern that selecting for genes associated with resistance may be adversely impacting the sheep industry and may be encouraging crossbreeding to add resistance genes to breeds in which they are rare.

Several scientific articles have indicated that there is little, if any, difference in production traits between QQ, QR and RR sheep.[5] One article indicated that there is an association between QQ at codon 171 and the ability to mobilize fat reserves in Scottish Blackface sheep.[6] Another study showed that within one flock there was a higher litter size in QQ Suffolks than in QR or RR Suffolks but no difference in pounds of lamb weaned.[7] In the same study, no difference was shown for Columbia, Hampshire, Rambouillet, or western white face sheep. Also, a study showed that as in selecting for any trait, selecting for scrapie resistance may delay progress on other traits, particularly in breeds where R at codon 171 is rare.[8] APHIS only requires genetic selection in exposed flocks and other higher risk flocks as part of PEMMPs. Further, breeders wishing to retain Q genes can do so with little impact on genetic resistance to scrapie by breeding RR ewes to QR rams and QR ewes to RR rams. Regarding unacknowledged cross breeding, this has occurred on other occasions when a breed is believed to be lacking a desirable trait and will occur anytime there are unscrupulous breeders and a financial incentive. We are not making any changes to the regulations based on this comment.

The commenter stated that, in the case of 400 dairy sheep seized and euthanized in 2000–2001, none tested positive for scrapie. The commenter therefore requested that we provide the history, by year, of the number of positives, breed and percentage of individuals of infected/source flocks that were positive after laboratory testing.

APHIS notes that in the case of the dairy sheep, the disease of concern was not scrapie but BSE. The information requested by the commenter is provided in the charts in the document titled ''Scrapie Case Information By Breed, Face Color or Type and or Sampling Stream FY 1999 to 2015'' that accompanies this final rule. Copies of the document are available on the *Regulations.gov* website (see footnote 1 in this document for a link to *Regulations.gov*) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

One commenter agreed with genetic testing to determine risk level and also that AA QR (GLS) & AA RR (GR) should be exempt from destruction and noted that Canada does not exempt AV QR. The commenter stated that male animals are lower risk for transmitting scrapie but are at equal risk of becoming infected and noted that the World Organization for Animal Health does not differentiate male and female animals in their guidelines.

No changes are being made in response to this comment. We believe that there is sufficient flexibility in the definitions for high-risk animals, the genetically susceptible exposed animals, and low risk exposed animals for the Administrator to address any issues that may arise with exposed male animals and exposed AV QR sheep.

One commenter stated that for rare breeds APHIS should consider KK at codon 171 the same as QR for determining scrapie susceptibility.

Unpublished work by USDA Agricultural Research Service has shown that KK171 Barbado sheep are susceptible to scrapie by intracerebral inoculation. A complimentary study using an oronasal route showed that at 70 months post inoculation and at 5 years post inoculation there was no evidence of scrapie in these KK171 sheep. This indicates that KK171 sheep are likely less susceptible to classical scrapie. This rule will give the Administrator the flexibility to address KK171 sheep and any other genotypes in sheep or goats that may prove to be less susceptible or resistant to classical

[4] ''Elimination of natural scrapie in sheep by sire genotype selection,'' *Nature* 277 (1979): 127–129, and *Scrapie Disease in Sheep* (London: Academic Press, 1983).

[5] ''Evaluation of associations between prion haplotypes and growth, carcass, and meat quality traits in a Dorset × Romanov sheep population'', *Journal of Animal Science* 84 (2013): 783–788; ''Influence of Prion Protein Genotypes on Milk Production Traits in Spanish Churra Sheep'', *Journal of Dairy Science* 89 (2006): 1784–1791; ''Investigation of farmer regard for scrapie-susceptible sheep'', *The Veterinary Record* 158 (2006): 732–734; ''Associations between genotypes at codon 171 and 136 of the prion protein gene and production traits in market lambs'', *American Journal of Veterinary Research* 68 (2007): 1073–1078; ''Is there a relationship between prion protein genotype and ovulation rate and litter size in sheep?'', *Animal Reproduction Science* 101(2007): 153–157; ''Analysis of prion protein genotypes in relation to reproduction traits in local and cosmopolitan German sheep breeds'', *Animal Reproduction Science* 103 (2008): 69–77; ''Scrapie resistance and production traits in Rambouillet rams: Ram performance test 2002–2006'', *Research in Veterinary Science* 85 (2008): 345–348; and ''Characterization of the PRNP gene locus in Chios dairy sheep and its association with milk production and reproduction traits'', *Animal Genetics* 42 (2011): 406–414.

[6] ''Association of the prion protein gene with individual tissue weights in Scottish Blackface sheep'', *Journal of Animal Science* 86 (2008): 1737–1746.

[7] ''The incidence of genotypes at codon 171 of the prion protein gene (PRNP) in five breeds of sheep and production traits of ewes associated with those genotypes'' *Journal of Animal Science* 83 (2005): 455–459.

[8] ''Predicting the consequences of selecting on PrP genotypes on PrP frequencies, performance and inbreeding in commercial meat sheep populations'', *Genet. Sel. Evol.* 39 (2007): 711–729.

scrapie through the *low-risk animal* definition, the *genetically less-susceptible animal* definition, or through a pilot project once there is sufficient scientific evidence to support such action.

In § 79.4, paragraph (c) provides for testing of scrapie-positive animals, high-risk animals, exposed animals, suspect animals, exposed flocks, infected flocks, noncompliant flocks, and source flocks, and paragraph (c)(1) provides for actions that may be taken if a flock owner fails to make animals available for testing. One commenter stated that in § 79.4(c)(1) the statement ''or as mutually agreed'' was unclear.

We agree that this statement could be clearer. We are changing ''or as mutually agreed'' to ''or as mutually agreed in writing by the Administrator and the owner,'' to clarify the conditions under which an owner could be considered in violation.

Markets and Tagging

Seven commenters supported allowing markets to continue to apply white serial tags issued to them to potential breeding sheep and goats. Six commenters stated that markets should be limited to applying only owner-provided official eartags or blue slaughter-only serial eartags provided by the markets in order to reduce the number of untraceable animals. One commenter opposed these suggestions to limit tagging by markets to slaughter-only tags. That commenter was concerned that markets would have regulatory action taken against them if a blue tagged animal went back to the farm despite being sold for slaughter only. The commenter stated that many smaller-scale sheep and goat producers have limited marketing opportunities and often rely on livestock markets to sell their animals. The commenter stated further that for some of these markets, the profit margin is so small they offer this more as a public service than a business opportunity. Any additional burden on these markets may result in them no longer accepting sheep and goats. The commenter stated that as long as required records are utilized it should be left up to the individual markets whether they will accept unidentified animals, whether they will apply owner-supplied identification, or whether they choose to apply serial or slaughter-only eartags.

The same commenter supported continuing to allow livestock markets to receive official tags directly from animal health officials and apply these tags to sheep and goats coming into the market untagged.

APHIS believes that while on-farm tagging is ideal, there is a certain percentage of producers who will not choose to do this, whether their reasoning be based on difficulty of tagging, privacy, or other reasons. The model in this rule addresses this concern by allowing these animals to be identified by the market and for records to be kept regarding their movement. Additionally, this model provides a reasonable expectation that the movements will be able to be tracked because the option only applies to sheep and goats direct from a farm. Commingled lots would already have to be identified prior to arriving at the market as is called for in § 79.2(a)(1)(i). In response to these comments we are amending the regulations to allow the State Animal Health Official or the Administrator to limit the assignment of official identification devices or numbers to persons or classes of persons for use on animals that did not originate in a breeding flock owned by them to slaughter-only devices or numbers. This will give the States flexibility to improve traceability, and also give the Administrator the ability to establish a nationwide policy on official eartag distribution should such State programs prove to be successful in increasing traceability.

One commenter expressed concern that some owners and haulers will not abide by the requirement for owner/hauler statements and asked how animals received without an owner/hauler statement should be handled by markets.

Since either an owner or a hauler may complete the statement, the owner or hauler could complete the owner/hauler statement once they arrive at the market. At markets where owners or haulers do not have the required information to complete the statement, the market may either refuse such animals or the market may enter into a compliance agreement as described in § 79.3(k). To clarify the requirements, we have amended § 79.3(k) as follows: ''APHIS may enter into compliance agreements with persons such as dealers and owners of slaughter establishments and markets whereby animals may be received unidentified or without a required owner/hauler statement even if they cannot be identified to their flock of birth or origin because they were moved or commingled while unidentified, in violation of this part or a State requirement as provided by § 79.6.''

One commenter requested that APHIS allow use of other documents that contain the information required on the owner/hauler statement.

The current definition of an owner/hauler statement allows for the use of other documents if they contain the same information as the owner/hauler statement. However, we have amended the definition to clarify that this is intended.

One commenter asked that the animals which would qualify to move for purposes other than slaughter be allowed to be tagged after sale, so that only those animals that are moving for purposes other than slaughter at under 18 months of age would need to be eartagged.

In response to this comment, we are amending §§ 79.2(a)(1)(ii) and 79.3(a)(5) to permit approved markets that have the ability to maintain the identity of single source lots through the sale process to tag such animals after sale.

Movement, Premises ID, Group Lot Number

Several commenters requested clarification of the requirement to provide additional premises of a flock before unidentified animals were moved between those premises. In response we are adding the following clarification to § 79.3(a)(4): ''A request to APHIS to enter additional flock premises in the National Scrapie Database is required before animals are first moved to the premises. Notification is not required for each subsequent movement of animals to that premises. Neither group lot ID nor an owner/hauler statement is required for movements of a flock or its members for flock management purposes within a contiguous premises spanning two or more States. This provision does not include the transiting or sale of animals through such a premises in circumvention of the other requirements of this part.''

Several commenters requested additional clarification on how group/lot IDs may be used.

Group/lots IDs are used to (1) associate a unique number with movements of single source lots direct to slaughter or to a market to simplify identifying relevant records during a disease investigation, (2) to be able to easily differentiate groups of animals moved for management purposes such as grazing, and (3) to be able to quickly identify the sources of animals in multi-source lots such as slaughter lambs to assist in tracing exposed animals out of infected and source flocks to slaughter.

One commenter asked for clarification of the requirements in § 79.3(a). The commenter stated that the relationship between paragraph (a) and how that relates to animals over 18 months of age in slaughter channels was confusing. For example, the statement in (a) says

that the animals in (1) through (5) may move with an owner/hauler statement and group lot ID, but then in (3) it refers to animals that have individual identification. The commenter asked if these requirements could be reworded.

We agree that this can be worded more clearly and have revised § 79.3(a)(3) to clarify that an owner/hauler statement may be used instead of an ICVI for such animals.

Indemnity

Four commenters noted that most American ewe lambs can be managed in a way that they can conceive at a young enough age to lamb as yearlings. The commenters believe that indemnifying for ewes that are verified as pregnant, regardless of their age, satisfies the general intention of age and reproduction status of the animals and that would apply to ewe lambs under 12 months of age. The commenters further stated that the proposed categorization of early maturing ewe lambs as yearlings could lead to disputes and mistakes with indemnity payments. The commenters therefore recommended removing the indemnity provision for early-maturing ewes and suggested indemnifying them based on their pregnancy status instead.

We agree with the commenters and have revised the program standards to reflect this by allowing animals under 12 months of age to be classified as yearlings only if they are visibly pregnant or have an offspring and not based on owner records indicating that the flock has a history of lambing or kidding at an early age. No changes to the regulations are necessary.

While preparing this final rule, we noted that there was substantial overlap between the provisions regarding indemnity in §§ 54.3(b) and 54.6(d). To improve clarity, we have consolidated the provisions in § 54.3(b) and have removed § 54.6(d). We have also moved the provision allowing for the Administrator to waive the requirement for a flock plan or PEMMP from §§ 54.8(j)(3) to 54.8(l).

Paperwork

One commenter was concerned about the paperwork burden associated with the proposed rule. The commenter also expressed concern that the rule would require markets to provide seller information to all buyers.

The rule does increase the paperwork burden associated with maintaining tagging records, but we believe that maintaining these records for additional classes of goats and animals in slaughter channels is necessary to increase traceability of goats and sheep, which in turn is critical for eradicating scrapie. The rule does not require markets to provide seller information to buyers in most cases; the exception is that markets must provide the group lot numbers when the animals are moving unidentified as part of a single source lot in slaughter channels.

Program Standards

One commenter noted that there are references to the Scrapie SharePoint site throughout the program standards document. The commenter noted that State officials cannot currently access information on this site so another resource needs to be readily available and should replace all references to the Scrapie SharePoint site.

A SharePoint site accessible to State employees is now available.

One commenter noted that there are many references throughout the document to PEMMPs, particularly in Part VII and VIII and the flowcharts. The commenter stated that sometimes the term ''full PEMMP'' is used, sometimes the term ''basic PEMMP'' is used, and sometimes it is not specified. The commenter asked that APHIS clearly spell out what the requirements are for each type of PEMMP, which type is required for each situation, and be consistent with terminology.

We have replaced the term ''full PEMMP'' with ''retained susceptible animal PEMMP'' throughout the program standards.

One commenter stated that some of the program standards definitions are slightly different from those in the rule.

Some of the definitions were not updated in the program standards and this has been corrected. Other definitions are slightly different because they need to reference the Code of Federal Regulations, and in some cases they include more specific information to assist the reader. Information that is subject to frequent change, such as the components currently included in the National Scrapie Database, was not put into the regulations.

One commenter asked what the purpose of entering low-risk exposed animals into the National Scrapie Database is.

The purpose of putting low-risk exposed animals in the database is to be able to search against the database if they should later be determined to be infected so that we can understand whether the criteria for redesignating animals as low-risk are effective and to be able to search against these animals when required for an export certificate or ICVI.

One commenter recommended not using Emergency Management and Response System (EMRS) for scrapie tracing.

We disagree. EMRS allows a higher degree of accountability for completing scrapie trace investigations and the number of trace outs is currently low enough that use of this system should not be overly burdensome.

One commenter asked what ''when an insufficient number of QQ sheep and goats are available . . .'' in the introduction to the *Part VII: Epidemiology A* section of the program standards meant.

We agree that this can be worded more clearly and are revising the Scrapie Program Standards to read ''When the number of QQ sheep and goats in the flock is insufficient to conduct a reliable flock test, or . . .''

One commenter indicated that, in the *Part VII: Epidemiology B* section, the review provision in the note contradicted the table in that it indicates the Sheep and Goat Health Specialist for Epidemiology (SGHSE) must concur with decisions made by the designated scrapie epidemiologist.

The commenter is correct. We have corrected the table to list those situations when the SGHSE must approve the designation or re-designation and deleted the note.

One commenter stated that *Part VII: Epidemiology F. Procedures for Investigation and Monitoring a Flock that Received a High-Risk Animal* was hard to follow and should be revised for clarity.

We agree that there was room for improvement and have made edits for clarity.

One commenter stated that the term ''status'' had not been updated in places to conform with the change to SCS SCR.

We agree and have corrected the terminology to reflect the new nomenclature, which resulted from the migration of the Scrapie Program data from the Scrapie National Generic Database (SNGD) to SCS SCR, throughout the document. What was termed ''status'' in the SNGD is called a ''program'' or a ''restriction'' in SCS SCR.

One commenter recommended moving *Part VIII: Flock Cleanup Plans and PEMMPs B.3(a)(12), Steps for completing a standard genetic based flock plan for source and infected flocks that retain only AR, HR, KR, and RR ewes and male sheep and male goats,* to *Part VII: Epidemiology, E. B.3(b)(4)* because that section seems procedural and would fit better in Part VII.

We agree that this section could reasonably be moved to Part VII; however, we do not believe that it results in an improvement, so no change

is being made in response to this comment.

One commenter requested that we provide VS Form 5–19c as an appendix to the program standards. The commenter also requested that we allow a State equivalent form.

We did not add the form as an appendix to the document to minimize the need to update the standards whenever a form is revised. The form has been approved under OMB control number 0579–0101 and will be available on the APHIS website. We agree that State equivalent forms may also be used and have updated the program standards accordingly.

One commenter asked APHIS to work with new and emerging registries to assure that their tattoo and radio frequency identification device implant systems are unique within the registry, retrievable, traceable, and that the registry rules allow for release of information to APHIS for regulatory disease purposes before these registry ID systems are accepted for the National Scrapie Eradication Plan.

APHIS intends to work with any new and emerging registries to ensure that their systems meet these requirements. We have also updated *Part III: Identification Requirements A(3)(b)(2)(a)* of the program standards to clarify the requirements for registry identification devices and methods.

Miscellaneous

While preparing this final rule, APHIS noted that we had used the phrase ''premises that engages in interstate commerce'' in several places in §§ 79.2 and 79.3. Since a premises cannot engage in an action, we have replaced that phrase with ''premises where animals are received that have been in interstate commerce or from which animals are moved in interstate commerce.''

We have made nonsubstantive editorial changes to several sections to improve clarity. For the same reason we have divided § 54.8(j)(3) into two paragraphs. The provisions that appeared in that paragraph now appear in paragraphs (j)(3) and (l).

We have moved paragraph (3) of the definition of *Consistent State* in § 79.1 to a new paragraph (c) in § 79.6 because the provisions in that paragraph are more appropriately placed in that section.

One commenter recommended changing the name of the Scrapie Free Flock Certification Program to the Scrapie Certification Program to be consistent with the names of other disease certification programs.

We believe that changing the name of the program would be confusing and are making no changes in response to this comment.

Three commenters stated that they appreciate APHIS' outreach efforts to producers, and that APHIS should increase access to educational resources for goat producers and veterinarians. The commenters stated that additional goat-specific resources would help to achieve best participation in the voluntary program and compliance with the regulations. The commenters further stated that APHIS should encourage on-farm submissions for scrapie surveillance and adequate records by producers for possible traceback.

APHIS agrees that goat-specific resources should be valuable and is working with the American Goat Federation to improve our education efforts directed to goat producers.

Comments Outside the Scope of the Rulemaking

One commenter expressed concern that scrapie poses a human health risk and stated that scrapie should be regulated in the same way as BSE. The commenter also stated that U.S. regulations governing BSE are too lax.

There is no epidemiologic evidence that scrapie of sheep and goats is transmitted to humans, such as through consumption, contact on the farm, at slaughter plants, or butcher shops. The regulations for control of scrapie and BSE are generally consistent with international guidelines. BSE is a separate disease from scrapie and can be distinguished using laboratory tests or mouse inoculation.

Some commenters made recommendations for changes to Scrapie Flock Certification Plan standards. We did not propose to make changes to those standards in this action; however they were taken into consideration when working on the revision of those standards.

Some commenters stated that APHIS should encourage future goat and sheep research and continue to collaborate with the Agricultural Research Service (ARS) to research scrapie diagnostic tests in live goats and scrapie control methods specific to goats. The commenters also stated that ARS should continue to research genetic resistance and susceptibility in goats and the pathogenesis and transmission of scrapie in goats and sheep.

We agree that these are important fields for research and have communicated these priorities to ARS.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Orders 12866, 13563, 13771, and Regulatory Flexibility Act

This final rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget. This final rule is considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in the rule's economic analysis.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The economic analysis also provides a final regulatory flexibility analysis that examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. Copies of the full analysis are available on the *Regulations.gov* website (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

APHIS is amending the scrapie regulations to relieve certain restrictions associated with the interstate movement of sheep and goats, reduce the number of exposed sheep and goats that are destroyed, and improve overall program effectiveness. More specifically, genetic testing will be used to identify genetically resistant or less susceptible sheep for exemption from destruction and as qualifying for interstate movement; designated scrapie epidemiologists will be given greater flexibility in determining the testing needs of flocks; the indemnity regulations will be changed to apply only to those animals that are found to be genetically susceptible to scrapie; official identification of goats produced for meat or fiber or that are slaughtered at over 18 months of age will be required; submission of tagging records by individuals who tag sheep or goats that do not originate on their premises will be required when requested; and

certain recordkeeping requirements will be reduced, changed, or removed.

The primary benefits of this rule for producers and the public will be more rapid progress toward scrapie eradication and the related boost to the Nation's animal health status, decreased losses for producers, and increased export opportunities for sheep and goats and their products. Most segments and marketing channels of the sheep and goat industries will benefit from being able to operate under the new requirements and by the eradication of scrapie. By enhancing traceability, the rule will shorten the time and reduce the cost of eradication.

Producers of goats for meat or fiber and slaughter goats over 18 months of age will incur costs of official identification as a result of the rule. However, we note that close to one-half of goat farms (that is, all dairy and breeding goat farms except low-risk commercial operations) are already required to be in compliance with the identification requirements under current regulations.

The rule will affect sheep and goat producers, marketers and dealers, most of which are small entities. As noted in the regulatory impact analysis, individuals may spend about 2 hours a year on recordkeeping, at a time cost of about $34.50, but in fact many of these records of sales and purchases are typically already kept as a normal business practice. Based on 2012 Census of Agriculture data, this cost if incurred would equal about 1.5 percent of average revenue for meat goat producers. We expect these entities to find the rule's official identification requirements and other conditions well worth the cost. This rule will not pose a large cost burden for entities, large or small.

Eradication of scrapie will enable APHIS to negotiate removal of the varying current restrictions and allow an expansion of exports. Based on cited simulation modeling of the economic benefits of eradication of scrapie and certain other animal diseases, gains from trade are expected to exceed the recordkeeping, tagging, and other costs that producers and other entities will incur.

The trade gains realized can be interpreted as cost savings from no longer being subject to certain import restrictions imposed by other countries. Based on measures of increased welfare due to expanded exports, and in accordance with guidance on complying with Executive Order 13771, the primary estimate of the rule's annual cost savings is $115,000, the mid-point estimate annualized in perpetuity using a 7 percent discount rate.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR Chapter IV.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175 ''Consultation and Coordination with Indian Tribal Governments.'' Executive 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

APHIS has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have tribal implications that require Tribal consultation under Executive Order 13175. If a tribe requests consultation, APHIS will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), some of the information collection requirements included in this final rule are approved under Office of Management and Budget (OMB) control number 0579–0101. The new information collection requirements included in this final rule, which were filed with comment under OMB control number 0579–0469, have been submitted for approval to OMB. When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action(s) we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

List of Subjects

9 CFR Part 54

Animal diseases, Goats, Indemnity payments, Scrapie, Sheep.

9 CFR Part 79

Animal diseases, Quarantine, Sheep, Transportation.

Accordingly, we are amending 9 CFR parts 54 and 79 as follows:

PART 54—CONTROL OF SCRAPIE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 54.1 is amended as follows:
■ a. By removing the definition for *Approved test;*
■ b. In the definition for *Breed association and registries,* by removing the words ''listed in § 151.9 of this chapter'';
■ c. By removing the definition for *Certificate;*
■ d. By adding in alphabetical order a definition for *Classification or reclassification investigation;*
■ e. In the heading of the definition for *Designated scrapie epidemiologist,* by adding the acronym ''DSE'' immediately after ''epidemiologist'';
■ f. By revising the definitions for *Destroyed, Exposed animal,* and *Exposed flock;*
■ g. In the definition for *Flock,* paragraph (2)(v), by adding the word ''Free'' between the words ''Scrapie'' and ''Flock'';
■ h. In the definition for *Flock plan,* by removing the paragraph designation ''(f)'' and by adding the paragraph designation ''(j)'' in its place;
■ i. By revising the definition for *Flock sire;*
■ j. By adding in alphabetical order definitions for *Flock under*

investigation, Genetically less susceptible exposed sheep, Genetically resistant exposed sheep, Genetically resistant sheep, Genetically susceptible animal, and *Genetically susceptible exposed animal;*

■ k. By revising the definition for *High-risk animal;*

■ l. By adding in alphabetical order a definition for *Interstate certificate of veterinary inspection (ICVI);*

■ m. In the definition for *Limited contacts,* by adding the word ''Free'' between the words ''Scrapie'' and ''Flock'' in the last sentence;

■ n. By adding in alphabetical order a definition for *Low-risk exposed animal;*

■ o. In the definition for *National Scrapie Database,* by adding the word ''Free'' between the words ''Scrapie'' and ''Flock''; and

■ p. By amending the definition for *Noncompliant flock* as follows:

■ i. In paragraph (1), by removing the words ''source or infected flock'' and adding the words ''source, infected, or exposed flock or flock under investigation'' in their place;

■ ii. In paragraph (2), by adding the words ''or flock under investigation'' immediately after the words ''exposed flock''; and

■ iii. In paragraph (3), by removing the words ''owner statement'' and adding the words ''owner/hauler statement'' in their place.

■ q. By revising the definition for *Official genotype test;*

■ r. By adding in alphabetical order definitions for *Program approved test* and *Restricted animal sale or restricted livestock facility;*

■ s. In the heading of the definition for *Scrapie Flock Certification Program (SFCP),* by adding the word ''Free'' immediately after the word ''Scrapie'';

■ t. In the heading of the definition for *Scrapie Flock Certification Program standards,* by adding the word ''Free'' immediately after the word ''Scrapie'' and, in footnote 2, by removing the internet address ''*http://www.aphis.usda.gov/vs/scrapie*'' and adding the internet address ''*http://www.aphis.usda.gov/animal-health/scrapie*'' in its place;

■ u. In the definition for *Scrapie-positive animal,* in paragraph (2), by adding the words '', and/or ELISA,'' immediately after the word ''immunohistochemistry'' and, in paragraph (5), by removing the words ''test method'' and adding the words ''method or combination of methods'' in their place;

■ v. By removing the definition for *Separate contemporary lambing group;*

■ w. By revising the definition for *Slaughter channels;*

■ x. By revising paragraph (1) in the definition of *Suspect animal;* and

■ y. By adding in alphabetical order definitions for *Tamper-resistant sampling kit* and *Terminal feedlot.*

The additions and revisions read as follows:

§ 54.1 Definitions.

* * * * *

Classification or reclassification investigation. An epidemiological investigation conducted or directed by a DSE for the purpose of designating or redesignating the status (*e.g.,* scrapie-positive, exposed, high-risk, suspect, infected, noncompliant, source, etc.) of a flock or animal. In conducting such an investigation, the DSE will evaluate the available records for flocks and individual animals and conduct or direct any testing needed to assess the status of a flock or animal. The status of an animal or flock will be determined based on the applicable definitions in this section and, when needed to make a designation under § 79.4 of this chapter, official genotype test results, exposure risk, scrapie type involved, results of official scrapie testing on live or dead animals, or any combination of these.

* * * * *

Destroyed. Euthanized and the carcass disposed of by means authorized by the Administrator that will prevent its use as feed or food.

* * * * *

Exposed animal. Any animal or embryo that:

(1) Has been in a flock with a scrapie-positive female animal;

(2) Has been in an enclosure with a scrapie-positive female animal at any location;

(3) Resides in a noncompliant flock; or

(4) Has resided on the premises of a flock before or while it was designated by a DSE an infected or source flock and before a flock plan was completed. An animal shall not be designated an exposed animal if it only resided on the premises before the date that infection was most likely introduced to the premises as determined by a Federal or State representative. If the probable date of infection cannot be determined based on the epidemiologic investigation, a date 2 years before the birth of the oldest scrapie-positive animal born in that flock will be used. If the actual birth date is unknown, the date of birth will be estimated based on examination of the teeth and any available records. If an age estimate cannot be made, the animal will be assumed to have been 48 months of age on the date samples were collected for scrapie diagnosis. Exposed animals will be further designated as genetically resistant exposed sheep, genetically less susceptible exposed sheep, genetically susceptible exposed animals, or low-risk exposed animals. An animal will no longer be an exposed animal if it is redesignated in accordance with § 79.4 of this chapter.

Exposed flock. (1) Any flock that was designated by a DSE as an infected or source flock that has completed a flock plan, and that retained a female genetically susceptible exposed animal;

(2) Any flock under investigation that retains a female genetically susceptible exposed animal or a suspect animal, or whose owner declines to complete genotyping and live-animal and/or post-mortem scrapie testing required by the APHIS or State representative investigating the flock; or

(3) Any noncompliant flock or any flock for which a PEMMP is required that is not in compliance with the conditions of the PEMMP.

* * * * *

Flock sire. A sexually intact male animal that has produced offspring in the preceding 12 months or that was used for breeding during the current breeding cycle.

Flock under investigation. Any flock in which an APHIS or State representative has determined that a scrapie-suspect animal, high-risk animal, or scrapie-positive animal resides or may have resided.

Genetically less susceptible exposed sheep. Any sheep or sheep embryo that is:

(1) An exposed sheep or sheep embryo of genotype AA QR, unless the Administrator determines that it is epidemiologically linked to a scrapie-positive RR or AA QR sheep or to a scrapie type to which AA QR sheep are not less susceptible; or

(2) An exposed sheep or sheep embryo of genotype AV QR, unless the Administrator determines that it is epidemiologically linked to a scrapie-positive RR or QR sheep, to a flock that the Administrator has determined may be affected by valine-associated scrapie (based on an evaluation of the genotypes of the scrapie-positive animals linked to the flock), or to another scrapie type to which AV QR sheep are not less susceptible; or

(3) An exposed sheep or sheep embryo of a genotype that has been exposed to a scrapie type to which the Administrator has determined that genotype is less susceptible.

In this definition R refers to codon 171 and A refers to codon 136, and Q represents any genotype other than R at

codon 171 and V represents any genotype other than A at codon 136.

Genetically resistant exposed sheep. Any exposed sheep or sheep embryo of genotype RR at codon 171 unless the Administrator determines that it is epidemiologically linked to a scrapie-positive RR sheep or to a scrapie type to which RR sheep are not resistant.

Genetically resistant sheep. Any sheep or sheep embryo of genotype RR at codon 171 unless the Administrator determines that it is epidemiologically linked to a scrapie-positive RR sheep or to a scrapie type that affects RR at codon 171 sheep.

Genetically susceptible animal. Any goat or goat embryo, sheep or sheep embryo of a genotype other than RR or QR, where Q represents any genotype other than R at codon 171 or sheep or sheep embryo of undetermined genotype.

Genetically susceptible exposed animal. Excluding low-risk exposed animals, any exposed animal or embryo that is also:

(1) A genetically susceptible animal; or

(2) A sheep or sheep embryo of genotype AV QR that the Administrator determines is epidemiologically linked to a scrapie-positive RR or QR sheep, to a flock that the Administrator has determined may be affected by valine-associated scrapie (based on an evaluation of the genotypes of the scrapie-positive animals linked to the flock), or to a scrapie type to which AV QR sheep are susceptible; or

(3) A sheep or sheep embryo of genotype AA QR that the Administrator determines is epidemiologically linked to a scrapie-positive RR or AA QR sheep or to a scrapie type to which AA QR sheep are susceptible; or

(4) A sheep or sheep embryo of genotype RR that the Administrator determines is epidemiologically linked to a scrapie-positive RR sheep or to a scrapie type to which RR sheep are susceptible.

(5) *Note:* In this definition R refers to codon 171 and A refers to codon 136, and Q represents any genotype other than R at codon 171 and V represents any genotype other than A at codon 136.

High-risk animal. The female offspring or embryo of a scrapie-positive female animal, or any suspect animal, or a female genetically susceptible exposed animal, or any exposed animal that the Administrator determines to be a potential risk. The Administrator may base the determination that an exposed animal poses a potential risk on the scrapie type, the epidemiology of the flock or flocks with which it is epidemiologically linked, including genetics of the positive sheep, the prevalence of scrapie in the flock, any history of recurrent infection, and other flock or animal characteristics. An animal will no longer be a high-risk animal if it is redesignated in accordance with § 79.4 of this chapter.

* * * * *

Interstate certificate of veterinary inspection (ICVI). An official document issued by a Federal, State, Tribal, or accredited veterinarian certifying the inspection of animals in preparation for interstate movement or other uses as described in this part and in accordance with § 79.5 of this chapter.

* * * * *

Low-risk exposed animal. Any exposed animal to which the Administrator has determined one or more of the following applies:

(1) The positive animal that was the source of exposure was not born in the flock and did not lamb in the flock or in an enclosure where the exposed animal resided;

(2) The Administrator and State representative concur that the animal is unlikely to be infected due to factors such as, but not limited to, where the animal resided or the time period the animal resided in the flock;

(3) The exposed animal is male and was not born in an infected or source flock;

(4) The exposed animal is a castrated male;

(5) The exposed animal is an embryo of a genetically resistant exposed sheep or a genetically less susceptible exposed sheep unless placed in a recipient that was a genetically susceptible exposed animal; or

(6) The animal was exposed to a scrapie type and/or is of a genotype that the Administrator has determined poses low risk of scrapie transmission.

* * * * *

Official genotype test. A test to determine the genotype of a live or dead animal conducted at either the National Veterinary Services Laboratories or at an approved laboratory. The test subject must be an animal that is officially identified and the test accurately recorded on an official form supplied or approved by APHIS, with the samples collected and shipped to the laboratory using a shipping method specified by the laboratory by:

(1) An accredited veterinarian;

(2) A State or APHIS representative; or

(3) The animal's owner or owner's agent, using a tamper-resistant sampling kit approved by APHIS for this purpose.

* * * * *

Program approved test. A test for the diagnosis of scrapie approved by the Administrator for use in the scrapie eradication or certification program in accordance with § 54.10.

Restricted animal sale or restricted livestock facility. A sale where any animals in slaughter channels are maintained separate from other animals not in slaughter channels unless they are from the same flock of origin and are sold in lots that consist entirely of animals sold for slaughter only, or a livestock facility at which all animals are in slaughter channels, and where the sale or facility manager maintains a copy of, or maintains a record of, the information from the owner/hauler statement for all animals entering and leaving the sale or facility. A restricted animal sale may be held at a livestock facility that is not restricted.

* * * * *

Slaughter channels. Animals in slaughter channels include any animal that is sold, transferred, or moved either directly to or through a restricted animal sale or restricted livestock facility to an official slaughter establishment that is under Food Safety and Inspection Service (FSIS) jurisdiction per the Federal Meat Inspection Act (FMIA) or under State inspection that FSIS has recognized as at least equal to Federal inspection or to a custom exempt slaughter establishment as defined by FSIS (9 CFR 303.1) for immediate slaughter or to an individual for immediate slaughter for personal use or to a terminal feedlot.

* * * * *

Suspect animal. * * *

(1) A mature sheep or goat as evidenced by eruption of the first incisor that has been condemned by FSIS or a State inspection authority for central nervous system (CNS) signs, or that exhibits any of the following clinical signs of scrapie and has been determined to be suspicious for scrapie by an accredited veterinarian or a State or USDA representative, based on one or more of the following signs and the severity of the signs: Weakness of any kind including, but not limited to, stumbling, falling down, or having difficulty rising, not including those with visible traumatic injuries and no other signs of scrapie; behavioral abnormalities; significant weight loss despite retention of appetite or in an animal with adequate dentition; increased sensitivity to noise and sudden movement; tremors; star gazing; head pressing; bilateral gait abnormalities such as but not limited to incoordination, ataxia, high stepping gait of forelimbs, bunny-hop movement of rear legs, or swaying of back end, but not including abnormalities involving

only one leg or one front and one back leg; repeated intense rubbing with bare areas or damaged wool in similar locations on both sides of the animal's body or, if on the head, both sides of the poll; abraded, rough, thickened, or hyperpigmented areas of skin in areas of wool/hair loss in similar locations on both sides of the animal's body or, if on the head, both sides of the poll; or other signs of CNS disease. An animal will no longer be a suspect animal if it is redesignated in accordance with § 79.4 of this chapter.

* * * * *

Tamper-resistant sampling kit. A device or method for collecting DNA samples from sheep or goats that is approved by the Administrator and that identifies both the sample and the animal at the time the sample is collected. These devices or methods must ensure that the sample, its corresponding label, and the official ID device or method applied to the animal meets the requirements of § 79.2(k) of this chapter and that the sample is from the same animal to which the official ID device or method was applied. The kit must include an APHIS-approved official form or another form, device, or method acceptable to APHIS for transmitting the information required to APHIS and the approved laboratory.

Terminal feedlot. (1) A dry lot approved by a State or APHIS representative or an accredited veterinarian who is authorized by the Administrator to perform this function where animals in the terminal feedlot are separated from all other animals by at least 30 feet at all times or are separated by a solid wall through, over, or under which fluids cannot pass and contact cannot occur and must be cleaned of all organic material prior to being used to contain sheep or goats that are not in slaughter channels, where only castrated males are maintained with female animals and from which animals are moved only to another terminal feedlot or directly to slaughter; or

(2) A dry lot approved by a State or APHIS representative or an accredited veterinarian who is authorized by the Administrator to perform this function where only animals that either are not pregnant based on the animal being male, an owner certification that any female animals have not been exposed to a male in the preceding 6 months, an ICVI issued by an accredited veterinarian stating the animals are not pregnant, or the animals are under 6 months of age at time of receipt, where only castrated males are maintained with female animals, and all animals in the terminal feedlot are separated from all other animals such that physical contact cannot occur including through a fence and from which animals are moved only to another terminal feedlot or directly to slaughter; or

(3) A pasture when approved by and maintained under the supervision of the State and in which only nonpregnant animals are permitted based on the animal being male, an owner certification that any female animals have not been exposed to a male in the preceding 6 months, or an ICVI issued by an accredited veterinarian stating the animals are not pregnant, or the animals are under 6 months of age at time of receipt, where only castrated males are maintained with female animals, where there is no direct fence-to-fence contact with another flock, and from which animals are moved only to another terminal feedlot or directly to slaughter.

(4) Records of all animals entering and leaving a terminal feedlot must be maintained for 5 years after the animal leaves the feedlot and must meet the requirements of § 79.2 of this chapter, including either a copy of the required owner/hauler statements for animals entering and leaving the facility or the information required to be on the statements. Records must be made available for inspection and copying by an APHIS or State representative upon request.

* * * * *

§ 54.2 [Amended]

■ 3. Section 54.2 is amended by adding the word ''Free'' between the words ''Scrapie'' and ''Flock'' each time they appear.

■ 4. Section § 54.3 is amended by revising paragraph (b) and adding an OMB citation at the end of the section to read as follows:

§ 54.3 Animals eligible for indemnity payments.

* * * * *

(b) Indemnity will be paid to an owner only for animals actually in a flock at the time indemnity is first offered in writing, and for offspring born to animals in that flock within 60 days after the time indemnity is first offered in writing. Animals removed from the flock as part of an investigation or a post-exposure management and monitoring plan (PEMMP) will be paid indemnity based on the calculated prices at the time an APHIS representative designates, in writing, the animals for removal. If an owner declines to remove an animal within 60 days of when indemnity is first offered the owner will receive the lower value of when indemnity was first offered in writing or when the animal was actually removed. APHIS may withdraw an indemnity offer if an owner does not make animals available for inventory, gestational assessment, and testing within 30 days, does not remove an animal within 60 days of the written indemnity offer or by the date specified in a flock plan or PEMMP, or fails to provide APHIS animal registration certificates, sale and movement records, or other records requested in accordance with § 54.5. No indemnity will be paid for any animal, or the progeny of any animal, that has been moved or handled by the owner in violation of the requirements of the Animal Health Protection Act or the regulations promulgated thereunder. No indemnity will be paid for an animal added to the premises while a flock is under investigation or while it is an infected or source flock other than natural additions. No indemnity will be paid for natural additions born more than 60 days after the owner is notified they are eligible for indemnity unless the Administrator makes a determination that the dam could not be removed within the allowed time as a result of conditions outside the control of the owner. No indemnity will be paid unless the owner has signed and is in compliance with the requirements of a flock plan or post-exposure management and monitoring plan (PEMMP) as described in § 54.8 unless the requirement for a flock plan or PEMMP has been waived by the Administrator. No indemnity will be paid until the premises, including all structures, holding facilities, conveyances, and materials contaminated because of occupation or use by the depopulated animals, have been properly cleaned and disinfected in accordance with § 54.7(e), unless premises or portions of premises have been exempted from the cleaning and disinfecting requirements per § 54.8(j)(1); Except that, partial indemnity may be paid when the Administrator determines that weather or other factors outside the control of the owner make immediate disinfection impractical. No indemnity will be paid to an owner for any animals if the owner established or increased his flock for the purpose of collecting or increasing indemnity.

(Approved by the Office of Management and Budget under control number 0579–0101)

■ 5. Section 54.4 is amended by revising paragraph (a)(5) and adding an OMB citation at the end of the section to read as follows:

§ 54.4 Application by owners for indemnity payments.

(a) * * *

(5) A copy of the registration papers issued in the name of the owner for any registered animals in the flock (registration papers are not required for the payment of indemnity for animals that are not registered); and

* * * * *

(Approved by the Office of Management and Budget under control number 0579–0101)

■ 6. Section 54.5 is amended as follows:

■ a. In paragraph (d), by removing the word ''slaughtered,''; and

■ b. By adding an OMB citation at the end of the section.

The addition reads as follows:

§ 54.5 Certification by owners.

* * * * *

(Approved by the Office of Management and Budget under control number 0579–0101)

■ 7. Section 54.6 is revised to read as follows:

§ 54.6 Amount of indemnity payments.

(a) *Indemnity.* Indemnity paid for sheep and goats in accordance with § 54.3 will be the fair market value of the animals. APHIS' determination of fair market value will be based on available price report data that most accurately reflect the type of animal being indemnified and the time at which the animal was indemnified. Premiums will be paid for certain types of sheep and goats, including, but not limited to: Registered animals, flock sires, pregnant animals and early-maturing ewes; Except that, no premium will be added for animals of any age that were in slaughter channels when indemnity was offered. To calculate indemnity, APHIS will use price information provided by the Agricultural Marketing Service (AMS) or other available price information and any other data necessary to establish the value of different types of sheep and goats. A detailed description of the methods APHIS uses to calculate indemnity for sheep and goats is available at *http://www.aphis.usda.gov/animal-health/scrapie.*

(b) *Age and number of animals.* If records and identification are inadequate to determine the actual age of animals, an APHIS or State representative will count all sexually intact animals that are apparently under 1 year of age, and those that are apparently at least 1 and under 2 years of age, based on examination of their teeth, and the indemnity for these animals will be calculated. The total number of these animals will be subtracted from the total number of sexually intact animals in the group to be indemnified, and indemnity for the remainder will be calculated based on the assumption that the remainder of the flock is 80 percent aged 2 to 6 years and 20 percent aged 6 to 8 years.

(c) *Animal weights.* If the owner disagrees with the average weight estimate, he may have the animals weighed at a public scale at his own expense, provided that the animals may not come in contact with other sheep or goats during movement to the public scales, and will be paid based on the actual weight multiplied by the price per pound for the class of animal as calculated in paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 0579–0101)

■ 8. Section 54.7 is amended as follows:

■ a. By revising paragraphs (a) and (d);

■ b. In paragraph (e), introductory text, by removing the words ''Scrapie Flock Certification Program standards and the Scrapie Eradication Uniform Methods and Rules'' adding in their place ''Scrapie Program Standards Volume 1: National Scrapie Eradication Program and Scrapie Program Standards Volume 2: Scrapie Free Flock Certification Program (SFCP)'';

■ c. In paragraph (e)(1), by removing the words ''animals or wildlife'' and adding in their place the words ''or wild ruminants'';

■ d. By revising paragraph (e)(2) introductory text;

■ e. By removing paragraph (e)(2)(i), redesignating paragraphs (e)(2)(ii) and (iii) as paragraphs (e)(2)(i) and (ii), respectively, and by adding new paragraphs (e)(2)(iii) and (iv); and

■ f. By adding an OMB citation at the end of the section.

The revisions and additions read as follows:

§ 54.7 Procedures for destruction of animals.

(a) Animals for which indemnification is sought must be destroyed on the premises where they are held, pastured, or penned at the time indemnity is approved or moved to an approved research facility, unless the APHIS representative involved approves in advance of destruction moving the animals to another location for destruction.

* * * * *

(d) APHIS may pay the reasonable costs of disposal for animals that are indemnified. To obtain reimbursement for disposal costs, animal owners must obtain written approval of the disposal costs from APHIS, prior to disposal. For reimbursement to be made, the owner of the animals must present the Veterinary Services, Field Operations, Area Veterinarian in Charge (AVIC) responsible for the State involved with a copy of either a receipt for expenses paid or a bill for services rendered. Any bill for services rendered by the owner must not be greater than the normal fee for similar services provided by a commercial hauler or disposal facility.

(e) * * *

(2) *Cement, wood, metal and other non-earth surfaces, tools, equipment, instruments, feed, hay, bedding, and other materials.* Organic and/or inorganic materials may be disposed of by incineration or burial. Inorganic material and wood structures may be cleaned and disinfected. To disinfect, remove all organic material and incinerate, bury, till under, or compost the removed organic material in areas not accessed by domestic or wild ruminants until it can be incinerated, buried, or tilled under. Clean and wash all surfaces, tools, equipment, and instruments using hot water and detergent. Allow all surfaces, tools, equipment, and instruments to dry completely before disinfecting and sanitizing using one of the following methods:

* * * * *

(iii) Use a product registered by the U.S. Environmental Protection Agency (EPA) specifically for reduction of prion infectivity at these sites in accordance with the label.

(iv) Use a product in accordance with an emergency exemption issued by the EPA for reduction of prion infectivity at these sites.

(Approved by the Office of Management and Budget under control number 0579–0469)

■ 9. Section 54.8 is revised to read as follows:

§ 54.8 Requirements for flocks under investigation and flocks subject to flock plans and post-exposure management and monitoring plans.

(a) For animals in a flock under investigation, flock plan, or post-exposure management and monitoring plan (PEMMP), the official identification must provide a unique identification number that is applied by the owner of the flock or his or her agent and must be linked to that flock in the National Scrapie Database. APHIS may specify the type of official identification that may be used in order to maximize retention of the means of identification, identify restricted or test positive animals or to facilitate the testing or inventory of the animals. The owner of the flock or his or her agent must officially identify and maintain the identity of:

(1) All animals in the flock while it is subject to a flock plan or PEMMP;

(2) Any high-risk or genetically susceptible exposed animals in the flock and any other restricted animals;

(3) Any animals designated for testing by an APHIS representative or State representative until testing is completed, results reported, and animals classified; and

(4) All sexually intact animals, all exposed animals, and animals 18 months of age and older (as evidenced by the eruption of the second incisor) prior to a change in ownership and before they are moved off the premises of the flock.

(b) For flocks under a flock plan or PEMMP, the flock owner must maintain the following records for 5 years or until the flock plan and/or PEMMP is completed, whichever is longer.

(1) For acquired animals, the date of acquisition, name and address of the person from whom the animal was acquired, any identifying marks, or identification devices present on the animal including but not limited to the animal's individual official identification number(s) from its electronic implant, flank tattoo, ear tattoo, tamper-resistant eartag, or, in the case of goats, tail fold tattoo, and any secondary form of identification the owner of the flock may choose to maintain and the records required by § 79.2 of this chapter.

(2) For animals leaving the premises of the flock, the disposition of the animal, including, any identifying marks or identification devices present on the animal, including but not limited to the animal's individual official identification number from its electronic implant, flank tattoo, ear tattoo, tamper-resistant eartag, or, in the case of goats, a tail fold tattoo, and any secondary form of identification the owner of the flock may choose to maintain, the date and cause of death, if known, or date of removal from the flock and name and address of the person to whom the animal was transferred and the records required by § 79.2 of this chapter.

(c) Upon request by a State or APHIS representative or as required in a PEMMP, the owner of the flock or his or her agent must have an accredited veterinarian collect tissues from animals for scrapie diagnostic purposes and submit them to a laboratory designated by a State or APHIS representative or collect and submit samples by another method acceptable to APHIS.

(d) Upon request by a State or APHIS representative, the owner of the flock or his or her agent must make animals in the flock available for inspection and or testing and the records required to be kept as a part of these plans available for inspection and copying.

(e) The owner of the flock or his or her agent must meet requirements found necessary by a DSE to monitor for scrapie and to prevent the recurrence of scrapie in the flock and to prevent the spread of scrapie from the flock. These other requirements may include, but are not limited to: Utilization of a live-animal screening test; reporting animals found dead and collecting and submitting test samples from them; restrictions on the animals that may be moved from the flock; use of genetically resistant rams; segregated lambing; cleaning and disinfection of lambing facilities; and/or education of the owner of the flock and personnel working with the flock in techniques to recognize clinical signs of scrapie and to control the spread of scrapie.

(f) The owner of the flock or his or her agent must immediately report the following animals to a State representative, APHIS representative, or an accredited veterinarian; ensure that samples are properly collected for testing if the animal dies; allow the animals to be tested, and not remove them from a flock without written permission of a State or APHIS representative:

(1) Any sheep or goat exhibiting weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; wool loss; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high stepping gait of forelimbs, bunny hop movement of rear legs, or swaying of back end; increased sensitivity to noise and sudden movement; tremor; star gazing; head pressing; recumbency; rubbing, or other signs of neurological disease or chronic wasting illness; and

(2) Any sheep or goat in the flock that has tested positive for scrapie or for the proteinase resistant protein associated with scrapie on a live-animal screening test or any other test.

(g) An epidemiologic investigation must be conducted to identify high-risk and exposed animals that currently reside in the flock or that previously resided in the flock, and all high-risk animals, scrapie-positive animals, and suspect animals must be removed from the flock except as provided in paragraph (h) of this section. The animals must be removed either by movement to an approved research facility or by euthanasia and disposal of the carcasses by burial, incineration, or other methods approved by the Administrator and in accordance with local, State, and Federal laws, or upon request in individual cases by another means determined by the Administrator to be sufficient to prevent the spread of scrapie.

(h) The Administrator may allow high-risk animals that are not suspect animals to be retained under restriction if they are not genetically susceptible animals or if they have tested ''PrPsc not detected'' on a live animal scrapie test approved for this purpose by the Administrator and are maintained in a manner that the Administrator determines minimizes the risk of scrapie transmission, *e.g.,* bred only to genetically resistant sheep, segregated for lambing, and cleaning and disinfection of the lambing area. Such animals may be retained only if the exempted animal's official identification and the requirements for minimizing the risk of scrapie transmission are documented in the PEMMP and the owner is in compliance with the PEMMP. All such animals must be tested for scrapie when they are euthanized or die or if they are later determined to be suspect animals.

(i) The owner of the flock, or his or her agent, must request breed associations and registries, livestock facilities, and packers to disclose records to APHIS representatives or State representatives, to be used to identify source flocks and trace exposed animals, including high-risk animals.

(j) The flock plan will include a description of the types of animals that must be removed from a flock, the timeframes in which they must be removed and any other actions that must be accomplished in order for the flock plan to be completed. Flock plans shall require an owner to agree to:

(1) Clean and disinfect the premises in accordance with § 54.7(e). Premises or portions of premises may be exempted from the cleaning and disinfecting requirements if a designated scrapie epidemiologist determines, based on an epidemiologic investigation, that cleaning and disinfection of such buildings, holding facilities, conveyances, or other materials on the premises will not significantly reduce the risk of the spread of scrapie, either because effective disinfection is not possible or because the normal operations on the premises prevent transmission of scrapie. No confined area where a scrapie-positive animal was born, lambed or aborted may be exempted;

(2) Agree to conduct a post-exposure management and monitoring plan (PEMMP); and

(3) Comply with any other conditions in the flock plan;

(k) A PEMMP will be required for exposed flocks and may be required for

flocks under investigation that were not source or infected flocks. A PEMMP may also be required for flocks that formerly were exposed flocks or flocks under investigation as a condition for being redesignated. A designated scrapie epidemiologist shall determine when to require a PEMMP and the monitoring requirements for these flocks based on the findings of the classification or reclassification investigation.

(l) Provided that, the Administrator may waive the requirement for a flock plan or PEMMP or waive any of the requirements in a flock plan or PEMMP after determining that the flock poses a low risk of scrapie transmission.

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■ 10. Section 54.10 is revised to read as follows:

§ 54.10 Program approval of tests for scrapie.

(a) The Administrator may approve new tests or test methods for the diagnosis of scrapie conducted on live or dead animals for use in the Scrapie Eradication Program and/or the Scrapie Free Flock Certification Program. The Administrator will base the approval or disapproval of a test on the evaluation by APHIS and, when appropriate, outside scientists, of:

(1) A standardized test protocol that must include a description of the test, a description of the reagents, materials, and equipment used for the test, the test methodology, and any control or quality assurance procedures;

(2) Data to support repeatability, that is, the ability to reproduce the same result repeatedly on a given sample;

(3) Data to support reproducibility, that is, data to show that similar results can be produced when the test is run at other laboratories;

(4) Data to support the diagnostic and in the case of assays the analytical sensitivity and specificity of the test; and

(5) Any other data or information requested by the Administrator to determine the suitability of the test for program use. This may include but is not limited to past performance, cost of test materials and equipment, ease of test performance, generation of waste, and potential use of existing equipment.

(b) To be approved for program use, a scrapie test must be able to be readily and successfully performed at the National Veterinary Services Laboratories.

(c) The test must have a reliable, timely, and cost effective method of proficiency testing.

(d) The Administrator may decline to evaluate any test kit for program approval that has not been licensed for the intended use and may decline to evaluate any test or test method for program use unless the requester can demonstrate that the new method offers a significant advantage over currently approved methods.

(e) A test or combination of tests may be approved for the identification of suspect animals, or scrapie-positive animals, or for other purposes such as flock certification. For a test to be approved for the identification of scrapie-positive animals, the test must demonstrate a diagnostic specificity comparable to that of current program-approved tests, and the sensitivity of the test will also be considered in determining the approved uses of the test within the program. For a test to be approved for the removal of high-risk, exposed, or suspect animal designations the test must have a diagnostic sensitivity at least comparable to that of current program-approved tests used for this purpose. Since the purpose of a screening test is usually to identify a subset of animals for further testing, for a test to be approved as a screening test for the identification of suspect animals, the test must be usually reliable but need not be definitive for diagnosing scrapie.

(f) Specific guidelines for use of program-approved tests within the Scrapie Eradication Program or Scrapie Free Flock Certification Program will be made available on the scrapie website at *http://www.aphis.usda.gov/animal-health/scrapie.* Guidelines will be based on the characteristics of the test, including specificity, sensitivity, and predictive value in defined groups of animals.

(g) If an owner elects to have an unofficial test conducted on an animal for scrapie, or for the proteinase resistant protein associated with scrapie, and that animal tests positive to such a test, the animal will be designated a suspect animal, unless the test is conducted as part of a research protocol and the protocol includes appropriate measures to prevent the spread of scrapie.

(h) The Administrator may withdraw or suspend approval of any test or test method if the test or method does not perform at an acceptable level following approval or if a more effective test or test method is subsequently approved. The Administrator shall give written notice of the suspension or proposed withdrawal to the director of the laboratories using the test or method or in the case of test kits to the manufacturer and shall give the director or manufacturer an opportunity to respond. Such action shall become effective upon oral or written notification, whichever is earlier, to the laboratory or manufacturer. If there are conflicts as to any material fact concerning the reason for withdrawal, a hearing may be requested in accordance with the procedure in § 79.4(c)(3) of this chapter. The action under appeal shall continue in effect pending the final determination of the Administrator, unless otherwise ordered by the Administrator. The Administrator's final determination constitutes final agency action.

(Approved by the Office of Management and Budget under control number 0579–0469)

■ 11. Section 54.11 is revised to read as follows:

§ 54.11 Approval of laboratories to run official scrapie tests and official genotype tests.

(a) State, Federal, and university laboratories, or in the case of genotype tests, private laboratories will be approved by the Administrator when he or she determines that the laboratory:

(1) Employs personnel assigned to supervise and conduct the testing who are qualified to conduct the test based on education, training, and experience and who have been trained by the National Veterinary Services Laboratories (NVSL) or who have completed equivalent training approved by NVSL;

(2) Has adequate facilities and equipment to conduct the test;

(3) Follows standard test protocols that are approved or provided by NVSL;

(4) Meets check test proficiency requirements and consistently produces accurate test results as determined by NVSL review;

(5) Meets recordkeeping requirements;

(6) Will retain records, slides, blocks, and other specimens from all cases for at least 1 year and from positive cases and DNA from all genotype tests for at least 5 years and will forward copies of records and any of these materials to NVSL within 5 business days of request; Except that, NVSL may authorize a shorter retention time in a standard operating procedure or contract;

(7) Will allow APHIS to inspect the laboratory without notice during normal business hours. An inspection may include, but is not limited to, review and copying of records, examination of slides, review of quality control procedures, observation of sample handling/tracking procedures, observation of the test being conducted, and interviewing of personnel;

(8) Will report all test results to State and Federal animal health officials and

record them in the National Scrapie Database within timeframes and in the manner and format specified by the Administrator; and

(9) Complies with any other written guidance provided to the laboratory by the Administrator.

(b) A laboratory may request approval to conduct one or more types of program-approved scrapie test or genotype test on one or more types of tissue. To be approved, a laboratory must meet the requirements in paragraph (a) of this section for each type of test and for each type of tissue for which they request approval.

(c) The Administrator may suspend or withdraw approval of any laboratory for failure to meet any of the conditions required by paragraph (a) of this section. The Administrator shall give written notice of the suspension or the proposed withdrawal to the director of the laboratory and shall give the director an opportunity to respond. Such action shall become effective upon oral or written notification, whichever is earlier, to the laboratory or manufacturer. If there are conflicts as to any material fact concerning the reason for withdrawal, a hearing may be requested in accordance with the procedure in § 79.4(c)(3) of this chapter. The action under appeal shall continue in effect pending the final determination of the Administrator, unless otherwise ordered by the Administrator. The Administrator's final determination constitutes final agency action.

(d) The Administrator may require approved laboratories to reimburse APHIS for part or all of the costs associated with the approval and monitoring of the laboratory.

(Approved by the Office of Management and Budget under control numbers 0579–0101 and 0579–0469)

■ 12. The heading for subpart B is revised to read as set forth below:

Subpart B—Scrapie Free Flock Certification Program

■ 13. Section 54.21 is revised to read as follows:

§ 54.21 Participation.

Any owner of a sheep or goat flock may apply to enter the Scrapie Free Flock Certification Program by sending a written request to a State scrapie certification board or to the Veterinary Services, Field Operations, AVIC responsible for the State involved. A notice containing a current list of flocks participating in the Scrapie Free Flock Certification Program, and the certification status of each flock, may be obtained from the APHIS website at *http://www.aphis.usda.gov/animal-health/scrapie.* A list of noncompliant flocks and a list of flocks that sold exposed animals that could not be traced may also be obtained from this site, and these lists may be obtained by writing to the National Scrapie Program Coordinator, Strategy and Policy, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1235.

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PART 79—SCRAPIE IN SHEEP AND GOATS

■ 14. The authority citation for part 79 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 15. Section 79.1 is amended as follows:

■ a. By revising the definition for *Animal identification number (AIN);*

■ b. In the definition for *Breed association and registries,* by removing the words ''listed in § 151.9 of this chapter'';

■ c. By removing the definition for *Certificate;*

■ d. By adding in alphabetical order a definition for *Classification or reclassification investigation;*

■ e. By revising the definitions for *Consistent State, Exposed animal,* and *Exposed flock;*

■ f. By adding in alphabetical order a definition for *Flock identification (ID) number;*

■ g. In the definition for *Flock plan,* by removing the citation ''§ 54.8(a)(f)'' and by adding the words ''§ 54.8(a) through (j)'' in its place;

■ h. By adding in alphabetical order definitions for *Flock under investigation, Genetically less susceptible exposed sheep, Genetically resistant exposed sheep, Genetically resistant sheep, Genetically susceptible animal, Genetically susceptible exposed animal, Group/lot identification number (GIN);*

■ i. By revising the definition for *High-risk animal;*

■ j. By adding in alphabetical order definitions for *Interstate certificate of veterinary inspection (ICVI)* and *Low-risk commercial flock;*

■ k. By removing the definition for *Low-risk commercial sheep;*

■ l. By adding in alphabetical order a definition for *Low-risk exposed animal;*

■ m. By removing the definition for *Low-risk goat;*

■ n. By adding in alphabetical order a definition for *National Uniform Eartagging System (NUES);*

■ o. In the definition for *Noncompliant flock,* in paragraph (3), by removing the words ''owner statement'' and adding the words ''owner/hauler statement'' in their place;

■ p. By revising the definitions for *Official eartag, Official genotype test,* and *Official identification device or method;*

■ q. By adding in alphabetical order definitions for *Official identification number,* O*fficially identified,* and *Owner/hauler statement;*

■ r. By removing the definition for *Owner statement;*

■ s. By adding in alphabetical order a definition for *Person;*

■ t. By revising the definition for *Premises identification number (PIN);*

■ u. By adding in alphabetical order a definition for *Restricted animal sale or restricted livestock facility;*

■ v. In the heading of the definition for *Scrapie Flock Certification Program (SFCP),* by adding the word ''Free'' immediately after the word ''Scrapie'';

■ w. In the heading of the definition for *Scrapie Flock Certification Program standards,* by adding the word ''Free'' immediately following the word ''Scrapie'' and, in footnote 2, by removing the internet address ''*http://www.aphis.usda.gov/vs*'' and adding the internet address ''*http://www.aphis.usda.gov/animal-health/scrapie*'' in its place;

■ x. In the definition for *Scrapie-positive animal,* in paragraph (2) by adding the words '', and/or ELISA,'' immediately after the word ''immunohistochemistry'' and in paragraph (5) by removing the words ''test method'' and adding the words ''method or combination of methods'' in their place;

■ y. By removing the definition for *Separate contemporary lambing groups;*

■ z. By revising the definition for *Slaughter channels;*

■ aa. By revising paragraph (1) of the definition for *Suspect animal;*

■ bb. By revising the definition for *Terminal feedlot;* and

■ cc. By adding in alphabetical order a definition for *Test eligible.*

The additions and revisions read as follows:

§ 79.1 Definitions.

* * * * *

Animal identification number (AIN). This term has the meaning set forth in § 86.1 of this subchapter, except that only AIN devices approved and distributed in accordance with § 79.2(k) and methods approved for use in sheep and goats in accordance with § 79.2(a)(2) are included.

* * * * *

Classification or reclassification investigation. An epidemiological

investigation conducted or directed by a DSE for the purpose of designating or redesignating the status (*e.g.,* exposed, high-risk, infected, source, suspect, etc.) of a flock or animal. In conducting such an investigation, the DSE will evaluate the available records for flocks and individual animals and conduct or direct any testing needed to assess the status of a flock or animal. The status of an animal or flock will be determined based on the applicable definitions in this section and, when needed to make a designation under § 79.4, official genotype test results, exposure risk, scrapie type involved, and/or results of official scrapie testing on live or dead animals.

* * * * *

Consistent State. (1) A State that the Administrator has determined conducts an active State scrapie control program that meets the requirements of § 79.6 or effectively enforces a State designed plan that the Administrator determines is at least as effective in controlling scrapie as the requirements of § 79.6.

(2) A list of Consistent States can be found on the internet at *http://www.aphis.usda.gov/animal-health/scrapie.*

* * * * *

Exposed animal. Any animal or embryo that:

(1) Has been in a flock with a scrapie-positive female animal;

(2) Has been in an enclosure with a scrapie-positive female animal at any location;

(3) Resides in a noncompliant flock; or

(4) Has resided on the premises of a flock before or while it was designated an infected or source flock and before a flock plan was completed. An animal shall not be designated an exposed animal if it only resided on the premises before the date that infection was most likely introduced to the premises as determined by a Federal or State representative. If the probable date of infection cannot be determined based on the epidemiologic investigation, a date 2 years before the birth of the oldest scrapie-positive animal born in that flock will be used. If the actual birth date is unknown, the date of birth will be estimated based on examination of the teeth and any available records. If an age estimate cannot be made, the animal will be assumed to have been 48 months of age on the date samples were collected for scrapie diagnosis. Exposed animals will be further designated as genetically resistant exposed sheep, genetically less susceptible exposed sheep, genetically susceptible exposed animals, or low-risk exposed animals. An animal will no longer be an exposed animal if it is redesignated in accordance with § 79.4.

Exposed flock. (1) Any flock that was designated an infected or source flock that has completed a flock plan and that retained a female genetically susceptible exposed animal;

(2) Any flock under investigation that retains a female genetically susceptible exposed animal or a suspect animal, or whose owner declines to complete genotyping and live-animal and/or post-mortem scrapie testing required by the APHIS or State representative investigating the flock; or

(3) Any noncompliant flock or any flock for which a PEMMP is required that is not in compliance with the conditions of the PEMMP. A flock will no longer be an exposed flock if it is redesignated in accordance with § 79.4.

* * * * *

Flock identification (ID) number. A nationally unique number assigned by a State, federally recognized Tribal or Federal animal health authority to a group of animals that are managed as a unit on one or more premises and are under the same ownership. The flock ID number must begin with the State postal abbreviation or APHIS-assigned Tribal code, must have no more than nine alphanumeric characters, and must not contain the characters ''I'', ''O'', or ''Q'' other than as part of the State postal abbreviation or another standardized format authorized by the administrator and recorded in the National Scrapie Database. APHIS may assign Tribal codes to any federally recognized Tribe that maintains sheep or goats on Tribal lands. The flock ID number must be recorded in and linked to one or more PINs or LIDs in the National Scrapie Database.

* * * * *

Flock under investigation. Any flock in which an APHIS or State representative has determined that a scrapie suspect animal, high-risk animal, or scrapie-positive animal resides or may have resided. A flock will no longer be a flock under investigation if it is redesignated in accordance with § 79.4.

Genetically less susceptible exposed sheep. Any sheep or sheep embryo that is:

(1) An exposed sheep or sheep embryo of genotype AA QR, unless the Administrator determines that it is epidemiologically linked to a scrapie-positive RR or AA QR sheep or to a scrapie type to which AA QR sheep are not less susceptible; or

(2) An exposed sheep or sheep embryo of genotype AV QR, unless the Administrator determines that it is epidemiologically linked to a scrapie-positive RR or QR sheep, to a flock that the Administrator has determined may be affected by valine-associated scrapie (based on an evaluation of the genotypes of the scrapie-positive animals linked to the flock), or to another scrapie type to which the Administrator has determined AV QR sheep are not less susceptible; or

(3) An exposed sheep or sheep embryo of a genotype that has been exposed to a scrapie type to which the Administrator has determined that genotype is less susceptible.

(4) *Note:* In this definition R refers to codon 171 and A refers to codon 136, and Q represents any genotype other than R at codon 171 and V represents any genotype other than A at codon 136.

Genetically resistant exposed sheep. Any exposed sheep or sheep embryo of genotype RR at codon 171 unless the Administrator determines that it is epidemiologically linked to a scrapie-positive RR sheep or to a scrapie type to which RR sheep are not resistant.

Genetically resistant sheep. Any sheep or sheep embryo of genotype RR at codon 171 unless it is epidemiologically linked to a scrapie-positive RR sheep or to a scrapie type that affects RR at codon 171 sheep.

Genetically susceptible animal. Any goat or goat embryo, sheep or sheep embryo of a genotype other than RR or QR, where Q represents any genotype other than R at codon 171 or sheep or sheep embryo of undetermined genotype.

Genetically susceptible exposed animal. Excluding low-risk exposed animals, any exposed animal or embryo that is also:

(1) A genetically susceptible animal; or

(2) A sheep or sheep embryo of genotype AV QR that the Administrator has determined is epidemiologically linked to a scrapie-positive RR or QR sheep, to a flock that the Administrator has determined may be affected by valine-associated scrapie (based on an evaluation of the genotypes of the scrapie-positive animals linked to the flock), or to a scrapie type to which AV QR sheep are susceptible; or

(3) A sheep or sheep embryo of genotype AA QR that the Administrator has determined is epidemiologically linked to a scrapie-positive RR or AA QR sheep or to a scrapie type to which AA QR sheep are susceptible; or

(4) A sheep or sheep embryo of genotype RR that the Administrator has determined is epidemiologically linked to a scrapie-positive RR sheep or to a

scrapie type to which RR sheep are susceptible.

(5) *Note:* In this definition, R refers to codon 171 and A refers to codon 136, and Q represents any genotype other than R at codon 171 and V represents any genotype other than A at codon 136.

Group/lot identification number (GIN). The identification number used to uniquely identify a unit of animals that is managed together as one group. The format of the GIN may be either as defined in § 86.1 of this chapter, or the flock identification number followed by a six-digit representation of the date on which the group or lot of animals was assembled (MM/DD/YY). If more than one group is created on the same date a sequential number will be added to the end of the GIN. A group lot comprised of animals from a single flock of origin may be subdivided after leaving the premises on which the group lot was formed by adding an S followed by a sequential number to the end of the GIN to create a GIN for each sub group. If a flock identification number is used, the flock identification number, date, and sequential number(s) will be separated by hyphens.

High-risk animal. The female offspring or embryo of a scrapie-positive female animal, or any suspect animal, or a female genetically susceptible exposed animal, or any exposed animal that the Administrator determines to be a potential risk. The Administrator may base the determination that an exposed animal poses a potential risk on the scrapie type, the epidemiology of the flock or flocks with which it is epidemiologically linked, including genetics of the positive sheep, the prevalence of scrapie in the flock, any history of recurrent infection, and other animal or flock characteristics. An animal will no longer be a high-risk animal if it is redesignated in accordance with § 79.4.

* * * * *

Interstate certificate of veterinary inspection (ICVI). An official document issued by a Federal, State, Tribal, or accredited veterinarian certifying the inspection of animals in preparation for interstate movement or other uses as described in this part and in accordance with § 79.5.

* * * * *

Low-risk commercial flock. A flock composed of commercial whitefaced, whitefaced cross, or commercial hair sheep or commercial goats that were born in, and have resided throughout their lives in, flocks with no known risk factors for scrapie, including any exposure to female blackfaced sheep other than whiteface crosses born on the premises; that has never contained a scrapie-positive female, suspect female, or high-risk animal; and that has never been an infected, exposed, or source flock or a flock under investigation. The animals are identified with a legible permanent brand or ear notch pattern registered with an official brand registry or with an official flock identification eartag. The term ''brand'' includes official brand registry brands on eartags in those States whose brand law or regulation recognizes brands placed on eartags as official brands. Low-risk commercial flocks may exist only in a State where in the previous 10 years no flock that had met the definition of a low-risk commercial flock prior to a classification investigation was designated a source or infected flock.

Low-risk exposed animal. Any exposed animal to which the Administrator has determined one or more of the following applies:

(1) The positive animal that was the source of exposure was not born in the flock and did not lamb in the flock or in an enclosure where the exposed animal resided;

(2) The Administrator and State representative concur that the animal is unlikely to be infected due to factors such as, but not limited to, where the animal resided or the time period the animal resided in the flock;

(3) The exposed animal is male and was not born in an infected or source flock;

(4) The exposed animal is a castrated male;

(5) The exposed animal is an embryo of a genetically resistant exposed sheep or a genetically less susceptible exposed sheep unless placed in a recipient that was a genetically susceptible exposed animal; or

(6) The animal was exposed to a scrapie type and/or is of a genotype that the Administrator has determined poses low risk of transmission.

* * * * *

National Uniform Eartagging System (NUES). This term has the meaning set forth in § 86.1 of this subchapter.

* * * * *

Official eartag. This term has the meaning set forth in § 86.1 of this subchapter, except that only eartags approved and distributed in accordance with § 79.2(k) are included.

Official genotype test. A test to determine the genotype of a live or dead animal conducted at either the National Veterinary Services Laboratories or at an approved laboratory. The test subject must be an animal that is officially identified and the test accurately recorded on an official form supplied or approved by APHIS, with the samples collected and shipped to the laboratory using a shipping method specified by the laboratory by:

(1) An accredited veterinarian;

(2) A State or APHIS representative; or

(3) The animal's owner or owner's agent, using a tamper-resistant sampling kit approved by APHIS for this purpose.

* * * * *

Official identification device or method. This term has the meaning set forth in § 86.1 of this subchapter, except that only devices approved and distributed in accordance with § 79.2(k) and methods approved for use in sheep and goats in accordance with § 79.2(a)(2) are included.

Official identification number. This term has the meaning set forth in § 86.1 of this subchapter.

Officially identified. Identified by means of an official identification device or method approved by the Administrator for use in sheep and goats in accordance with this part.

* * * * *

Owner/hauler statement. (1) A signed written statement by the owner or hauler that includes:

(i) The name, address, and phone number of the owner and, if different, the hauler;

(ii) The date the animals were moved;

(iii) The flock identification number or PIN assigned to the flock or premises of the animals;

(iv) If moving individually unidentified animals or other animals required to move with a group/lot identification number, the group/lot identification number and any information required to officially identify the animals;

(v) The number of animals;

(vi) The species, breed, and class of animals. If breed is unknown, for sheep the face color and for goats the type (milk, fiber, or meat) must be recorded instead; and

(vii) The name and address of point of origin, if different from the owner's address, and the destination name and address.

(2) An existing document that includes the information required in paragraphs (1)(i) to (vii) of this definition and that is signed by the owner or the hauler may be used as an owner/hauler statement.

* * * * *

Person. An individual, partnership, company, corporation, or any other legal entity.

* * * * *

Premises identification number (PIN). This term has the meaning set forth in

§ 86.1 of this subchapter. APHIS may also maintain historical and/or State premises numbers and link them to the premises identification number in records and databases. Such secondary or historical numbers are typically the State's two-letter postal abbreviation followed by a number assigned by the State.

Restricted animal sale or restricted livestock facility. A sale where any animals in slaughter channels are maintained separate from other animals not in slaughter channels other than animals from the same flock of origin and are sold in lots that consist entirely of animals sold for slaughter only or a livestock facility at which all animals are in slaughter channels and where the sale or facility manager maintains a copy of, or maintains a record of, the information from, the owner/hauler statement for all animals entering and leaving the sale or facility. A restricted animal sale may be held at a livestock facility that is not restricted.

* * * * *

Slaughter channels. Animals in slaughter channels include any animal that is sold, transferred, or moved either directly to or through a restricted animal sale or restricted livestock facility to an official slaughter establishment that is under Food Safety and Inspection Service (FSIS) jurisdiction per the Federal Meat Inspection Act (FMIA) or under State inspection that FSIS has recognized as at least equal to Federal inspection or to a custom exempt slaughter establishment as defined by FSIS (9 CFR 303.1) for immediate slaughter or to an individual for immediate slaughter for personal use or to a terminal feedlot.

* * * * *

Suspect animal. * * *

(1) A mature sheep or goat as evidenced by eruption of the first incisor that has been condemned by FSIS or a State inspection authority for central nervous system (CNS) signs, or that exhibits any of the following clinical signs of scrapie and has been determined to be suspicious for scrapie by an accredited veterinarian or a State or USDA representative, based on one or more of the following signs and the severity of the signs: Weakness of any kind including, but not limited to, stumbling, falling down, or having difficulty rising, not including those with visible traumatic injuries and no other signs of scrapie; behavioral abnormalities; significant weight loss despite retention of appetite or in an animal with adequate dentition; increased sensitivity to noise and sudden movement; tremors; star gazing; head pressing; bilateral gait abnormalities such as but not limited to incoordination, ataxia, high stepping gait of forelimbs, bunny-hop movement of rear legs, or swaying of back end, but not including abnormalities involving only one leg or one front and one back leg; repeated intense rubbing with bare areas or damaged wool in similar locations on both sides of the animal's body or, if on the head, both sides of the poll; abraded, rough, thickened, or hyperpigmented areas of skin in areas of wool/hair loss in similar locations on both sides of the animal's body or, if on the head, both sides of the poll; or other signs of CNS disease. An animal will no longer be a suspect animal if it is redesignated in accordance with § 79.4.

* * * * *

Terminal feedlot. (1) A dry lot approved by a State or APHIS representative or an accredited veterinarian who is authorized by the Administrator to perform this function where animals in the terminal feedlot are separated from all other animals by at least 30 feet at all times or are separated by a solid wall through, over, or under which fluids cannot pass and contact cannot occur and must be cleaned of all organic material prior to being used to contain sheep or goats that are not in slaughter channels, where only castrated males are maintained with female animals and from which animals are moved only to another terminal feedlot or directly to slaughter; or

(2) A dry lot approved by a State or APHIS representative or an accredited veterinarian authorized by the Administrator to perform this function where only animals that either are not pregnant based on the animal being male, an owner certification that any female animals have not been exposed to a male in the preceding 6 months, an ICVI issued by an accredited veterinarian stating the animals are not pregnant, or the animals are under 6 months of age at time of receipt, where only castrated males are maintained with female animals, and all animals in the terminal feedlot are separated from all other animals such that physical contact cannot occur including through a fence and from which animals are moved only to another terminal feedlot or directly to slaughter; or

(3) A pasture when approved by and maintained under the supervision of the State and in which only nonpregnant animals are permitted based on the animal being male, an owner certification that any female animals have not been exposed to a male in the preceding 6 months, or an ICVI issued by an accredited veterinarian stating the animals are not pregnant, or the animals are under 6 months of age at time of receipt, where only castrated males are maintained with female animals, where there is no direct fence-to-fence contact with another flock, and from which animals are moved only to another terminal feedlot or directly to slaughter.

(4) Records of all animals entering and leaving a terminal feedlot must be maintained for 5 years after the animal leaves the feedlot and must meet the requirements of § 79.2, including either a copy of the required owner/hauler statements for animals entering and leaving the facility or the information required to be on the statements. Records must be made available for inspection and copying by an APHIS or State representative upon request.

Test eligible. An animal that meets a test protocol's age and post-exposure elapsed time requirements for the test to be meaningfully applied.

* * * * *

■ 16. Section 79.2 is revised to read as follows:

§ 79.2 Identification and records requirements for sheep and goats in interstate commerce.

(a) No sheep or goat that is required to be individually identified or group identified by § 79.3 may be sold, disposed of, acquired, exhibited, transported, received for transportation, offered for sale or transportation, loaded, unloaded, or otherwise handled in interstate commerce or commingled with such animals or be loaded or unloaded at a premises or animal concentration point (including premises that exhibit animals) where animals are received that have been in interstate commerce or from which animals are moved in interstate commerce unless each sheep or goat has been identified in accordance with this section.

(1) The sheep or goat must be identified to its flock of origin and to its flock of birth [4] by the owner of the animal or his or her agent, at whichever of the following points in interstate commerce comes first:

(i) Prior to the point of first commingling of the sheep or goats with

[4] You need not identify an animal to its flock of birth or its flock of origin if this information is unknown because the animal changed ownership while it was exempted from flock of origin identification requirements in accordance with § 79.6(a)(10)(i). Such animals may be moved interstate with individual animal identification that is only traceable to the State of origin and to the owner of the animals at the time they were so identified. To use this exemption the person applying the identification must have supporting documentation indicating that the animals were born and had resided throughout their life in the State.

sheep or goats from any other flock of origin;

(ii) Upon unloading of the sheep or goats at a livestock facility approved in accordance with § 71.20 of this subchapter and that has agreed to act as an agent for the owner to apply official identification and prior to commingling with animals from another flock of origin. Such facilities may identify animals after sale if the facility maintains unidentified animals from different flocks of origin or, when required, different flocks of birth in separate enclosures until officially identified. The animals must be accompanied by an owner/hauler statement that contains the information needed for the livestock facility to officially identify the animals to their flock of origin and, when required, their flock of birth;

(iii) Upon transfer of ownership of the sheep or goats;

(iv) If the owner of the premises or the owner of the animal engages in the interstate commerce of animals, then prior to moving a sheep or goat from the premises on which it resides, unless the animals are moving to a livestock facility approved to handle the species and class of animal to be moved as described in § 71.20 of this subchapter that has agreed to act as an agent for the owner to apply official identification and in accordance with paragraph (a)(1)(ii) of this section or to a slaughter plant listed in accordance with § 71.21 of this subchapter as part of a group lot. Unless prohibited by State law or regulation, this does not preclude a person from moving animals as part of a group lot directly to another site in the same State to have official eartags that have been assigned to the animal's flock of origin in the National Scrapie Database applied to the animals;

(v) In the case of animals that have only resided on premises and in flocks owned by persons that do not engage in interstate commerce, upon unloading a sheep or goat at a livestock facility or other premises where animals are received that have been in interstate commerce or from which animals are moved in interstate commerce and prior to commingling with animals from another flock of origin. Such animals must be accompanied by an owner/hauler statement that contains the information needed to officially identify the animals to their flock of origin and, when required, their flock of birth; or

(vi) Before moving a sheep or goat across a State line, unless moving to an approved livestock facility that is approved to handle that species and class of animals as described in § 71.20 of this subchapter that has agreed to act as an agent for the owner to apply official identification, and prior to commingling with animals from another flock of origin. Such animals must be accompanied by an owner/hauler statement that contains the information needed for the livestock facility to officially identify the animals to their flock of origin and, when required, their flock of birth.

(2) The sheep or goats must be identified and remain identified using a device or method approved in accordance with paragraph (k) of this section. All animals required to be individually identified by § 79.3 shall be identified with official identification devices or methods. A list of approved identification devices and methods, including restrictions on their use, is available at *http://www.aphis.usda.gov/animal-health/scrapie.* Written requests for approval of sheep or goat identification device types or methods not listed at *http://www.aphis.usda.gov/animal-health/scrapie* should be sent to the National Scrapie Program Coordinator, Strategy and Policy, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1235. If the Administrator determines that an identification device or method will provide an effective means of tracing sheep and goats in interstate commerce, APHIS will provide public notice that the device type or method, along with any restrictions on its use, has been added to the list of approved devices and methods of official sheep and goat identification.

(3) No person shall buy or sell, for his or her own account or as the agent of the buyer or seller, transport, receive for transportation, offer for sale or transportation, load, unload, or otherwise handle any animal that is in or has been in interstate commerce that has not been identified as required by this section including loading or unloading at a premises (including premises that exhibit animals) where animals are received that have been in interstate commerce or from which animals are moved in interstate commerce. No person shall commingle animals with any animal that is in or has been in interstate commerce that has not been identified as required by this section. If the person transporting animals is aware of any animal in the shipment that loses its identification to its flock of origin while in interstate commerce, the person transporting the animal is required to inform the receiving party of this fact, and it is the responsibility of the person who has control or possession of the animal upon unloading/delivery to identify the animal or have the animal identified prior to commingling it with any other animals. This shall be done by applying individual animal identification to the animal as required in paragraph (a)(2) of this section and recording the means of identification and the corresponding animal identification number on the waybill or other shipping document. If the flock of origin cannot be determined, all possible flocks of origin shall be listed on the record, or if this cannot be done, the animal must be identified with a slaughter only eartag and may only move in slaughter channels or, in the case of sheep, may be officially identified and moved for other purposes if the animal is inspected by an accredited veterinarian, found free of evidence of infectious or contagious disease and officially genotyped as AA QR or AA RR.

(b) The State Animal Health Official or Veterinary Services, Field Operations, Area Veterinarian in Charge (AVIC) responsible for the State involved, whoever is responsible for issuing official identification devices or numbers in that State and for assigning flock identification numbers and premises identification numbers in that State in the National Scrapie Database, may issue sets of unique serial numbers or flock identification/production numbers for use on official individual identification devices (such as eartags or tattoos). Flock identification/production numbers may only be assigned to owners of breeding flocks.

(1) *Animals not in slaughter channels.* Official identification numbers for use on animals not in slaughter channels may only be assigned either directly to the owner of a breeding flock for application to animals that originated in a breeding flock owned by them or, in the case of official serial numbers or serial number devices, to APHIS or State representatives or accredited veterinarians or other responsible individuals as described in paragraphs (b)(2) and (3) of this section APHIS or State representatives may apply official identification to animals or issue official identification to owners of breeding flocks for application to animals in those flocks. APHIS and State personnel who apply or issue official identification must provide to APHIS, in a manner acceptable to APHIS, assignment data associating the serial numbers applied to animals or issued to owners, to the flock of origin and, when required, the flock of birth. Accredited veterinarians who apply official serial numbers or devices when requested by APHIS a must provide to APHIS, in a manner acceptable to APHIS, assignment data associating the serial sequences applied to animals to the

flock of origin and, when required, the flock of birth. One such method would be to enter the data into the National Scrapie Database. Such requests may be made directly to a person or persons or to accredited veterinarians as a group through amendment of the Scrapie Program Standards Volume 1: National Scrapie Eradication Program.

(2) *Assignment of serial numbers.* The official responsible for issuing eartags in a State may also assign serial numbers of official eartags to other responsible persons, such as 4–H leaders, if the State Animal Health Official and Veterinary Services, Field Operations, AVIC responsible for the State involved agree that such assignments will improve scrapie control and eradication within the State. Such persons assigned serial numbers may either directly apply eartags to animals, or may reassign eartag numbers to producers. Such persons must maintain appropriate records in accordance with paragraph (g) of this section that permit traceback of animals to their flock of origin, or flock of birth when required, and must either reassign the tags in the National Scrapie Database or, if permitted by the Veterinary Services, Field Operations, AVIC responsible for the State involved, provide a written record of the reassignment to the Field Office or the State Office for entry into the National Scrapie Database.

(3) *Persons handling sheep and goats in commerce.* Sets of unique individual identification serial numbers may be assigned to persons who handle sheep and goats, that did not originate in a breeding flock owned by them, if they apply to and are approved by the State Animal Health Official or the Veterinary Services, Field Operations, AVIC responsible for the State in which the person maintains his or her business location, whichever is responsible for issuing official identification devices or numbers in that State and for assigning flock identification numbers and premises identification numbers in that State in the National Scrapie Database. When requested by APHIS, persons who apply official identification to sheep or goats that did not originate in a breeding flock owned by them must provide, in a manner acceptable to APHIS, assignment data associating assigned serial sequences to the flock of origin and, when required, the flock of birth. One such method would be to enter the data into the National Scrapie Database. The request may be made directly to a person or persons or to a class of persons through amendment of the Scrapie Program Standards Volume 1: National Scrapie Eradication Program. The State Animal Health Official or the Administrator may limit the assignment of official identification devices or numbers to persons, or classes of persons, for use on animals that did not originate in a breeding flock owned by them to slaughter only devices or numbers.

(4) *Breed registries.* Sets of unique individual identification numbers may also be assigned by the Administrator to breed registries that agree to reassign the sequences to the flock of origin and, and when required, the flock of birth and to provide associated registry identifiers such as registry tattoo numbers to APHIS in the National Scrapie Database.

(5) *Noncompliance.* In addition to any applicable criminal or civil penalties any person who fails to comply with the requirements of this section or that makes false statements in order to acquire official identification numbers or devices shall not be assigned official identification numbers or official identification devices for a period of at least 1 year. If a person who is not in compliance with these requirements has already been assigned such numbers, the Administrator may withdraw the assignment by giving notice to such person. Such withdrawal or failure to assign official identification numbers may be appealed in accordance with § 79.4(c)(3). A person shall be subject to criminal and civil penalties if he or she continues to use assigned numbers that have been withdrawn from his or her use.

(c) No person shall apply a premises or flock identification number or a brand or earnotch pattern to an animal that did not originate on the premises or flock to which the number was assigned by a State or APHIS representative or to which the brand or earnotch pattern has been assigned by an official brand registry. This includes individual identification such as USDA eartags that have been assigned to a premises or flock and registration tattoos that contain prefixes that have been assigned to a premises or flock for use as premises or flock identification. Unless the number sequence was issued specifically for use on animals born in a flock, this would not preclude the owner of a flock from using an official premises or flock identification number tag assigned to that flock on an animal owned by him or her that resides in that flock but that was born or previously resided on a different premises as long as the records required in paragraph (g) of this section are maintained.

(d) No person shall sell or transfer an official identification device or number assigned to his or her premises or flock except when it is transferred with a sheep or goat to which it has been applied as official identification or as directed in writing by an APHIS or State representative.

(e) No person shall use an official identification device or number provided for the identification of sheep and goats other than for the identification of a sheep or goat.

(f) Persons who engage in the interstate commerce of animals including persons that handle or own animals that have been in interstate commerce or that purchase, acquire, sell, or dispose of sheep and/or goats from or to persons who engage in the interstate commerce of animals, whether or not the animals are required to be officially identified, must maintain business records (such as yarding receipts, sale tickets, invoices, and waybills) for 5 years. These persons must make the records available for inspection and copying by any authorized USDA or State representative upon that representative's request and presentation of his or her official credentials. The records must include the following information:

(1) The number of animals purchased or sold (or transferred without sale);

(2) The date of purchase, sale, or other transfer;

(3) The name and address of the person from whom the animals were purchased or otherwise acquired or to whom they were sold or otherwise transferred;

(4) The species, breed, and class of animal. If breed is unknown, for sheep the face color and for goats the type (milk, fiber, or meat) must be recorded instead;

(5) A copy of the brand inspection certificate for animals officially identified with brands or ear notches;

(6) A copy of any certificate or owner/hauler statement required for movement of the animals purchased, sold, or otherwise transferred; and

(7) If the flock of origin or the receiving flock is under a flock plan or post-exposure management and monitoring plan, any additional records required by the plan.

(g) Persons who apply official individual or group/lot identification to animals must maintain records for 5 years. These persons must make the records available for inspection and copying by any authorized USDA or State representative upon that representative's request and presentation of his or her official credentials. The records must include the following information:

(1) The flock identification number of the flock of origin, the name and address of the person who currently owns the animals, and the name and

address of the owner of the flock of origin if different;

(2) The name and address of the owner of the flock of birth, if known, for animals in another flock and not already identified to flock of birth;

(3) The date the animals were officially identified;

(4) The number of sheep and the number of goats identified;

(5) The breed and class of the animals. If breed is unknown, for sheep the face color and for goats the type (milk, fiber, or meat) must be recorded instead;

(6) The official identification numbers applied to animals by species or the GIN applied in the case of a group lot;

(7) Whether the animals were identified with ''Slaughter Only'' or ''Meat'' identification devices; and

(8) Any GIN with which the animal was previously identified.

(h) Official identification devices are intended to provide permanent identification of livestock and to ensure the ability to find the source of animal disease outbreaks. Removal of these devices, including devices applied to imported animals in their countries of origin and recognized by the Administrator as official, is prohibited except at the time of slaughter, at any other location upon the death of the animal, or as otherwise approved by the State or Tribal animal health official or the Veterinary Services, Field Operations, AVIC responsible for the State involved when a device needs to be replaced.

(1) All man-made identification devices affixed to sheep or goats moved interstate must be removed at slaughter and correlated with the carcasses through final inspection by means approved by the Food Safety and Inspection Service (FSIS). If diagnostic samples, including whole heads, are taken, the identification devices must be packaged with the samples and must be left attached to approximately 1 inch of tissue or to the whole head to allow for identity testing and be correlated with the carcasses through final inspection by means approved by FSIS. Devices collected at slaughter must be made available to APHIS and FSIS.

(2) All official identification devices affixed to sheep or goat carcasses moved interstate for rendering must be removed at the rendering facility and made available to APHIS. If diagnostic samples, including whole heads, are taken, the identification devices must be packaged with the samples and must be left attached to approximately 1 inch of tissue or to the whole head to allow for identity testing.

(3) If a sheep or goat loses an official identification device except while in interstate commerce as described in paragraph (a)(3) of this section and needs a new one, the person applying the new official identification device must record the official identification number from the old device, if known, in addition to the information required to be recorded in accordance with paragraph (g) of this section.

(i) Replacement of official identification devices for reasons other than loss include:

(1) Circumstances under which a State or Tribal animal health official or the Veterinary Services, Field Operations, AVIC responsible for the State involved may authorize replacement of an official identification device include, but are not limited to:

(i) Deterioration of the device such that loss of the device appears likely or the number can no longer be read;

(ii) Infection at the site where the device is attached, necessitating application of a device at another location (*e.g.,* a slightly different location of an eartag in the ear);

(iii) Malfunction of the electronic component of a radio frequency identification (RFID) device; or

(iv) Incompatibility or inoperability of the electronic component of an RFID device with the management system or unacceptable functionality of the management system due to use of an RFID device.

(2) Any time an official identification device is replaced, as authorized by the State or Tribal animal health official or the Veterinary Services, Field Operations, AVIC responsible for the State involved, the person replacing the device must record the following information about the event and maintain the record for 5 years:

(i) The date when the device was removed;

(ii) The address of the location and the name, phone number and email address of the person responsible for the location where the device was removed;

(iii) The official identification number (to the extent possible) on the device removed;

(iv) The type of device removed (*e.g.,* metal eartag, RFID eartag);

(v) The reason for the removal of the device;

(vi) The new official identification number on the replacement device; and

(vii) The type of replacement device applied.

(j) Beginning on April 24, 2019, no more than one official eartag may be applied to an animal; except that:

(1) Another official eartag may be applied providing it bears the same official identification number as an existing one.

(2) In specific cases when the need to maintain the identity of an animal is intensified (*e.g.,* such as for export shipments, quarantined herds, field trials, experiments, or disease surveys), a State or Tribal animal health official or the Veterinary Services, Field Operations, AVIC responsible for the State involved may approve the application of a second official eartag. The person applying the second official eartag must record the following information about the event and maintain the record for 5 years: The date the second official eartag is added; the reason for the additional official eartag device; and the official identification numbers of both official eartags.

(3) An eartag with an animal identification number (AIN) beginning with the 840 prefix (either radio frequency identification or visual-only tag) may be applied to an animal that is already officially identified with another eartag. The person applying the AIN eartag must record the date the AIN tag is added and the official identification numbers of all official eartags on the animal and must maintain those records for 5 years.

(4) An official eartag that utilizes a flock identification number may be applied to a sheep or goat that is already officially identified with an official eartag if the animal has resided in the flock to which the flock identification number is assigned.

(k) Requirements for approval of official identification devices include:

(1) The Administrator may approve companies to produce official identification devices for use on sheep or goats. Devices may be plastic, metal, or other suitable materials and must be an appropriate size for use in sheep and goats. Devices must be able to legibly accommodate the required alphanumeric sequences. Devices must resist removal and be difficult to place on another animal once removed unless the construction of the device makes such tampering evident, but need not be tamper-proof. Devices must be readily distinguishable as USDA official sheep and goat identification devices; must carry the alphanumeric sequences, symbols, or logos specified by APHIS; must be an allowed color for the intended use, and must have a means of discouraging counterfeiting, such as use of a unique copyrighted logo or trade mark. Devices for use only on animals in slaughter channels must be medium blue and marked with the words ''Meat'' or ''Slaughter Only''. Devices that use RFID must conform to ISO 11784 and ISO 11785 standards unless otherwise approved. The Administrator may specify the color, shape or size of a

device for an intended use to make them readily identifiable.

(2) Written requests for approval of official identification devices for sheep and goats should be sent to the National Scrapie Program Coordinator, Strategy and Policy, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1235. The request must include:

(i) The materials used in the device and in the case of RFID the transponder type and data regarding the lifespan and read range.

(ii) Any available data regarding the durability of the device, durability and legibility of the identification numbers, rate of adverse reactions such as ear infections, and retention rates of the devices in animals, preferably sheep and/or goats.

(iii) A signed statement agreeing to:

(A) Send official identification devices only to a State or APHIS representative, to the owner of a premises or to the contact person for a premises at the address listed in the National Scrapie Database, or as directed by APHIS;

(B) When requested by APHIS, provide a report by State of all tags produced, including the tag sequences produced and the name and address of the person to whom the tags were shipped, and provide supplemental reports of this information when requested by APHIS;

(C) Maintain the security and confidentiality of all tag recipient information acquired as a result of being an approved tag manufacturer and utilize the information only to provide official identification tags; and

(D) Enter the sequences of tags shipped in the National Scrapie Database through an internet web page interface or other means specified by APHIS prior to shipping the identification device.

(iv) Twenty-five sample devices. Additional tags must be submitted if requested by APHIS.

(3) Approval will only be given for devices for which data have been provided supporting high legibility, readability (visual and RFID), and retention rates in sheep and goats that minimize injury throughout their lifespan, or for which there is a reasonable expectation of such performance. Approval to produce official identification devices will be valid for 1 year and must be renewed annually. The Administrator may grant provisional approval to produce devices for periods of less than 1 year in cases where there is limited or incomplete data. The Administrator may decline to renew a company's approval or suspend or withdraw approval if the devices do not show adequate retention and durability or cause injury in field use or if any of the requirements of this section are not met by the tag company. Companies shall be given 60 days' written notice of intent to withdraw approval. Any person who is approved to produce official identification tags in accordance with this section and who knowingly produces tags that are not in compliance with the requirements of this section, and any person who is not approved to produce such tags but does so, shall be subject to such civil penalties and such criminal liabilities as are provided by 18 U.S.C. 1001, 7 U.S.C. 8313, or other applicable Federal statutes. Such action may be in addition to, or in lieu of, withdrawal of approval to produce tags.

(Approved by the Office of Management and Budget under control numbers 0579–0101 and 0579–0469)

■ 17. Section 79.3 is revised to read as follows:

§ 79.3 General restrictions.

The following prohibitions and movement conditions apply to the movement of or commingling with sheep and goats in interstate commerce, and no sheep or goat may be sold, disposed of, acquired, exhibited, transported, received for transportation, offered for sale or transportation, loaded, unloaded, or otherwise handled in interstate commerce, or commingled with such animals, or be loaded or unloaded at a premises or animal concentration point (including premises that exhibit animals) where animals are received that have been in interstate commerce or from which animals are moved in interstate commerce except in compliance with this part.

(a) No sexually intact animal of any age or castrated animal 18 months of age and older (as evidenced by the eruption of the second incisor) may be moved or commingled with animals in interstate commerce unless it is individually identified to its flock of birth [5] and is accompanied by an ICVI, except that an ICVI is not required unless the animal is moved across a State line, and except for the following, which may move with group lot identification and an owner/hauler statement:

(1) Animals in slaughter channels that are under 18 months of age (as evidenced by the eruption of the second incisor);

(2) Animals in slaughter channels at 18 months and older (as evidenced by the eruption of the second incisor) if the animals were kept as a group on the same premises on which they were born and have not been maintained in the same enclosure with unidentified animals from another flock at any time, including throughout the feeding, marketing, and slaughter process;

(3) An owner/hauler statement may be used instead of an ICVI for mixed source animals in slaughter channels 18 months of age and older (as evidenced by the eruption of the second incisor) that are identified with official individual identification or in the case of animals from flocks that are low-risk commercial flocks that are identified using identification methods or devices approved for this purpose;

(4) Animals moving for grazing or other management purposes between two premises both owned or leased by the flock owner and recorded in the National Scrapie Database as additional flock premises and where commingling will not occur with unidentified animals that were born in another flock or any animal that is not part of the flock. A request to APHIS to enter additional flock premises in the National Scrapie Database is required before animals are first moved to the premises. Notification is not required for each subsequent movement of animals to that premises. Neither group lot ID nor an owner/hauler statement is required for movements of a flock or its members for flock management purposes within a contiguous premises spanning two or more States. This provision does not include the transiting or sale of animals through such a premises in circumvention of the other requirements of this part; and

(5) Animals moving to a livestock facility approved in accordance with § 71.20 of this subchapter and that has agreed to act as an agent for the owner to apply official identification if the animals have been in the same flock in which they were born and have not been maintained in the same enclosure with unidentified animals born in another flock at any time. Such facilities may identify animals after sale if the facility maintains unidentified animals from different flocks of origin or when required birth in separate enclosures until officially identified.

(b) No scrapie-positive or suspect animal may be moved other than by

[5] You need not identify an animal to its flock of birth or its flock of origin if this information is unknown because the animal changed ownership while it was exempted from flock of origin identification requirements in accordance with § 79.6(a)(10)(i). Such animals may be moved interstate with individual animal identification that is only traceable to the State of origin and to the owner of the animals at the time they were so identified. To use this exemption the person applying the identification must have supporting documentation indicating that the animals were born and had resided throughout their life in the State.

permit to an APHIS approved research or quarantine facility or for destruction under APHIS or State supervision. Such animals must be individually identified and listed on the permit.

(c) No indemnified high-risk animal or indemnified sexually intact genetically susceptible exposed animal may be moved other than by permit to an APHIS approved research or quarantine facility or for destruction at another site. Such animals that are not indemnified and are not scrapie-positive or suspect animals may be moved to slaughter under permit. Animals moved in accordance with this paragraph must be individually identified and listed on the permit.

(d) No exposed animal may be moved unless it is officially individually identified.

(e) No animal may be moved from an infected flock or source flock except as allowed by an approved flock plan.

(f) No animal may be moved from an exposed flock, a flock under investigation or a flock subject to a PEMMP except as allowed in a PEMMP or where a PEMMP is not required, as allowed by written instructions from an APHIS or State representative.

(g) Animals moved to slaughter:

(1) Once an animal enters slaughter channels the animal may not be removed from slaughter channels. An animal is in slaughter channels if it was sold through a restricted animal sale, resided in a terminal feedlot, was sold with a bill of sale marked for slaughter only, was identified with an identification device or tattoo marked ''Slaughter Only'' or ''MEAT'' or was moved in a manner not permitted for other classes of animals. Animals in slaughter channels may move either directly to a slaughter establishment that is under Food Safety and Inspection Service (FSIS) jurisdiction per the Federal Meat Inspection Act (FMIA) or under State inspection that FSIS has recognized as at least equal to Federal inspection or to a custom exempt slaughter establishment as defined by FSIS (9 CFR 303.1) for immediate slaughter or to an individual for immediate slaughter for personal use or to a terminal feedlot, or may move indirectly to such a destination through a restricted animal sale or restricted livestock facility. Once an animal has entered slaughter channels it may only be officially identified with an official blue eartag marked with the words ''Meat'' or ''Slaughter Only'' or an ear tattoo reading ''Meat.'' Animals in slaughter channels must be accompanied by an owner/hauler statement. The statement must also include the name and address of the person or livestock facility from which and where they were acquired, if different from the owner; the slaughter establishment, restricted animal sale, restricted livestock facility or terminal feedlot to which they are being moved, and a statement that the animals are in slaughter channels. A copy of the owner/hauler statement must be provided to the slaughter establishment, restricted animal sale, restricted livestock facility or terminal feedlot to which the animals are moved. Any bill of sale regarding the animals must indicate that the animals were sold for slaughter only.

(2) Animals that were in slaughter channels before arriving at a sale and animals that cannot meet the ID and ICVI requirements for unrestricted movement prior to leaving a sale may not be sold at an unrestricted sale. This does not preclude animals sold at an unrestricted sale from being moved in slaughter channels after sale if identified as required for animals in slaughter channels.

(3) Animals in slaughter channels may not be held in the same enclosure with sexually intact animals from another flock of origin that are not in slaughter channels.

(h) No animals designated for testing as part of a classification or reclassification investigation may be moved until testing is completed and results reported, except for movement by permit for testing, slaughter, research, or destruction. Such animals must be individually identified and listed on the permit.

(i) The following animals, if not restricted as part of a flock plan or PEMMP, may be moved to any destination without further restriction after being officially identified and designated or redesignated by a DSE to be:

(1) Genetically resistant exposed sheep;

(2) Genetically less susceptible exposed sheep; or

(3) Low-risk exposed animals.

(j) Animals moved from Inconsistent States must meet the following requirements in addition to other requirements of this section.

(1) Sheep and goats not in slaughter channels must be enrolled in the Scrapie Free Flock Certification Program or an equivalent APHIS recognized program or be sheep that are officially genotyped and determined to be AA QR or AA RR, be officially identified, and be accompanied by an ICVI that also states the individual animal identification numbers, the flock of origin, and the flock of birth, if different.

(2) Animals in slaughter channels must be officially identified with an official blue eartag marked with the words ''Meat'' or ''Slaughter Only'' and may move only directly to slaughter or to a terminal feedlot. Animals 18 months of age and older (as evidenced by the eruption of the second incisor) in slaughter channels must also be accompanied by an ICVI that states the individual animal identification numbers, and the flock of birth (and the flock of origin, if different).

(k) APHIS may enter into compliance agreements with persons such as dealers and owners of slaughter establishments and markets whereby animals may be received unidentified or without a required owner/hauler statement even if they cannot be identified to their flock of birth or origin because they were moved or commingled while unidentified, in violation of this part or a State requirement as provided by § 79.6. *Provided that,* the agreement requires the person signing the agreement to report the violation to the Veterinary Services, Field Operations, AVIC responsible for the State involved so that corrective action can be taken against the principal violator. In such cases the animal must be identified with a slaughter only tag, and is moved only in slaughter channels or, in the case of sheep, moved for other purposes if the animal is inspected by an accredited veterinarian, found free of evidence of infectious or contagious disease, and officially genotyped as AA QR or AA RR where Q and R refer to codon 171 and A refers to codon 136. APHIS may also enter into compliance agreements with persons or in the case of approved livestock facilities may amend an approved livestock facility agreement to establish alternative methods to maintain the traceability of animals in slaughter channels to their flock of origin or waive the requirement for individual official identification of animals in slaughter channels if adequate surveillance has been conducted on the flock of origin or an alternative plan is in place to conduct surveillance on animals from the flock of origin when the Administrator and the State Animal Health Official agree that the application of an allowed official identification device or method is unsuitable for a specific circumstance. An example of a specific circumstance could be large unruly horned male goats moving through approved livestock facilities.

(Approved by the Office of Management and Budget under control numbers 0579–0101 and 0579–0469)

■ 18. Section 79.4 is revised to read as follows:

§ 79.4 Designation of scrapie-positive animals, high-risk animals, exposed animals, suspect animals, exposed flocks, infected flocks, noncompliant flocks, and source flocks; notice to owners.

(a) *Designation.* Based on a classification investigation as defined in § 79.1, including testing of animals, if needed, a designated scrapie epidemiologist will designate a flock to be an exposed flock, an infected flock, a source flock, a flock under investigation, and/or a non-compliant flock, or designate an animal to be a scrapie-positive animal, high-risk animal, exposed animal, genetically susceptible exposed animal, genetically resistant exposed sheep, genetically less susceptible exposed sheep, low-risk exposed animal, and/or a suspect animal after determining that the flock or animal meets the criteria of the relevant definition in § 79.1.

(b) *Redesignation.* A reclassification investigation as defined in § 79.1 may be conducted to determine whether the current designated status of a flock or animal may be changed or removed. Reclassification investigations will be initiated and conducted, and redesignation decisions will be made, in accordance with procedures approved by the Administrator. These procedures are available at *http://www.aphis.usda.gov/animal-health/scrapie.*

(c) *Testing and notification procedures.* Any animal that may be a high-risk animal, any animal that may have been exposed to the lambing of a high-risk animal, any suspect animal, and any animal that was born in the flock after a high-risk animal may have lambed may be selected for testing by the DSE or an APHIS or State representative working under the direction of a DSE or the Administrator. Which animals are selected and the method of testing selected animals will be based on the risk associated with the flock and the type and number of animals available for test. When flock records are adequate to determine that all high-risk animals that lambed in the flock are available for testing, the testing may be limited to postmortem testing of all high-risk and suspect animals. Testing may also include an official genotype test, live-animal testing using a live-animal official test, the postmortem examination and testing of genetically susceptible animals in the flock that cannot be evaluated by a live animal test, postmortem examination of other animals, and postmortem examination and testing of animals found dead or cull animals at slaughter. Animals may not be tested for scrapie to establish the designation of the flock until they are test eligible. Animals are generally considered test eligible when the animals are over 14 months of age if born after the exposure or are 18 months post exposure. If testing these animals is necessary to establish the status of a flock they must be held for later testing unless sent directly to slaughter or a terminal feedlot.

(1) *Noncooperation.* If an owner does not make his or her animals available for testing within 60 days of notification by an APHIS or State representative, within 60 days of becoming test eligible, or as mutually agreed in writing by the Administrator and the owner, or fails to submit required postmortem samples, the flock will be designated a source, infected, or exposed flock, whichever definition applies and a noncompliant flock.

(2) *Notice to owner.* As soon as possible after making a designation or redesignation determination, a State or APHIS representative will attempt to notify the owner(s) of the flock(s) or animal(s) in writing of the designation.

(3) *Appeal.* The owner of an animal may appeal the designation of an animal as a scrapie-positive animal, high-risk animal, exposed animal, genetically susceptible exposed animal, genetically resistant exposed sheep, genetically less susceptible exposed sheep, low-risk exposed animal, or a suspect animal. The owner of a flock may appeal the designation of the flock as an exposed flock, an infected flock, a source flock, a flock under investigation, or a non-compliant flock. The owner of a laboratory or test manufacturing facility may appeal the suspension or withdrawal of approval for a laboratory or a test. To do so, the owner must appeal by writing to the Administrator within 10 days after being informed of the reasons for the proposed action. The appeal must include all of the facts and reasons upon which the owner relies to show that the proposed action is incorrect or is not supported. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. The action under appeal shall continue in effect pending the final determination of the Administrator, unless otherwise ordered by the Administrator. The final determination of the Administrator shall become effective upon oral or written notification, whichever is earlier, to the owner. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. The Administrator's final determination constitutes final agency action.

(Approved by the Office of Management and Budget under control number 0579–0101)

■ 19. Section 79.5 is revised as follows:

§ 79.5 Issuance of Interstate Certificates of Veterinary Inspection (ICVI).

(a) ICVIs are required as specified by § 79.3 for certain interstate movements of sheep or goats and may be used to meet the requirements for entry into terminal feedlots. An ICVI and all copies must be legible and must show the following information, except when § 79.3 states that the information is not required for the specific type of interstate movement:

(1) The ICVI must show the species, breed or, if breed is unknown, the face color of sheep or the type of goats (milk, fiber, or meat), and class of animal, such as replacement ewe lambs, slaughter lambs or kids, cull ewes, club lambs, bred ewes, etc.; the number of animals covered by the ICVI; the purpose for which the animals are to be moved; the address at which the animals were loaded for interstate movement or for movement to a terminal feedlot when an ICVI is required; the address to which the animals are destined; and the names of the consignor and the consignee and their addresses if different from the address at which the animals were loaded or the address to which the animals are destined; and if different the current owner;

(2) Each animal's official individual identification numbers: *Provided,* that, in the case of animals identified with official identifications devices or methods that include the flock identification number(s) assigned to the flock(s) of origin in the National Scrapie Database and an individual animal number unique within the flock, the flock identification number(s) may be recorded instead of the individual identification numbers, and for animals allowed by § 79.3 to move with group lot identification, the group lot number may be recorded instead of the individual identification numbers. An ICVI may not be issued for any animal that is not officially identified if official identification is required. If the animals are not required by the regulations to be officially identified, the ICVI must state the exemption that applies (*e.g.,* sheep and goats moving for grazing without change of ownership). If the animals are required to be officially identified but the identification number is not required to be recorded on the ICVI, the ICVI must state that all animals to be

moved under the ICVI are officially identified and state the exemption that applies (*e.g.* the ewes are identified with flock of origin tags so only the flock ID must be recorded on the ICVI); and

(3) A statement by the issuing accredited, State, or Federal veterinarian to the effect that on the date of issuance the animals were free of evidence of infectious or contagious disease and insofar as can be determined exposure thereto. This statement may be made with respect to scrapie for animals exposed to scrapie that's movement is not restricted that have been designated genetically resistant or less susceptible sheep or low-risk exposed animals. Except as provided in paragraphs (b) and (c) of this section, all information required by this paragraph must be typed or legibly written on the ICVI. Note that in accordance with paragraphs (a), (b), and (e) of § 79.3, scrapie-positive, suspect, and high-risk animals, some exposed animals, and some animals that originated in an infected or source flock require permits rather than ICVIs.

(4) The ICVI must be signed by the issuing State, Federal, Tribal or accredited veterinarian and must be legible on all copies.

(b) As an alternative to typing or writing individual animal identification on an ICVI, if agreed to by the receiving State or Tribe, another document may be used to provide this information, but only under the following conditions:

(1) The document must be a State form or APHIS form that requires individual identification of animals or a printout of official identification numbers generated by computer or other means;

(2) A legible copy of the document must be stapled to the original and each copy of the ICVI;

(3) Each copy of the document must identify each animal to be moved with the ICVI, but any information pertaining to other animals, and any unused space on the document for recording animal identification, must be crossed out in ink; and

(4) The following information must be written in ink in the identification column on the original and each copy of the ICVI and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the document; and

(ii) Either the unique serial number on the document or, if the document is not imprinted with a serial number, both the name of the person who prepared the document and the date the document was signed.

(c) Ownership brands documents attached to ICVIs. As an alternative to typing or writing ownership brands on an ICVI, an official brand inspection certificate may be used to provide this information, but only under the following conditions:

(1) A legible copy of the official brand inspection certificate must be stapled to the original and each copy of the ICVI;

(2) Each copy of the official brand inspection certificate must show the ownership brand of each animal to be moved with the ICVI, but any other ownership brands, and any unused space for recording ownership brands, must be crossed out in ink; and

(3) The following information must be typed or written in ink in the official identification column on the original and each copy of the ICVI and must be circled or boxed, also in ink, so that no additional information can be added:

(i) The name of the attached document; and

(ii) Either the serial number on the official brand inspection certificate or, if the official brand inspection certificate is not imprinted with a serial number, both the name of the person who prepared the official brand inspection certificate and the date it was signed.

(d) If more than one page is used each page must be sequentially numbered with the page number and the total number of pages (for example 1 of 2, 2 of 2).

(Approved by the Office of Management and Budget under control numbers 0579–0101 and 0579–0469)

■ 20. Section 79.6 is amended as follows:

■ a. In paragraph (a) introductory text by adding the words '', including scrapie surveillance activities,'' after the words ''control activities'';

■ b. By redesignating paragraphs (a)(10)(i) through (vi) as paragraphs (a)(12) through (a)(17), respectively, and by revising paragraph (a)(10);

■ c. By adding paragraph (a)(11);

■ d. In paragraph (b), by adding the words ''from the date the State is notified of the deficiency'' after the words ''2-year extension'';

■ e. By adding paragraph (c); and

■ f. By adding an OMB citation at the end of the section.

The revision and additions read as follows:

§ 79.6 Standards for States to qualify as Consistent States.

(a) * * *

(10) Has effectively implemented ongoing scrapie surveillance that meets the following criteria:

(i) Collects and submits surveillance samples from targeted animals slaughtered in State-inspected establishments and from slaughter establishments within the State that are not covered under § 71.21 of this subchapter, or allows and facilitates the collection of such samples by USDA personnel or contractors; and

(ii) Transmits required submission and epidemiological information for all scrapie samples using the electronic submission system provided by APHIS for inclusion in the National Scrapie Database and for transmission of the submission information to an approved laboratory; and

(iii) Achieves the annual State-level scrapie surveillance minimums for sheep and goats originating from the State as determined annually by the Administrator with input from the States and made available to the public at *http://www.aphis.usda.gov/animal-health/scrapie* at least 6 months before the start of the collection period; or

(iv) Conducts annual surveillance at a level that will detect scrapie if it is present at a prevalence of 0.1 percent in the population of targeted animals originating in the State, with a 95 percent confidence.

(11) If a State does not meet the requirements of paragraph (a)(10) of this section as of April 24, 2019, the State must provide APHIS with a plan and a timeline for complying with all the requirements of paragraph (a)(10) by April 24, 2020, and must meet the requirements of paragraph (a)(10) of this section by April 26, 2021.

* * * * *

(c) When the Administrator determines that a State should be added to or removed from the list of Consistent States, APHIS will publish a notice in the **Federal Register** advising the public of the Administrator's determination, providing the reasons for that determination, and soliciting public comments. After considering any comments we receive, APHIS will publish a second notice either advising the public that the Administrator has decided to add or remove theState from the list of Consistent States or notifying the public that the Administrator has decided not to make any changes to the list of Consistent States, depending on the information presented in the comments.

(Approved by the Office of Management and Budget under control number 0579–0101)

Done in Washington, DC, this 15th day of March 2019.

Greg Ibach,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 2019–05430 Filed 3–22–19; 8:45 am]

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Part III

Environmental Protection Agency

40 CFR Part 52
Clean Air Plans; 2008 8-Hour Ozone Nonattainment Area Requirements; San Joaquin Valley, California and Approval and Promulgation of Air Quality State Implementation Plans; California; Plumas County; Moderate Area Plan for the 2012 $PM_{2.5}$ NAAQS; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0535; FRL–9990–13–Region 9]

Clean Air Plans; 2008 8-Hour Ozone Nonattainment Area Requirements; San Joaquin Valley, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve portions of two state implementation plan (SIP) revisions submitted by the State of California to meet Clean Air Act (CAA or ''the Act'') requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS or ''standards'') in the San Joaquin Valley, California ozone nonattainment area. First, the EPA is approving the portion of the ''2016 Ozone Plan for the 2008 8-Hour Ozone Standard'' (''2016 Ozone Plan'') that addresses the requirement for a base year emissions inventory. Second, the EPA is approving the portions of the ''2018 Updates to the California State Implementation Plan'' (''2018 SIP Update'') that address the requirements for a reasonable further progress (RFP) demonstration and motor vehicle emissions budgets (MVEBs or ''budgets'') for the San Joaquin Valley for the 2008 ozone standards. Lastly, the EPA is conditionally approving the contingency measure element of the 2016 Ozone Plan, as modified by the 2018 SIP Update. The approval is conditional because a key portion of the element relies on commitments by the State air agency and regional air district to supplement the contingency measure element with submission of a specific contingency measure within one year of the EPA's final conditional approval.

DATES: This rule is effective on April 24, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2018–0535. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Laura Lawrence, EPA Region IX, (415) 972–3407.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

Table of Contents

I. Summary of the Proposed Action

On November 29, 2018 (83 FR 61346), the EPA proposed to approve, under CAA section 110(k)(3), and to conditionally approve, under CAA section 110(k)(4), portions of submittals from the California Air Resources Board (CARB or ''State'') and the San Joaquin Valley Air Pollution Control District (SJVAPCD or ''District'') as revisions to the California SIP for the San Joaquin Valley 2008 ozone nonattainment area.[1] The relevant SIP revisions include the 2016 Ozone Plan and the 2018 SIP Update. With respect to the 2018 SIP Update, our proposal was based on a public draft version of this document and a request from CARB that the EPA accept the public draft for parallel processing with respect to the portions of the 2018 SIP Update that apply to the San Joaquin Valley 2008 ozone nonattainment area.[2] The State has since adopted and submitted the 2018 SIP Update, and this submittal is discussed in more detail in section II of this preamble.

Our proposal also relied on a specific commitment from the District to revise the District's architectural coatings rule to create a contingency measure that will be triggered if the area fails to meet reasonable further progress (RFP) or to attain by the applicable attainment date, and a commitment from CARB to submit the revised District rule to the EPA as a SIP revision within 12 months of our final action.[3] [4] For more information on these submittals, please see our November 29, 2018 proposed rulemaking.

In our proposed rulemaking, we provided background material on the ozone standards,[5] area designations, and related SIP revision requirements under the CAA, and the EPA's implementing regulations for the 2008 ozone standards, referred to as the 2008 Ozone SIP Requirements Rule (''2008 Ozone SRR''). In short, the San Joaquin Valley nonattainment area is classified as Extreme for the 2008 ozone standards, and the 2016 Ozone Plan was developed to address the requirements for this Extreme nonattainment area.

In our proposed rulemaking, we also discussed a decision issued by the DC Circuit Court of Appeals in *South Coast Air Quality Management Dist.* v. *EPA,* (''*South Coast II*'')[6] that vacated certain portions of the EPA's 2008 Ozone SRR. The only aspect of the *South Coast II* decision that affects this action is the vacatur of the provision in the 2008 Ozone SRR that allowed states to use an alternative baseline year for demonstrating RFP. To address this, in the 2018 SIP Update, CARB submitted an updated RFP demonstration that relied on a 2011 baseline year as required, along with updated motor vehicle emissions budgets (MVEBs) associated with the new RFP milestone years. Portions of the 2016 Ozone Plan not affected by the *South Coast II* decision were addressed in previous rulemakings.[7]

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[1] The San Joaquin Valley nonattainment area for the 2008 ozone standards generally covers the southern half of California's Central Valley and consists of San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, and Kings counties, and the western portion of Kern County. A precise description of the San Joaquin Valley ozone nonattainment area is contained in 40 CFR 81.305.

[2] Letter from Richard Corey, CARB Executive Officer, to Michael Stoker, EPA Region IX Regional Administrator, dated October 3, 2018.

[3] Letter from Sheraz Gill, SJVAPCD Deputy Air Pollution Control Officer, to Richard Corey, CARB Executive Officer, and to Michael Stoker, EPA Region IX Regional Administrator, dated October 18, 2018.

[4] Letter from Dr. Michael Benjamin, Chief, Air Quality Planning and Science Division, CARB, to Michael Stoker, EPA Region IX Regional Administrator, dated October 30, 2018.

[5] Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO_x) in the presence of sunlight. The 2008 ozone standard is 0.075 parts per million (ppm) average over an 8-hour period. 73 FR 16436 (March 27, 2008). The State of California typically refers to reactive organic gases (ROG) in its ozone-related submittals. The CAA and the EPA's regulations refer to VOC, rather than ROG, but both terms cover essentially the same set of gases. In this final rule, we use the term federal term (VOC) to refer to this set of gases.

[6] *South Coast Air Quality Management Dist.* v. *EPA,* 882 F.3d 1138 (D.C. Cir. 2018). The term ''*South Coast II*'' is used in reference to the 2018 court decision to distinguish it from a decision published in 2006 also referred to as ''*South Coast.*'' The earlier decision involved a challenge to the EPA's Phase 1 implementation rule for the 1997 ozone standard. *South Coast Air Quality Management Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006).

[7] For approval of the elements related to the RACT SIP requirement, see 83 FR 41006 (August 17, 2018). For approval of the attainment demonstration and other associated requirements, see 84 FR 3302 (February 12, 2019).

For our November 29, 2018 proposed rulemaking, we reviewed the base year emissions inventory contained in the 2016 Ozone Plan, the RFP demonstration, the RFP and attainment year MVEBs contained in the 2018 SIP Update, and the contingency measure element contained in the 2016 Ozone Plan, as modified by the 2018 SIP Update and supplemented by the CARB and District commitment letters, and evaluated them for compliance with statutory and regulatory requirements.

With respect to the contingency measure requirement, in our proposed rulemaking, we noted that the EPA's longstanding interpretation of section 172(c)(9) that states may rely on already-implemented measures as contingency measures (if they provide emissions reductions in excess of those needed to meet any other nonattainment plan requirements) was rejected by the Ninth Circuit Court of Appeals in a case referred to as *Bahr* v. *EPA*.[8] In *Bahr,* the Ninth Circuit concluded that contingency measures must be measures that would take effect at the time the area fails to make RFP or to attain by the applicable attainment date, not before.[9] Thus, within the geographic jurisdiction of the Ninth Circuit, states cannot rely on already-implemented control measures to comply with the contingency measure requirements under CAA sections 172(c)(9) and 182(c)(9).[10]

Based on our review of the relevant portions of the 2016 Ozone Plan and 2018 SIP Update, commitment letters and other technical documentation provided by CARB, we proposed the following:

- We proposed to approve the 2012 base year emissions inventory from the 2016 Ozone Plan because we determined that it is comprehensive, accurate, and current, and thereby meets the requirements of CAA sections 172(c)(3) and 182(a)(1) and 40 CFR 51.1115.
- We proposed to approve the RFP demonstration in the 2018 SIP Update because we determined that it provides for emissions reductions of VOC or NO_X of at least 3 percent per year on average for each three-year period from a 2011 baseline year through the attainment year and thereby meets the requirements of CAA sections 172(c)(2), 182(b)(1), and 182(c)(2)(B), and 40 CFR 51.1110(a)(2)(ii); and
- We proposed to find adequate and approve MVEBs for the RFP milestone years of 2020, 2023, 2026, 2029, and the attainment year of 2031 from the 2018 SIP Update because we determined that they are consistent with the RFP demonstration proposed for approval and the attainment demonstration previously approved, are clearly identified and precisely quantified, and meet all other applicable statutory and regulatory requirements in 40 CFR 93.118(e), including the adequacy criteria in 40 CFR 93.118(e)(4) and (5).
- Finally, we proposed to conditionally approve the contingency measure element of the 2016 Ozone Plan, as modified by the 2018 SIP Update, as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9), based on commitments by CARB and the District to supplement the element through submission of a SIP revision within one year of final conditional approval action that will include a revised District architectural coatings rule.

Please see our November 29, 2018 proposed rulemaking and the related Technical Support Document for more information concerning the background for this action and for a more detailed discussion of the rationale for approval or conditional approval of the above-listed elements of the 2016 Ozone Plan and 2018 SIP Update.

II. Changes and Corrections to Proposed Action

A. Submittal of Adopted 2018 SIP Update

As noted above, we proposed to approve portions of the 2018 SIP Update based on a public draft of the plan and an October 3, 2018 request from CARB that the EPA accept the draft 2018 SIP Update for parallel processing with respect to the portions of the 2018 SIP Update that apply to the San Joaquin Valley nonattainment area. Under the EPA's parallel processing procedure, the EPA may propose action on a public draft version of a SIP revision but will take final action only after the state adopts and submits the final version to the EPA for approval.[11] If there are no significant changes from the draft version of the SIP revision to the final version, the EPA may elect to take final action on the proposal.

In this case, CARB adopted the 2018 SIP Update, previously released for public review, without significant modifications on October 25, 2018, and submitted the adopted 2018 SIP Update to the EPA as a revision to the California SIP on December 5, 2018.[12] The submittal includes CARB Resolution 18–50 adopting the 2018 SIP Update, the 2018 SIP Update itself, and documentation of public notice and opportunity to comment on the draft plan update. With respect to the San Joaquin Valley, the 2018 SIP Update includes an RFP demonstration with a 2011 baseline year, MVEBs for RFP milestone years and the attainment year, and modifications to the contingency measure element of the 2016 Ozone Plan. The modifications to the contingency measure element include CARB's Enhanced Enforcement Activities Program and updated emissions estimates for surplus emissions reductions in the RFP milestone years and in the year following the attainment year. We proposed action based on the draft version of the 2018 SIP Update submitted to us on October 3, 2018, and the contents of CARB Resolution 18–50, and are now finalizing action based on the December 5, 2018 submittal of the final adopted version of the 2018 SIP Update and CARB Resolution 18–50.

For this final rule, we have evaluated the December 5, 2018 submittal for compliance with CAA procedural requirements for adoption and submission of SIP revisions. Specifically, CAA sections 110(a)(1) and (2) and 110(l) require a state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submission of a SIP or SIP revision. To meet this requirement, every SIP submittal should include evidence that adequate public notice was given and an opportunity for a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102.

CARB has satisfied the applicable statutory and regulatory requirements for reasonable public notice and hearing prior to the adoption and submittal of the 2018 SIP Update. Concurrent with the release of the draft 2018 SIP Update, CARB published a notice of public hearing to be held on October 25, 2018, to consider approval of the 2018 SIP Update.[13] On October 25, 2018, CARB held the hearing, approved the 2018 SIP Update, and directed its Executive Officer to submit the 2018 SIP Update

[8] *Bahr* v. *EPA,* 836 F.3d 1218, at 1235–1237 (9th Cir. 2016).

[9] Id. at 1235–1237.

[10] The *Bahr* v. *EPA* decision involved a challenge to an EPA approval of contingency measures under the general nonattainment area plan provisions for contingency measures in CAA section 172(c)(9), but, given the similarity between the statutory language in section 172(c)(9) and the ozone-specific contingency measure provision in section 182(c)(9), we find that the decision affects how both sections of the Act must be interpreted.

[11] See 40 CFR part 51, appendix V, section 2.3.

[12] Letter from Richard Corey, CARB Executive Officer, to Michael Stoker, EPA Region IX Regional Administrator, dated December 5, 2018.

[13] See Notice of Public Meeting to Consider the 2018 Updates to the California State Implementation Plan, September 21, 2018.

to the EPA for approval into the California SIP.[14] On December 5, 2018, the CARB Executive Officer submitted the 2018 SIP Update to the EPA and included the transcript of the hearing held on October 25, 2018.[15]

B. Enhanced Enforcement Activities Program as Stand-Alone Contingency Measure

In our November 29, 2018 proposed rulemaking, we proposed to approve conditionally the contingency measure element of the 2016 Ozone Plan, as modified by the 2018 SIP Update, and as supplemented by the District's and CARB's commitments to submit a revised District rule as a contingency measure, as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9). In our proposal, we considered two elements of the overall contingency measure package as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9)—the CARB contingency measure, *i.e.,* the Enhanced Enforcement Activities Program described in Chapter X of the 2018 SIP Update, and the District's forthcoming contingency measure, *i.e.,* the removal of the small container exemption from the current District architectural coatings rule in the SIP upon a triggering event (*i.e.,* failure to meet RFP or attainment deadlines). We considered these two elements in the context of additional reductions from ongoing implementation of the existing control program, and CARB's commitment in the 2016 State Strategy to achieve an additional 8 tons per day (tpd) of emissions reductions of NO_X in the San Joaquin Valley nonattainment area in 2031.

In response to comments received during the comment period for this proposed action, and as discussed in more detail in section III of this preamble, we are conditionally approving only the District's intended contingency measure as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9). Though we are not approving the CARB Enhanced Enforcement Activities Program as submitted to fulfill the requirements of CAA 172(c)(9) and 182(c)(9), we consider the program to have merit in achieving additional emissions reductions in the San Joaquin Valley nonattainment area in the event that the area fails to meet an RFP milestone or to attain the 2008 ozone NAAQS by the attainment date. For that reason, we find that the CARB Enhanced Enforcement Activities Program strengthens the SIP and we are approving it conditionally as part of the overall contingency measure element. Our rationale is discussed in section III of this preamble. Our overall conclusion—that the contingency measure element in the 2016 Ozone Plan, as modified by the 2018 SIP Update and supplemented by the forthcoming District measure (once adopted and submitted), meets the contingency measure requirements for the 2008 ozone NAAQS—remains unchanged.

C. Corrections to Motor Vehicle Emissions Budgets

In our November 29, 2018 proposed rulemaking, we proposed to find adequate and approve MVEBs for the San Joaquin Valley for RFP milestone years 2020, 2023, 2026, 2029 and the 2031 attainment year.[16] In our proposal, we inadvertently introduced typographical errors in table 5, which detailed the MVEBs for each county. Table 1 below corrects these errors, making them consistent with tables VIII–3 through VIII–10 of the 2018 SIP Update. Because the changes in Table 1 below are consistent with the source tables in the public draft version of the 2018 SIP Update, and those source tables were cited in the proposal rule, we are correcting this error without re-proposing approval of the budgets. The approved MVEBs (in tons per day (tpd), average summer weekday) are as follows:

TABLE 1—MOTOR VEHICLE EMISSIONS BUDGETS (MVEBS) IN THE 2018 SIP UPDATE

[Tons per day]

County	2020		2023		2026		2029		2031	
	VOC (tpd)	NO_X (tpd)	VOC (tpd)	NO_X (tpd)	VOC (tpd)	NO_X (tpd)	VOC (tpd)	NO_X (tpd)	VOC (tpd)	NO_X (tpd)
Fresno	6.7	23.9	5.5	14.1	4.9	13.2	4.5	12.4	4.2	12.1
Kern (SJV)	5.4	20.9	4.5	14.5	4.2	14.4	4.0	14.3	3.9	14.3
Kings	1.2	4.5	1.0	2.7	0.9	2.6	0.8	2.6	0.8	2.6
Madera	1.5	4.3	1.1	2.7	1.0	2.5	0.9	2.4	0.8	2.3
Merced	2.2	8.8	1.7	6.0	1.5	5.9	1.3	5.6	1.2	5.4
San Joaquin	4.7	11.2	3.9	7.4	3.5	7.0	3.1	6.6	2.8	6.3
Stanislaus	3.1	8.8	2.6	5.6	2.2	4.9	2.0	4.5	1.8	4.3
Tulare	3.0	7.6	2.4	4.6	2.1	4.0	1.8	3.7	1.7	3.5

Source: Tables VIII–3 through VIII–10 of the 2018 SIP Update.

Also, with regards to the MVEBs, in its December 5, 2018 letter submitting the adopted 2018 SIP Update to the EPA as a revision to the California SIP, CARB requested that we limit the duration of our approval of the budgets only until the effective date of the EPA's adequacy finding for any subsequently submitted budgets.[17] The request to limit duration of our approval of the budgets was not included in the October 3, 2018 letter requesting parallel processing of the 2018 SIP Update, and therefore was not addressed in our November 29, 2018 proposal.

The transportation conformity rule allows the EPA to limit the duration of the approval of budgets.[18] We will consider a state's request to limit an approval of its MVEB if the request includes the following elements: [19]

- An acknowledgement and explanation as to why the budgets under consideration have become outdated or deficient;
- A commitment to update the budgets as part of a comprehensive SIP update; and

[14] See CARB Resolution 18–50.

[15] See Letter from Richard Corey, CARB Executive Officer, to Michael Stoker, EPA Region IX Regional Administrator, dated December 5, 2018, transmitting the following enclosures: (1) 2018 SIP Update, (2) CARB SIP Completeness Checklist, (3) CARB Resolution 18–50 adopting the 2018 SIP Update as a revision to the California SIP, (4) Evidence of public notice and transcript of public meeting to consider approval of the 2018 SIP Update, Board Meeting Comments Log and written comments regarding the 2018 SIP Update.

[16] See table 5, Budgets in the 2018 SIP Update, 83 FR 61346 (November 29, 2018) at 61354.

[17] Letter, Richard W. Corey, Executive Officer, California Air Resources Board, to Michael Stoker, Regional Administrator, EPA Region IX, December 5, 2018.

[18] 40 CFR 93.118(e)(1).

[19] 67 FR 69141 (November 15, 2002), limiting our prior approval of MVEB in certain California SIPs.

• A request that the EPA limit the duration of its approval to the time when new budgets have been found to be adequate for transportation conformity purposes.

Because CARB's request does not include a commitment to update the budgets as part of a comprehensive SIP update, we cannot at this time limit the duration of our approval of the submitted budgets until new budgets have been found adequate. Once CARB provides that commitment, we intend to review the request and take appropriate action. If we propose to limit the duration of our approval of the motor vehicle emissions budgets in the 2018 SIP Update, we will provide the public an opportunity to comment. The duration of the approval of the budgets, however, would not be limited until we complete such a rulemaking.

III. Public Comments and EPA Responses

The public comment period on the proposed rulemaking opened on November 29, 2018, the date of its publication in the **Federal Register**, and closed on December 31, 2018. During this period, the EPA received five anonymous comments, and a comment letter submitted on behalf of the Association of Irritated Residents (AIR). Three of the anonymous commenters express overall support for the proposed action. One of the anonymous commenters questions the existence of global warming, an issue that is outside the scope of this rulemaking. The EPA is not responding to these four comments, either because they are not adverse to, or because they are not relevant to, the proposed action.

The fifth anonymous comment and the comment letter from AIR are germane to this action and are addressed below. All of the comments received are included in the docket for this action. In addition to written comments received during the comment period, EPA staff participated in a conference call with CARB staff during which aspects of the proposed rulemaking were discussed. A summary of this call is included in a memo to the docket.

Comment #1: An anonymous commenter seeks clarification on the repercussions of a failure by San Joaquin Valley to achieve an RFP milestone given that the contingency measure element of the 2016 Ozone Plan, as modified by the 2018 SIP Update, would be conditionally, rather than fully, approved.

Response #1: In our November 29, 2018 proposed rulemaking, we proposed to approve conditionally the contingency measure element of the 2016 Ozone Plan, as modified by CARB in the 2018 SIP Update, and as supplemented by commitments by the District and CARB to adopt and submit a specific contingency measure for the San Joaquin Valley for the 2008 ozone NAAQS. The contingency measure element of the 2016 Ozone Plan (as modified and supplemented) includes a measure that would be implemented by CARB (*i.e.,* the Enhanced Enforcement Activities Program) and a measure, that, upon adoption, would be implemented by the District (*i.e.,* the removal of the small container exemption from the current District architectural coatings rule). In this document, we are taking final action to approve conditionally the contingency measure element of the nonattainment plan for the San Joaquin Valley nonattainment area for the 2008 ozone NAAQS.

As allowed under section 110(k)(4) of the CAA, the District contingency measure has not yet been adopted or submitted by the District and CARB to the EPA for approval as part of the California SIP. Rather, the District has submitted a commitment to CARB and the EPA to adopt a specific contingency measure and to submit the measure to CARB in sufficient time to allow for its adoption and submittal by CARB to the EPA within one year of the EPA's conditional approval of the contingency measure element for the San Joaquin Valley nonattainment area in this final action. More specifically, the District has committed to amend its existing architectural coatings rule to provide that the small container exemption will no longer be available upon a failure to meet an RFP milestone or upon a failure to attain the 2008 ozone NAAQS by the applicable attainment date. This means that if such a triggering event occurs, the VOC emissions from small containers of architectural coatings would immediately be subject to regulation in the District. For its part, CARB has committed to the EPA to submit the District's revised architectural coatings rule to the EPA within one year of the effective date of the final conditional approval. Assuming this action is published by the end of February 2019, and made effective 30 days from publication, the District's and CARB commitments as to the District contingency measure should be fulfilled well before the next relevant triggering event will occur, *i.e.,* the EPA's determination of whether the San Joaquin Valley ozone nonattainment area met the RFP milestone in 2020.[20]

In addition, while the EPA has concluded that CARB's Enhanced Enforcement Activities Program does not meet all of the requirements for a stand-alone contingency measure, the program will strengthen the SIP and is part of the conditional approval of the overall contingency measure element. Like the forthcoming District contingency measure, the Enhanced Enforcement Activities Program would be triggered upon a failure to achieve an RFP milestone or failure to attain the ozone NAAQS by the applicable attainment date in San Joaquin Valley. As discussed in more detail in chapter X (''Contingency Measures'') of the 2018 SIP Update and our November 29, 2018 proposed rulemaking, under CARB's Enhanced Enforcement Activities Program, within 60 days of the triggering event the CARB Executive Officer would implement enhanced enforcement activities in the San Joaquin Valley nonattainment area consistent with the findings and recommendations in a report (referred to as the Enhanced Enforcement Report) that CARB will prepare and publish. Per the terms of the Enhanced Enforcement Activities Program, the report will identify the probable causes of the failure to meet RFP or attain by the applicable attainment date and identify specific enhanced enforcement activities to reduce emissions and health impacts in the area, and it requires CARB to implement those activities within 60 days of the triggering event. The focus of CARB's enhanced enforcement would be regulations for which CARB has the authority to enforce under State law, such as mobile source and consumer product regulations.

Under CAA section 110(k)(4), if the District and CARB fulfill their commitments, then the conditional approval would become a full approval upon the EPA's approval of the District's contingency measure as part of the SIP, and both the District's contingency measure (removal of the small container exemption in the architectural coatings rule) and CARB's Enhanced Enforcement Activities Program would be triggered upon a failure to achieve an RFP milestone, or failure to attain the 2008 ozone NAAQS by the applicable attainment date, in the San Joaquin Valley nonattainment area.

If, on the other hand, the District or CARB fail to meet their commitments to adopt and submit the District

[20] Section 182(g)(2) of the CAA requires states to submit a demonstration that the milestone has been met not later than 90 days after the date on which an applicable milestone occurs. The EPA has 90 days thereafter to determine whether or not a state's demonstration is adequate.

contingency measure within one year, then the final conditional approval of the contingency measure element would become a disapproval upon the EPA's determination that the agencies had failed to fulfill their commitments and would thereby trigger the imposition of certain sanctions if the contingency measure SIP deficiency is not remedied within 18 months or 24 months (depending on the specific sanction).[21] The disapproval would also trigger a 24-month clock for the EPA to promulgate a Federal Implementation Plan (FIP) to remedy the deficiency if CARB and the District do not remedy the deficiency within that time frame.[22]

Comment #2: AIR asserts that the 2016 Ozone Plan, as amended by the 2018 SIP Update, fails to meet the CAA requirements for base year inventories because it provides emissions inventory information for year 2012 whereas a recent court decision requires that such inventories reflect emissions for year 2011.

Response #2: The commenter appears to be confused as to the purpose for which we are approving the various inventories prepared in this package and under which specific CAA requirements those inventories must be evaluated. In our November 29, 2018 proposed rulemaking, we proposed to approve the 2012 base year emissions inventory provided in the 2016 Ozone Plan as meeting the *base year* requirements of CAA sections 172(c)(3) and 182(a)(1) and 40 CFR 51.1115. We also are approving the portion of the 2018 SIP Update that starts with 2011 as the *baseline year* and future baseline emissions inventories out to 2032 as appropriate for use in developing the RFP demonstration, motor vehicle emissions budgets, and the contingency measure element. The base year emissions inventory requirement and the RFP demonstration are two separate SIP revision requirements under the CAA and the EPA's regulations.

As described in our November 29, 2018 proposed rulemaking, the EPA issued the 2008 Ozone SRR to assist states in developing effective plans to address ozone nonattainment problems. The 2008 Ozone SRR addresses implementation of the 2008 ozone NAAQS, including requirements for base year emissions inventories and RFP demonstrations, among other requirements. As AIR notes, the 2008 Ozone SRR was challenged and certain portions of the SRR were vacated in the *South Coast II* decision. In relevant part, the court decision vacated the option for a state to select an alternative baseline year for RFP demonstrations.

More specifically, the 2008 Ozone SRR required states to develop the baseline emissions inventory for RFP plans using the emissions for the most recent calendar year for which states submit a triennial inventory to the EPA under subpart A (''Air Emissions Reporting Requirements'') of 40 CFR part 51, which was 2011. However, the 2008 Ozone SRR allowed states to use an alternative year, between 2008 and 2012, for the baseline emissions inventory provided that the state demonstrated why the alternative baseline year was appropriate. In the *South Coast II* decision, the D.C. Circuit vacated the provisions of the 2008 Ozone SRR that allowed states to use an alternative baseline year for demonstrating RFP.

However, the provisions in the 2008 Ozone SRR addressing the base year emissions inventory, in contrast to the RFP demonstration, were not at issue in the *South Coast II* case and, thus, remain in effect. The 2008 Ozone SRR defines the base year emissions inventory as a comprehensive, accurate, current inventory of actual emissions and requires that the base year emissions inventory year be selected ''consistent'' with the baseline year for the RFP plan.[23] In promulgating the 2008 Ozone SRR, we indicated that we generally expect that the year used for the base year emissions inventory for the nonattainment area would be the same as the year used for the RFP plan baseline,[24] but we did not require that they be the same.

In this case, CARB selected 2012 as the year for the base year emissions inventory in the 2016 Ozone Plan. Although this means that the state is not using the same year for the base year inventory and the RFP baseline, we believe that using 2012 for the base year inventory is consistent with the 2011 baseline year for the RFP demonstration because the 2011 emission inventory is backcast from the 2012 base year inventory, and therefore is based on the same data.

Comment #3: AIR asserts that the 2011 emissions inventory does not meet the requirements for base year emissions inventories because it does not represent actual emissions but, rather, represents emissions that have been backcast from actual emissions in year 2012.

Response #3: First, we did not review the 2011 emissions inventory for compliance with the requirements for *base year* emissions inventories under CAA sections 172(c)(3) and 182(a)(1) and 40 CFR 51.1115. We reviewed the 2012 emissions inventory for compliance with those base year requirements, and for the reasons set forth in our proposed rulemaking, we found that the 2012 emissions inventory represents a comprehensive, accurate, and current inventory of actual emissions during that year in the San Joaquin Valley nonattainment area.[25]

Second, we reviewed the 2011 emissions inventory as part of our review of the RFP demonstration, and we found it to be appropriate for that purpose. With respect to the derivation of the 2011 RFP *baseline year* emissions inventory, CARB has explained that the 2011 RFP baseline year emissions inventory reflects actual emissions (in 2011) from the large stationary sources and that, with respect to areawide and small stationary sources, the inventory reflects emissions backcast from the 2012 base year emissions inventory.[26] Backcasting emissions based on differences in emissions controls and source activity levels is a standard method for estimating emissions in previous years, just as forecasting emissions on the same basis is a standard method for estimating emissions in future years. On-road motor vehicle emissions in 2011 were calculated using the same model (EMFAC2014) and the same source for transportation activity data (2014 Regional Transportation Plan) as that used for the corresponding emissions in the 2012 base year emissions inventory for the 2016 Ozone Plan.

Comment #4: AIR asserts that the 2011 emissions inventory fails to meet the CAA requirements for base year emissions inventories because the on-road motor vehicle portion of the emissions inventory is based on an outdated emissions model (EMFAC2014) and, thus, is not current.

Response #4: As noted in response to comment #3, we did not review the 2011 emissions inventory for compliance with the requirements for *base year* emissions inventories under CAA sections 172(c)(3) and 182(a)(1) and 40 CFR 51.1115. We reviewed the 2012 emissions inventory for compliance with those base year requirements, and for the reasons set forth in our proposed rulemaking, we found that the 2012 emissions inventory represents a comprehensive, accurate,

[21] See CAA section 179(a) and (b); 40 CFR 52.31.

[22] See CAA section 110(c).

[23] 40 CFR 51.1100(bb) and 40 CFR 51.1115(a).

[24] 80 FR 12264, at 12290 (March 6, 2015).

[25] 83 FR 61346, 61352 (November 29, 2018).

[26] Richard W. Corey, Executive Officer, CARB, to Michael Stoker, Regional Administrator, EPA Region IX, December 5, 2018, enclosure titled ''San Joaquin Valley Emission Projections Technical Clarification.''

and current inventory of actual emissions during that year in the San Joaquin Valley nonattainment area. We acknowledge that the on-road motor vehicle emissions portions of the 2012 base year emissions inventory and 2011 RFP baseline emissions inventory are based on EMFAC2014 and that CARB has released an updated version of that model (EMFAC2017). We disagree, however, that the motor vehicle emissions estimates for the 2012 base year emissions inventory or the 2011 RFP baseline emissions inventory are thereby outdated.

The 2008 Ozone SRR states that the latest approved models should be used to estimate emissions from on-road sources.[27] EMFAC2014 was approved in December 2015 and is the most recently approved version of CARB's motor vehicle emissions model, and as such, is the appropriate model to use for SIP development purposes.[28] CARB submitted EMFAC2017 to the EPA for approval in July 2018, but the EPA has not yet taken action to approve it, and until the Agency takes such action, EMFAC2014 will remain the appropriate model to use for SIP development purposes.[29] Moreover, based on the timing of the EPA's review of submittals of previous versions of EMFAC, it would not have been reasonable for CARB to assume that EMFAC2017 would have been approved by the time the 2018 SIP Update was adopted and submitted to the EPA.[30] As such, the continued use by CARB of EMFAC2014 for the on-road motor vehicle portion of the emissions inventories in the 2018 SIP Update is reasonable and appropriate.

Nonetheless, the EPA is aware of differences in on-road motor vehicle emissions estimates between the two models. Preliminary data developed by CARB indicate that, within the San Joaquin Valley nonattainment area, on-road emissions estimates of NO_X using EMFAC2017 would be slightly higher than the corresponding emissions estimates using EMFAC2014 in years 2011 and 2012.[31]

Comment #5: AIR asserts that CARB's Enhanced Enforcement Activities Program does not meet the requirements for contingency measures under CAA sections 172(c)(9) and 182(c)(9) because it fails to require adoption by CARB of any specific strategies and is thus unenforceable. AIR acknowledges that, in adopting the 2018 SIP Update, CARB required that the Enhanced Enforcement Program for a given area include some of the enhanced enforcement actions listed in a menu of actions attached to CARB's resolution of adoption, but asserts that the requirement to include such actions does not make the plan enforceable because CARB retains discretion to select among the menu of activities and include activities not listed in the menu.

Response #5: As noted by AIR, CARB's enhanced enforcement approach includes a menu of enhanced enforcement actions, one or more of which must be included in an Enhanced Enforcement Report developed under the program and implemented within 60 days of a triggering event. This menu was included as Attachment B to CARB Resolution 18–50 (October 25, 2018) through which CARB adopted the 2018 SIP Update as a revision to the California SIP. The menu lists eight source categories over which CARB retains primary enforcement authority—including on- and off-road mobile sources, fuels, marine vessels and consumer products—and includes options for enhanced enforcement actions applicable to each source category. Examples of the types of specific actions listed in the menu of actions included as Attachment B include additional audits of commercial truck and bus fleets operating in the region; additional investigations of manufacturers, retailers and installers of aftermarket ''defeat devices''; and use of additional data, including remote sensing data, to identify high-emitting off-road vehicles and equipment.

We acknowledge that CARB retains the discretion to select among the actions and to supplement the selected actions with additional actions not listed in Attachment B; however, Resolution 18–50 contains certain limits on that discretion. For example, Resolution 18–50 states that the Enhanced Enforcement Report cannot conclude that no enhanced enforcement action is appropriate.[32] Resolution 18–50 also states that the Enhanced Enforcement Program must include at least some of the menu of actions included in Attachment B.[33] As such, the menu in Attachment B serves as a floor for enforcement responses to a triggering event under the program. Moreover, the enforcement actions must be implemented within 60 days of the triggering event. Because CARB's Enhanced Enforcement Activities Program can be utilized on a state-wide basis, it is not feasible to predict the specific events that would lead to triggering of this measure in a specific nonattainment area (*i.e.,* failure to meet RFP or attainment deadlines. In light of the variety of conditions that could lead to a specific triggering event, we believe a menu-based approach is reasonable and that the menu of enhanced enforcement actions in Attachment B includes reasonable and appropriate responses to potential triggering events.

We note that the EPA has approved other rules that include a menu of specific control measures from which affected sources have the discretion to select a single measure for implementation, where the need for flexibility was clearly demonstrated, and the EPA's approval of those rules has withstood legal challenge.[34] In this case, the need for flexibility is clear because it is not feasible to know the exact nature of any potential future violations of SIP requirements at this time.

Nonetheless, we recognize that the enforcement actions listed in Attachment B are themselves general in nature and lack the specificity found in menu-type rules that the EPA has approved in the past. The lack of specificity, while understandable for the reasons described above, means that the program itself does not ''provide for the implementation of specific measures'' to address ozone emissions that would ''take effect . . . without further action by the State or the Administrator'' upon a triggering event as required under CAA sections 172(c)(9) and 182(c)(9). Accordingly, we find the program to be a SIP-strengthening portion of the contingency measure element that we are approving conditionally today, rather than as a stand-alone contingency measure. We believe CARB's program is meritorious and that the reports and enhanced enforcement actions would likely achieve additional emissions

[27] 80 FR 12264, at 12290 (March 6, 2015).

[28] 80 FR 77337 (December 14, 2015).

[29] AIR cites the EPA's SRR for the 2015 ozone NAAQS as evidence of the EPA's knowledge about EMFAC2017. EPA's SRR for the 2015 ozone NAAQS does refer to the EPA's on-going review of EMFAC2017, but it also notes that ''EMFAC2017 should not be used for any conformity analyses until the EPA officially approves the model for that purpose.'' 83 FR 62998, at 63022 n.54 (December 6, 2018).

[30] EMFAC2007 was submitted on April 18, 2007 and approved on January 18, 2008 (73 FR 3464); EMFAC2011 was submitted on April 6, 2012 and approved on March 6, 2013 (78 FR 14533); and EMFAC2014 was submitted on May 21, 2015, and approved on December 14, 2015 (80 FR 77337).

[31] See page 250 of CARB's EMFAC2017 Volume III—Technical Documentation, July 20, 2018.

[32] See page 7 of CARB Resolution 18–50.

[33] Id.

[34] See *Vigil* v. *Leavitt,* 381 F.3d 826 (9th Cir. 2004) (Upholding the EPA's approval of Arizona's general permit rule for agricultural sources) and *Latino Issues Forum* v. *EPA,* 558 F.3d 936 (9th Cir. 2009) (Upholding the EPA's approval of San Joaquin Valley Unified Air Pollution Control District Rule 4550).

reductions to address a failure to meet an RFP milestone or a failure to attain; however, the program, as currently conceived, fails to include all of the characteristics necessary to provide for a stand-alone contingency measure.

Likewise, while we recognize that the lack of specificity in the program does limit some enforcement of specific enhanced enforcement actions CARB may identify after a future triggering event, the discretion afforded to CARB under Resolution 18–50 to select specific actions listed in the menu does not preclude all enforcement against CARB. First, CARB's Resolution 18–50 is being conditionally approved as part of the SIP in today's action; therefore, its provisions will be enforceable by the EPA and the public. Accordingly, if CARB were to fail to implement the Enhanced Enforcement Activities Program after a triggering event, the EPA or the public could initiate an enforcement action. Furthermore, Resolution 18–50 requires CARB to implement the specific Enhanced Enforcement Program selected by CARB for a given area as documented in the report.[35] In addition, to the extent that CARB's Enhanced Enforcement Report fails to include any of the actions included in the menu of actions listed in Attachment B and/or failed to implement the enhanced enforcement actions within 60 days of the triggering event, that would not comply with the SIP-approved program,[36] and the EPA or the public could initiate an enforcement action against CARB to compel the inclusion and implementation of at least one of the actions from the menu.

Although we have decided that, for the specific reasons described above, the Enhanced Enforcement Activities Program as defined in the 2018 SIP Update and Resolution 18–50 does not meet all of the characteristics needed for a stand-alone contingency measure under CAA sections 172(c)(9) and 182(c)(9), we continue to find the contingency measure element for San Joaquin Valley nonattainment area for the 2008 ozone standard acceptable for conditional approval on the basis of the District's and CARB's commitment to submit a District measure that will eliminate an exemption in the event of a failure to achieve an RFP milestone or failure to attain by the applicable attainment date. In other words, we find the Enhanced Enforcement Activities Program to be a SIP-strengthening portion of the contingency measure element for San Joaquin Valley nonattainment area for the 2008 ozone standard that we are conditionally approving in this action.

Comment #6: AIR asserts that the contents of the Enhanced Enforcement Program will not be independently enforceable by the EPA or citizens because the Enhanced Enforcement Activities Program has not and will not be submitted to the EPA for review or approval into the SIP.

Response #6: While there are parts of the Enhanced Enforcement Activities Program that will be approved into the SIP, we agree that the Enhanced Enforcement Program resulting from any specific triggering event, as set forth in the Enhanced Enforcement Report, will not be submitted to the EPA for review and approval into the SIP. In this context, the Enhanced Enforcement Program refers to the specific enforcement actions that CARB selects after consideration of various factors such as the enforcement history, inspection locations and compliance status of emissions sources in the area.[37] The menu of enforcement actions listed in Attachment B lacks specificity (as described in Response #5) and so the specific actions that would make up the Enhanced Enforcement Program would not have been defined and adopted in the SIP. CARB has obligated itself to implementing the Enhanced Enforcement Program documented in the Enhanced Enforcement Report,[38] and thus could be compelled through citizen enforcement to implement the actions set forth in the Enhanced Enforcement Report. However, we agree that the specific contents of the Enhanced Enforcement Program as documented in the Enhanced Enforcement Report remain largely at CARB's discretion due to the program's structure and the general nature of enforcement actions listed in Attachment B. Thus, due to the lack of specificity of the measures as described in our response to comment #5, we no longer consider the Enhanced Enforcement Activities Program (in its current form) to include all of the necessary characteristics of a stand-alone contingency measure, but we find it to be a SIP-strengthening portion of the contingency measure element that we are approving conditionally in today's action.

Comment #7: AIR asserts that the EPA does not have the Enhanced Enforcement Activities Program before it now for review, and therefore the EPA cannot evaluate the Enhanced Enforcement Activities Program to determine whether it meets EPA's SIP measure criteria standards (quantifiable, enforceable, surplus and permanent).

Response #7: Though CARB has submitted the Enhanced Enforcement Activities Program to the EPA as a revision to the SIP, we agree that the Enhanced Enforcement Program (refer to footnote 37) as set forth in the Enhanced Enforcement Report will not be submitted to the EPA for review and approval into the SIP. As explained more fully in our response to comment #5, although we continue to find that the Enhanced Enforcement Activities Program has merit and will likely achieve emissions reductions beyond those that would otherwise occur to address a failure to meet an RFP milestone or failure to attain, we no longer consider the Enhanced Enforcement Activities Program (in its current form) to include all of the characteristics necessary for a stand-alone contingency measure to fulfill the requirements of CAA section 172(c)(9) and 182(c)(9), but we find the program to be SIP-strengthening and are including it as part of our conditional approval of the contingency measure element.

Comment #8: AIR asserts that the Enhanced Enforcement Activities Program fails as a contingency measure because such measures must be included as part of the SIP and must take effect (after the triggering event) without further action by the state or the EPA, and, in contrast, the Enhanced Enforcement Activities Program would not be included in the SIP and would require CARB to, among other things, take several additional actions prior to implementation, such as adoption of a report, commitment of enforcement resources, investigation of responsible parties for enforcement, prosecution of any identified violations, and filing of a final report documenting the activities and emissions reductions resulting from enhanced enforcement.

Response #8: AIR is correct that sections 172(c)(9) and 182(c)(9) specify that the EPA must approve the contingency measures as part of the SIP

[35] See page 6, paragraph 1.b. of CARB Resolution 18–50 (October 25, 2018).

[36] See id. at page 7, paragraph 4.

[37] The ''Enhanced Enforcement Program'' is distinct from the ''Enhanced Enforcement Activities Program.'' As noted above, the ''Enhanced Enforcement Program'' refers to the specific enforcement actions described in the ''Enhanced Enforcement Report.'' In our notice of proposed rulemaking, 83 FR 61346 (November 29, 2018), at page 61356, we define the ''Enhanced Enforcement Activities Program'' as an umbrella term describing the program that CARB has set forth in Chapter X of the 2018 SIP Update and Resolution 18–50. Though the Enhanced Enforcement Program as described in the Enhanced Enforcement Report will not be submitted into the SIP, the Enhanced Enforcement Activities Program is being conditionally approved into the SIP in today's action.

[38] See page 77 of the 2018 SIP Update.

and the measures must be structured so as to take effect without further significant action by the state or the EPA. As noted above, we are no longer approving the Enhanced Enforcement Activities Program as a stand-alone contingency measure, but we find the program to be SIP-strengthening and are including it as part of our conditional approval of the contingency measure element.

We disagree, however, that the Enhanced Enforcement Activities Program is not structured so as to take effect without further action by the state or the EPA. The EPA has long interpreted the phrase ''without further action'' in section 172(c)(9), and section 182(c)(9), not to preclude contingency measures that may require some additional actions, so long as those pertain to effective implementation of the measures within a short period of time. The EPA provided its interpretation of this requirement in the General Preamble (57 FR 13498 (April 16, 1992)) published in the wake of the Clean Air Act Amendments of 1990. In the General Preamble, we stated the following in connection with the requirement to take effect without further action by the state or EPA:

> The EPA interprets this requirement to be that no further rulemaking activities by the State or EPA would be needed to implement the contingency measures. The EPA recognizes that certain actions, such as notification of sources, modification of permits, etc., would probably be needed before a measure could be implemented effectively. States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative review. In general, EPA will expect all actions needed to affect full implementation of the measures to occur with 60 days after EPA notifies the State of its failure. [39]

The EPA has reiterated this interpretation of the contingency measure requirements many times in the intervening years, including the 2008 Ozone SRR applicable to this action.[40]

Under the Enhanced Enforcement Activities Program, once triggered, implementation would occur within 60 days without the need for additional rulemaking activity by CARB or the EPA.[41] CARB would, however, need to undertake certain actions prior to implementation, primarily the preparation of a report titled ''Enhanced Enforcement Report.'' In the Enhanced Enforcement Report, CARB enforcement staff will evaluate a number of factors (*e.g.,* enforcement history and compliance status), identify the probable causes of the failure (to meet the RFP milestone or to attain the NAAQS), and specify the type and quantity of additional enforcement resources that will be reallocated to the particular area (referred to as the ''Enhanced Enforcement Program'' for the area). The Executive Officer will then direct enhanced enforcement activities in accordance with the Enhanced Enforcement Program (as documented in the Enhanced Enforcement Report) that is selected for the area.[42] We believe that the preparation by CARB enforcement staff of the Enhanced Enforcement Report and the role of the CARB Executive Officer to direct enhanced enforcement activities in accordance with the report are minimal administrative types of actions that are consistent with our interpretation of the requirement for contingency measures to take effect without further action by the state or the EPA. As noted by the EPA in the General Preamble, actions by a state such as modification of permits may be needed for effective implementation of a contingency measure, and we conclude that the Enhanced Enforcement Report and identification of specific actions for additional enforcement are analogous implementation actions. We believe that the 60-day period for this process assures that the contingency measure will take effect in a timely fashion as intended.

Comment #9: AIR asserts that the EPA interprets the CAA to mean that the 2018 SIP Update must include contingency measures that would result in emissions reductions equivalent to at least one year's worth of RFP. AIR states that the EPA has failed to articulate a factual basis on which it could make the finding that the Enhanced Enforcement Activities Program and the District's architectural coating exemption removal rule would together achieve that quantity of emission reductions.

Response #9: As noted in our November 29, 2018 proposed rulemaking, neither the CAA nor the EPA's implementing regulations for the ozone NAAQS establish a specific amount of emissions reductions that implementation of contingency measures must achieve. AIR is correct, however, that the EPA has recommended in guidance that contingency measures should provide emissions reductions approximately equivalent to one year's worth of RFP, which, with respect to ozone in the San Joaquin Valley nonattainment area, amounts to approximately 11.4 tpd of VOC or NO_X reductions.[43]

In making the recommendation that contingency measures achieve one year's worth of RFP, the EPA has considered the overarching purpose of such measures in the context of attainment planning. The purpose of emissions reductions from implementation of contingency measures is to ensure that, in the event of a failure to meet an RFP milestone or a failure to attain the NAAQS by the applicable attainment date, the state will continue to make progress toward attainment at a rate similar to that specified under the RFP requirements and that the state will achieve these reductions while conducting additional control measure development and implementation as necessary to correct the RFP shortfall or as part of a new attainment demonstration plan.[44] The facts and circumstances of a given nonattainment area may justify larger or smaller amounts of emission reductions.

The EPA has also interpreted the Act to allow already-implemented measures to qualify as contingency measures so long as the emissions reductions from such measures are surplus to those necessary for RFP or attainment. In light of the *Bahr* decision, already-implemented measures no longer qualify as contingency measures for SIP purposes in the states located within the jurisdiction of the Ninth Circuit Court of Appeals. Thus, in the states affected by the *Bahr* decision, the EPA evaluates contingency measure SIP elements to determine whether they include contingency measures that are structured to meet the statutory requirements set forth in CAA section 172(c)(9) and 182(c)(9) (*e.g.,* structured to take effect prospectively in the event of a failure to achieve an RFP milestone or to attain by the applicable attainment date) and whether the contingency measure or measures would provide emissions reductions that, when considered with emissions reductions from already-implemented measures or other extenuating circumstances, ensure sufficient continued progress in the

[39] 57 FR 13498, at 13512 (April 16, 1992).

[40] 80 FR 12264, 12285 (March 6, 2015).

[41] See page 7 of CARB Resolution 18–50: ''A given Enhanced Enforcement Report (as described above) may not conclude that no enhanced enforcement action is appropriate; U.S. EPA's finding that a covered area has failed to meet an RFP milestone or failed to attain must result in some enhanced enforcement action for the relevant district and those actions must begin within 60 days of the finding.''

[42] See page 77 of the 2018 SIP Update for a full description of the actions CARB will take in the event of a triggering event.

[43] 83 FR 61346, at 61357 (November 29, 2018).

[44] 57 FR 13498, at 13512 (April 16, 1992).

event of a failure to achieve an RFP milestone or to attain the ozone NAAQS by the applicable attainment date. We continue to evaluate the sufficiency of continued progress that will result from contingency measures in light of our guidance, but in appropriate circumstances, do not believe that the contingency measures themselves must provide for one year's worth of RFP so long as sufficient progress would be maintained by the contingency measures plus other sources of surplus emissions reductions while the state conducts additional control measure development and implementation as necessary to correct the RFP shortfall or as part of a new attainment demonstration plan. In other words, if there are additional emission reductions projected to occur that a state has not relied upon for purposes of RFP or attainment or to meet other nonattainment plan requirements, and that result from measures the state has not adopted as contingency measures, then those reductions may support EPA approval of contingency measures identified by the state even if they would result in less than one year's worth of RFP in appropriate circumstances.

In this instance, the contingency measure element of the 2016 Ozone Plan, as modified by the 2018 SIP Update, and supplemented by the commitments to adopt and submit a local contingency measure, relies upon a to-be-adopted District contingency measure (*i.e.,* the removal of the small container exemption from the current District architectural coatings rule). In our proposed rulemaking, we identify an analogous rulemaking by the South Coast Air Quality Management District as the source for our estimate of 1-tpd of emissions reductions from the to-be-adopted District contingency measure. As for the Enhanced Enforcement Activities Program, although we believe that the measure would result in emissions reductions, we found that the reductions are not reasonably quantifiable at this time given the range of potential enforcement actions that could be taken. While we consider the program's potential value in mitigating the effects of a failure to meet an RFP milestone or to attain the standard by the attainment date, we did not credit the Enhanced Enforcement Activities Program as achieving any emissions reductions.

As to whether the 1-tpd of emissions reductions from the contingency measures would provide for sufficient continued progress in the event of a failure to achieve an RFP milestone or failure to attain, we reviewed the documentation provided in the 2018 SIP Update of ''surplus'' (*i.e.,* those over and above the emissions reductions necessary to demonstrate RFP in the San Joaquin Valley nonattainment area) reductions from CARB's already-adopted mobile source control program in the RFP milestone years and the year-over-year emissions reductions expected in the year following the attainment year. For the San Joaquin Valley nonattainment area, CARB's estimates of ''surplus'' reductions in the various RFP milestones years (ranging from 92.4 tpd to 157.4 tpd) provide the factual basis for us to conclude that the to-be-adopted District contingency measure need not in itself achieve one year's worth of RFP. The 1 tpd reduction from the contingency measures would be sufficient even though it is far less than 11.4 tpd (*i.e.,* one year's worth of RFP) because already-implemented measures (although not relied upon for the purposes of meeting the statutory contingency measure requirement) will also ensure sufficient continued progress in the event of a failure to achieve an RFP milestone.

For attainment contingency measure purposes, we noted that overall regional emissions are expected to be approximately 1 tpd of NO_X lower in 2032 than in 2031 and that the contingency measures (1 tpd) plus the year-over-year reduction in regional emissions (1 tpd) would not provide for sufficient progress during the time when a new attainment demonstration plan is being prepared, absent countervailing circumstances. However, we also noted CARB had made an 8 tpd NO_X aggregate emissions reduction commitment in the 2016 State Strategy for the San Joaquin Valley nonattainment area in year 2031, and that CARB's aggregate commitment would result in emissions reductions beyond those needed for RFP or attainment, and thus would reduce the potential for the San Joaquin Valley to fail to attain the 2008 ozone NAAQS by the 2031 attainment date.[45] (We recently took final action in a separate action to approve CARB's 8 tpd aggregate commitment from the 2016 State Strategy as part of the SIP.[46]) The 1 tpd year-over-year reduction in regional emissions—in addition to the 8 tpd reduction in emissions from CARB's aggregate commitment and the additional potential emission reductions of the SIP-strengthening Enhanced Enforcement Activities Program—provide us with the factual basis to conclude that the 1 tpd reduction from the contingency measure would be sufficient to ensure continued progress in the event of a failure to attain the ozone NAAQS by the applicable attainment date notwithstanding the fact that the District contingency measure itself does not provide one year's worth of RFP.

[45] To be clear, the 8 tpd NO_X aggregate emissions reduction commitment by CARB in the 2016 State Strategy was not submitted, and was not approved, as a contingency measure. Rather, we consider the existence of the aggregate commitment in the context of evaluating whether the reductions associated with the contingency measure element would be sufficient to provide the EPA with the basis to approve the contingency measure element as meeting the applicable requirements of the CAA for San Joaquin Valley for the 2008 ozone NAAQS.

[46] See 84 FR 3302 (February 12, 2019).

IV. Final Action

For the reasons discussed in our proposed action and in responses to comments above, the EPA is taking final action under CAA section 110(k)(3) to approve as a revision to the California SIP the following portion of the San Joaquin Valley 2016 Ozone Plan submitted by CARB on August 24, 2016:[47]

- Base year emissions inventory as meeting the requirements of CAA sections 172(c)(3) and 182(a)(1) and 40 CFR 51.1115.

The EPA is also taking final action to approve as a revision to the California SIP the following portions of the 2018 SIP Update to the California State Implementation Plan, submitted by CARB on December 5, 2018:

- RFP demonstration for the San Joaquin Valley as meeting the requirements of CAA sections 172(c)(2), 182(b)(1), and 182(c)(2)(B), and 40 CFR 51.1110(a)(2)(ii); and
- Motor vehicle emissions budgets for the RFP milestone years of 2020, 2023, 2026, 2029, and the attainment year of 2031 (see Table 1, above) for the San Joaquin Valley nonattainment area because they are consistent with the RFP demonstration approved herein and the attainment demonstration previously approved and meet the other adequacy criteria in 40 CFR 93.118(e).[48]

[47] As noted previously, the EPA has already approved the portions of the 2016 Ozone Plan that relate to the Reasonably Available Control Technology (RACT), Reasonably Available Control Measure (RACM), attainment demonstration, and vehicle miles traveled (VMT) offset demonstration requirements, among others. For approval of the elements related to the RACT SIP requirement see 83 FR 41006 (August 31, 2018). For approval of other elements see 84 FR 3302 (February 12, 2019).

[48] On February 12, 2019, the EPA finalized approval of motor vehicle emissions budgets for year 2031 for San Joaquin Valley for the 2008 ozone standards. See 84 FR 3302. The revised budgets for 2031 that we are approving in this action replace the budgets that we approved through our action published on February 12, 2019. In addition, the MVEBs that we are finding adequate and approving today are also replacing the MVEBs from the 2016 Ozone Plan that we previously found adequate (see 82 FR 29547, June 29, 2017) for use in conformity

Lastly, we are taking final action to approve conditionally the contingency measure element of the 2016 Ozone Plan, as modified by the 2018 SIP Update, as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9) based on commitments by CARB and the District to supplement the element through submission of a SIP revision within one year of final conditional approval that will include a revised District architectural coatings rule removing an exemption upon a failure to achieve an RFP milestone or to attain the 2008 ozone NAAQS by the applicable attainment date.

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 24, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: February 15, 2019.

Deborah Jordan,

Acting Regional Administrator, Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(496)(ii)(B)(*4*), and (c)(514) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(496) * * *

(ii) * * *

(B) * * *

(*4*) 2016 Ozone Plan for 2008 8-Hour Ozone Standard, adopted June 16, 2016, subchapters 3.11.1 (''Emission Inventory Requirements'') and 6.4 (''Contingency for Attainment''), only.

* * * * *

(514) The following plan was submitted on December 5, 2018, by the Governor's designee.

(i) [Reserved]

(ii) *Additional materials.* (A) California Air Resources Board.

(*1*) Resolution 18–50, 2018 Updates to the California State Implementation Plan, October 25, 2018, including Attachments A (''Covered Districts''), B (''Menu of Enhanced Enforcement Actions''), and C (''Correction of Typographical Error'').

(*2*) 2018 Updates to the California State Implementation Plan, adopted on October 25, 2018, chapter VIII (''SIP Elements for the San Joaquin Valley''), chapter X (''Contingency Measures''), and Appendix A (''Nonattainment Area Inventories''), pages A–1, A–2 and A–27 through A–30, only.

■ 3. Section 52.248 is amended by adding paragraph (g) to read as follows:

§ 52.248 Identification of plan—conditional approval.

* * * * *

(g) The EPA is conditionally approving the California State Implementation Plan (SIP) for San

determinations by transportation agencies in the San Joaquin Valley.

Joaquin Valley for the 2008 ozone NAAQS with respect to the contingency measure requirements of CAA sections 172(c)(9) and 182(c)(9). The conditional approval is based on a commitment from the San Joaquin Valley Unified Air Pollution Control District (District) dated October 18, 2018 to adopt specific rule revisions, and a commitment from the California Air Resources Board (CARB) dated October 30, 2018 to submit the amended District rule to the EPA within 12 months of the effective date of the final conditional approval. If the District or CARB fail to meet their commitment within one year of the effective date of the final conditional approval, the conditional approval is treated as a disapproval.

[FR Doc. 2019–05159 Filed 3–22–19; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0728; FRL–9990–34–Region 9]

Approval and Promulgation of Air Quality State Implementation Plans; California; Plumas County; Moderate Area Plan for the 2012 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving most elements of state implementation plan (SIP) revisions submitted by California to address Clean Air Act (CAA or ''Act'') requirements for the 2012 annual fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS or ''standards'') in the Plumas County Moderate $PM_{2.5}$ nonattainment area (''Portola nonattainment area''). The SIP revisions are the ''Portola Fine Particulate Matter ($PM_{2.5}$) Attainment Plan'' submitted on February 28, 2017, and the 2019 and 2022 transportation conformity motor vehicle emission budgets (''budgets'') submitted on December 20, 2017. We refer to these submittals collectively as the ''Portola $PM_{2.5}$ Plan'' or ''Plan.'' The EPA is not taking action at this time on the contingency measures in the Portola $PM_{2.5}$ Plan.

DATES: This final rule is effective on April 24, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2017–0728. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky, EPA Region IX, (415) 972–3963, *Ungvarsky.john@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA.

Table of Contents

I. Background

Epidemiological studies have shown statistically significant correlations between elevated levels of $PM_{2.5}$ (particulate matter with a diameter of 2.5 microns or less) and premature mortality. Other important health effects associated with $PM_{2.5}$ exposure include aggravation of respiratory and cardiovascular disease, changes in lung function, and increased respiratory symptoms. Individuals particularly sensitive to $PM_{2.5}$ exposure include older adults, people with heart and lung disease, and children.[1] $PM_{2.5}$ can be emitted directly into the atmosphere as a solid or liquid particle (''primary $PM_{2.5}$'' or ''direct $PM_{2.5}$'') or can be formed in the atmosphere as a result of various chemical reactions among precursor pollutants such as nitrogen oxides, sulfur oxides, volatile organic compounds, and ammonia (''secondary $PM_{2.5}$'').[2]

The EPA first established annual and 24-hour NAAQS for $PM_{2.5}$ on July 18, 1997.[3] The annual standard was set at 15.0 micrograms per cubic meter (μg/m^3) based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and the 24-hour (daily) standard was set at 65 μg/m^3 based on the 3-year average of the annual 98th percentile values of 24-hour $PM_{2.5}$ concentrations at each monitor within an area.[4] On October 17, 2006, the EPA revised the level of the 24-hour $PM_{2.5}$ NAAQS to 35 μg/m^3 based on a 3-year average of the annual 98th percentile values of 24-hour concentrations.[5] On January 15, 2013, the EPA revised the annual standard to 12.0 μg/m^3 based on a 3-year average of annual mean $PM_{2.5}$ concentrations.[6] We refer to this standard as the 2012 $PM_{2.5}$ NAAQS.

California submitted the Portola $PM_{2.5}$ Plan to provide for attainment of the 2012 $PM_{2.5}$ NAAQS in the Portola nonattainment area, which the EPA has designated and classified as ''Moderate'' nonattainment for these NAAQS.[7] On December 18, 2018, we proposed to approve the following elements of the Portola $PM_{2.5}$ Plan: The 2013 base year emissions inventories, the reasonably available control measure/reasonably available control technology (RACM/RACT) demonstration, the attainment demonstration, the reasonable further progress demonstration, the quantitative milestones, and the budgets for 2019 and 2021. We did not propose action on the contingency measures in the Portola $PM_{2.5}$ Plan.[8]

As part of the December 18, 2018 action, we proposed to find that the collection of $PM_{2.5}$ control requirements in the Portola $PM_{2.5}$ Plan implements all RACM/RACT for the control of direct $PM_{2.5}$ and to approve the $PM_{2.5}$ RACM demonstration in the Portola $PM_{2.5}$ Plan as meeting the requirements of CAA sections 172(c)(1) and 189(a)(1)(C) and 40 CFR 51.1009. The RACM/RACT measures in the Plan include the District's enforceable commitment to implement the voluntary wood stove change-out program, the City of Portola Wood Stove and Fireplace Ordinance, CARB's mobile source program, the District's commitment to strengthen its open burning measure, and other controls on sources in the nonattainment area.

We also proposed to find that the attainment demonstration in the Portola $PM_{2.5}$ Plan satisfies the requirements of sections 189(a)(1)(B) and 172(c)(1) of the CAA and 40 CFR 51.1011(a). In support of this proposal, we found that the State used two acceptable modeling techniques to demonstrate attainment of the 2012 $PM_{2.5}$ NAAQS in the Portola nonattainment area, and that the plan demonstrates attainment as

[1] 78 FR 3086, 3088 (January 15, 2013).

[2] 72 FR 20586, 20589 (April 25, 2007).

[3] 62 FR 38652. The initial NAAQS for $PM_{2.5}$ included annual standards of 15.0 μg/m^3 based on a 3-year average of annual mean $PM_{2.5}$ concentrations and 24-hour (daily) standards of 65 μg/m^3 based on a 3-year average of 98th percentile 24-hour concentrations (40 CFR 50.7).

[4] The primary and secondary standards were set at the same level for both the 24-hour and the annual $PM_{2.5}$ standards.

[5] 71 FR 61144.

[6] 78 FR 3086.

[7] 80 FR 2206 (January 15, 2015).

[8] 83 FR 64774.

expeditiously as practicable. We also found that the Portola $PM_{2.5}$ Plan provides a clear and convincing justification for its extensive reliance on a voluntary wood stove change-out incentive program as the primary strategy for attainment, and that all of the control measures in the Plan, including the District's enforceable commitment to implement the wood stove change-out program, together ensure that projected emission reductions will occur in time to provide for attainment of the 2012 $PM_{2.5}$ NAAQS by the December 31, 2021 attainment date. Our December 18, 2018 proposed rule provides a more detailed discussion of our evaluation of the Plan.[9]

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period that ended on January 17, 2019. We did not receive any comments during this period.

III. Final Action

Under CAA section 110(k)(3), the EPA is approving SIP revisions submitted by California to address the Act's Moderate area planning requirements for the 2012 $PM_{2.5}$ NAAQS in the Portola nonattainment area. Specifically, the EPA is approving the following elements of the Portola $PM_{2.5}$ Plan:

1. The 2013 base year emissions inventories as meeting the requirements of CAA section 172(c)(3);

2. the reasonably available control measure/reasonably available control technology demonstration as meeting the requirements of CAA sections 172(c)(1) and 189(a)(1)(C);

3. the attainment demonstration as meeting the requirements of CAA sections 172(c)(1) and 189(a)(1)(B);

4. the reasonable further progress demonstration as meeting the requirements of CAA section 172(c)(2);

5. the quantitative milestones as meeting the requirements of CAA section 189(c); and

6. the motor vehicle emissions budgets for 2019 and 2021, because they are derived from approvable attainment and reasonable further progress demonstrations and meet the requirements of CAA section 176(c) and 40 CFR part 93, subpart A.

The EPA is not taking action at this time on the contingency measures or the post-attainment year (2022) budget in the Portola $PM_{2.5}$ Plan.

[9] Id.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 24, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ammonia, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: February 20, 2019.

Deborah Jordan,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(500)(ii) and (c)(515) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(500) * * *

(ii) *Additional materials.* (A) Northern Sierra Air Quality Management District.

(*1*) The ''Portola Fine Particulate Matter ($PM_{2.5}$) Attainment Plan,'' adopted January 23, 2017, excluding subchapter V.G (''Demonstrating Attainment of the 24-hour Standard''), subchapter VI.B (''Contingency Measure''), and appendices.

(*2*) [Reserved]

* * * * *

(515) The following additional materials were submitted on December 20, 2017, by the Governor's designee.

(i) [Reserved]

(ii) *Additional materials.* (A) California Air Resources Board.

(*1*) Resolution 17–28, ''Supplemental Transportation Conformity Emissions Budgets for the Portola Fine Particulate Matter ($PM_{2.5}$) Attainment Plan,'' October 26, 2017, excluding the 2022 conformity budget.

(*2*) [Reserved]

* * * * *

[FR Doc. 2019–05163 Filed 3–22–19; 8:45 am]

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Vol. 84, No. 57

Monday, March 25, 2019

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FEDERAL REGISTER PAGES AND DATE, MARCH

CFR PARTS AFFECTED DURING MARCH

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.

15 CFR

Proposed Rules:
774.....8485
930.....8628

16 CFR

Proposed Rules:
24.....8045
305.....9261
436.....9051

17 CFR

270.....7980
274.....7980

18 CFR

4.....7988
11.....7988
37.....8156
45.....7274
46.....7274
157.....10409
Proposed Rules:
33.....7309

19 CFR

12.....8807
Proposed Rules:
220.....9273

21 CFR

112.....9706
510.....8967
520.....8967, 8982
522.....8967
524.....8967
526.....8967
529.....8967
556.....8967
558.....8967
573.....7991
866.....9226
882.....9228
884.....7993
Proposed Rules:
121.....9987
573.....9989
864.....8047

22 CFR

35.....9957
103.....9957
127.....9957
138.....9957
Proposed Rules:
121.....8486

24 CFR

28.....9451
30.....9451
87.....9451
180.....9451
3282.....9451
Proposed Rules:
3280.....10738
3282.....10738

25 CFR

575.....6967

26 CFR

1 .....7283, 9231, 9959, 10976
5.....9231
5c.....9231
5f.....9231
7.....9231
11.....9231
13.....9231
16.....9231
19.....9231
20.....9231
25.....9231
31.....9231
48.....9231
49.....9231
54.....9231
55.....9231
148.....9231
301.....9231
404.....9231
601.....9231
602.....9231
Proposed Rules:
1 .....6988, 8050, 8051, 8188, 8488, 9053, 10274, 11005, 11009
20.....8278
301.....8488, 10274

27 CFR

447.....9239
478.....9239
479.....9239
Proposed Rules:
4.....9990
5.....9990
7.....9990
14.....9990
19.....9990

29 CFR

1601.....10410
4022.....9454
4044.....9454
Proposed Rules:
541.....10900
1206.....6989
1910.....8633
1915.....8633
1917.....8633
1918.....8633
1926.....8633

30 CFR

250.....10989
723.....10670
724.....10670
845.....10670
846.....10670
1241.....8416
Proposed Rules:
57.....11028
70.....11028
72.....11028
75.....11028

31 CFR

561.....9456
566.....9456

32 CFR

48.....7810
77.....8809
337.....6968
542.....9962
562.....9962

33 CFR

100 ....7285, 7810, 8607, 10992
110.....7810, 9458
117 .....8418, 9459, 10411, 10676, 10992
147.....7810, 10992
165 .....6969, 6972, 7285, 7288, 7290, 7292, 7810, 7995, 7997, 8252, 8420, 9714, 9962, 10262, 10412, 10413, 10415, 10417, 10420, 10430, 10677, 10992, 10993
401.....8983
402.....8984
Proposed Rules:
100 .....6989, 7310, 8641, 9724, 9727, 9731
117 .....6992, 7842, 10745
165 .....6994, 8051, 8489, 9468, 11029, 11035

34 CFR

400.....7294
401.....7294
402.....7294
403.....7294
406.....7294
410.....7294
411.....7294
413.....7294
461.....6974
668.....9964
674.....9964
682.....9964
685.....9964
Proposed Rules:
Ch. III.....8054, 8059
Ch. VI.....10748

36 CFR

Proposed Rules:
60.....6996
63.....6996

37 CFR

201.....10679, 10685
203.....10685
210.....10685
Proposed Rules:
303.....9053
350.....9053
355.....9053
370.....9053
380.....9053
382.....9053
383.....9053
384.....9053
385.....9053

38 CFR

17.....7813, 8254
Proposed Rules:
4.....7844
38.....11037

39 CFR

111.....9716
3020.....7815
Proposed Rules:
111.....7005, 9470
3050.....8066

40 CFR

49.....7823
50.....9866
51.....8422
52 .....7299, 7823, 7998, 8257, 8260, 8422, 8610, 8809, 8812, 8813, 9240, 10264, 10433, 10687, 10692, 11198, 11208
60.....8260
61.....8260
62.....8001, 8262
63 .....7682, 7825, 8260, 9590
70.....8260
81.....8986
180 ....8611, 8820, 9243, 10695
271.....8260, 8988
281.....8260
300.....8989
1065.....9243
Proposed Rules:
52 .....7313, 7846, 7854, 7858, 8491, 8492, 8643, 8645, 8647, 8654, 9991, 9993, 9995, 10458, 10461, 10748, 10750, 10753
63.....8069
80.....9734, 10584
81.....8492, 10461
174.....9735, 9737
180.....9735, 9737
258.....8496
271.....7010
300.....9073
721.....9999

42 CFR

59.....7714
405.....9460
410.....9460
411.....9460
414.....9460
415.....9460
425.....9460
455.....10700
495.....9460
1007.....10700
Proposed Rules:
Chapter IV 8657
406.....7610
407.....7610
422.....7610, 8069
423.....7610
431.....7610
438.....7610
457.....7610
482.....7610
485.....7610

43 CFR

10.....6975

44 CFR

64.....9966
206.....10632

45 CFR

1148.....8003
Proposed Rules:
Subtitle A 8657
156.....7610
170.....7424
171.....7424

47 CFR

0.....9463
1.....8617
3.....8994
27.....8443
36.....6977
54.....8003, 8619

64.....8457, 10266
73.....9465

Proposed Rules:

1.....8497, 10275
64.....7315, 9276
73.....9281, 10275
76.....8278
90.....10275

48 CFR

801.....9968
825.....9968, 10995
836.....9968
842.....9968
846.....9968
852.....9968
853.....9968

Proposed Rules:

Ch. 7.....9739
739.....10469
752.....10469
6106.....7861

49 CFR

172.....8006
173.....8006
380.....8029, 10437
383.....8463
384.....8463

Proposed Rules:

391.....8497

50 CFR

217.....8263
300.....8624, 9243
622.....7827, 7828, 8825, 8997, 10995, 10996
635.....7302, 9719
648.....8625, 8826, 8998, 8999, 10267, 10719
679.....6978, 7303, 8474, 8626, 8828, 9000, 9416, 9466, 9976, 9978, 10268, 10437

Proposed Rules:

17.....9648
18.....10224
218.....7186
300.....7323, 9281
622.....7864
648.....8282,10756
660.....9471,10768
665.....8835

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *http://www.archives.gov/federal-register/laws*.

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S. 49/P.L. 116–10
To designate the outstation of the Department of Veterans Affairs in North Ogden, Utah, as the Major Brent Taylor Vet Center Outstation. (Mar. 21, 2019; 133 Stat. 840)

Last List March 14, 2019

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