FEDERAL REGISTER

Vol. 84 Wednesday,

No. 162 August 21, 2019

Pages 43473–43666

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

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Presidential Documents

Title 3—

The President

Proclamation 9915 of August 16, 2019

National Employer Support of the Guard and Reserve Week, 2019

By the President of the United States of America

A Proclamation

Our great Nation's hard-fought independence was won by citizen warriors united in purpose and possessing an unwavering commitment to liberty. On countless occasions since, our citizen Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen have put their civilian lives on hold—leaving behind family, friends, and vocation—to defend freedom and the rights of all Americans. During National Employer Support of the Guard and Reserve Week, we salute the many civilian employers who recognize the indispensable role of our all-volunteer force and provide unwavering support to our Nation's defenders.

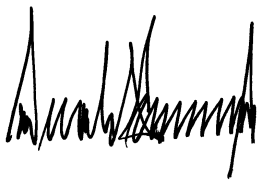
The men and women of the National Guard and Reserve make significant contributions to both our thriving economy and our strong national defense. In all facets of the civilian workforce, from small businesses to large corporations, they bring to bear considerable expertise, experience, and professionalism. In uniform, they serve with honor and distinction as they respond to natural disasters and emergencies, train to ensure operational readiness, and deploy in support of critical operations.

Employers who support the National Guard and Reserve are essential to the Nation's ability to sustain an all-volunteer force. Their flexibility, generosity, and understanding enable reserve component service members to maintain meaningful and successful civilian careers while serving their country. Regardless of financial hardship or inconvenience, these patriotic employers provide job security when employees answer the call of duty, as well as encouragement and stability to their families during times of deployment. In choosing service over self-interest, these employers share in the mission of protecting our democratic principles and our Nation's well-being.

Ensuring that our brave military members have the resources they need to thrive in both military and civilian life is one of my highest priorities. I commend employers who hold in high regard our National Guard and Reserve service members and their families, and who provide exemplary cooperation and partnership, often at great financial sacrifice, to Americans who nobly combine military and civilian careers. We extend our gratitude to these employers and to all who willingly serve and sacrifice to defend and preserve our way of life.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim August 18 through August 24, 2019, as National Employer Support of the Guard and Reserve Week. I call upon all Americans to join me in expressing our heartfelt thanks to the civilian employers who provide critical support to the men and women of the National Guard and Reserve. I also call on State and local officials, private organizations, and all military commanders to observe this week with appropriate ceremonies and activities.

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



[FR Doc. 2019–18138
Filed 8–20–19; 8:45 am]
Billing code 3295–F9–P

Rules and Regulations

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 8

[Docket No. OCC–2018–0039]

RIN 1557–AE58

Assessment of Fees

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is adopting a final rule to revise its assessment rule to provide partial assessment refunds to national banks, Federal savings associations, and Federal branches and agencies of foreign banks (collectively, banks under the jurisdiction of the OCC) that exit the OCC's jurisdiction within the first half of each six-month period beginning the day after the date of the second or fourth quarterly Consolidated Report of Condition and Income (Call Report). The final rule will not change the current payment due dates for assessments nor will it change the way assessments are calculated for banks that remain under the OCC's jurisdiction. The final rule will also make technical changes to the assessments rules.

DATES: Effective September 20, 2019.

FOR FURTHER INFORMATION CONTACT: Deborah Thomas, AT Team Lead, Financial Management, (202) 649–5540; or Mitchell Plave, Special Counsel, Chief Counsel's Office, (202) 649–5490; or for persons who are deaf or hearing impaired, TTY, (202) 649–5597, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

The National Bank Act [1] and the Home Owners' Loan Act [2] authorize the Comptroller to fund the OCC's operations through assessments, fees, and other charges on banks under the jurisdiction of the OCC.[3] In setting assessments, the Comptroller has broad authority to consider variations among institutions, including the nature and scope of the activities of the entity, the amount and type of assets that the entity holds, the financial and managerial condition of the entity, and any other factor the Comptroller determines is appropriate.[4]

The OCC collects assessments from banks under its jurisdiction in accordance with 12 CFR part 8. Under part 8, the base assessment for banks is calculated using a table with eleven categories, or brackets, each of which comprises a range of asset-size values. The assessment for each bank is the sum of a base amount, which is the same for every bank in its asset-size bracket, plus a marginal amount, which is computed by applying a marginal assessment rate to the amount in excess of the lower boundary of the asset-size bracket.[5] The marginal assessment rate declines as asset size increases, reflecting economies of scale in bank examination and supervision.

The OCC's annual Notice of Office of the Comptroller of the Currency Fees and Assessments (Notice of Fees) sets forth the marginal assessment rates applicable to each asset-size bracket for each year, as well as other assessment components and fees. Under part 8, the OCC may adjust the marginal rates to account for inflation through the annual Notice of Fees.[6] The OCC also has the discretion under part 8 to adjust marginal rates by amounts other than inflation.[7] The OCC may issue an interim or amended Notice of Fees if the Comptroller determines that it is necessary to revise assessments to meet the OCC's supervisory obligations.[8]

Under 12 CFR 8.2, the OCC collects assessments on a semiannual basis, with fees due by March 31 and September 30 (payment due dates) of each year for the six-month period beginning on January 1 and July 1 before each payment due date.[9] Under this schedule, banks under the jurisdiction of the OCC pay half of the semiannual assessment prospectively and half retrospectively. This schedule for collection of assessments was adopted in 2005 when the OCC issued a rule to streamline the assessments billing process.[10] Between 1976, when the OCC adopted the marginal assessments structure, and 2005, the OCC collected assessments prospectively for five months and retrospectively for one month.[11]

Under current 12 CFR 8.2(a)(5) and (b)(3), each bank under the jurisdiction of the OCC on the date of the second or fourth quarterly Call Report is subject to the full assessment for the next six-month period. As noted in the Notice of Fees for 2018,[12] only those institutions leaving OCC jurisdiction before the close of business on the date of the second or fourth quarterly Call Report avoid paying the semiannual assessment for the period beginning January 1 or July 1, as applicable.

II. Description of the Proposed Rule and Comments Received

Assessment Refunds

The OCC published a proposed rule in the **Federal Register** on March 20, 2019, to amend 12 CFR part 8 to provide partial assessment refunds to banks that exit the jurisdiction of the OCC within the first half of each six-month period beginning the day after the date of the second or fourth quarterly Call Report.[13] Under the current assessments structure, banks that are subject to the jurisdiction of the OCC on the date of the second or fourth quarterly Call Report (December 31 or June 30) are subject to the full assessment for the next six-month period beginning January 1 or July 1, with payment due

[1] Revised Statutes of the United States, Title LXII, 12 U.S.C. 1 *et seq.*

[2] The Home Owners' Loan Act, 12 U.S.C. 1461 *et seq.*

[3] 12 U.S.C. 16, 481, 482, 1467.

[4] 12 U.S.C. 16. *See also* 12 U.S.C. 1467 (providing that the Comptroller has the authority to recover costs of examination of Federal savings associations ''as the Comptroller deems necessary or appropriate'').

[5] 12 CFR 8.2(a). Only the total domestic assets of Federal branches and agencies are subject to assessment. 12 CFR 8.2(b)(2).

[6] 12 CFR 8.2(a)(4).

[7] *Id.*

[8] 12 CFR 8.8(b).

[9] 12 CFR 8.2(a) and (b)(1).

[10] 70 FR 69641 (Nov. 17, 2005).

[11] 41 FR 3284 (Jan. 22, 1976).

[12] *See* OCC Bulletin 2017–60 (Office the Comptroller of the Currency Fees and Assessments).

[13] 84 FR 10270 (March 20, 2019).

March 31 or September 30, as appropriate.[14] Under the proposed rule, banks that leave OCC jurisdiction by the date of the first or third quarterly Call Report, which coincides with the appropriate payment due date, would receive a refund of assessments for the second three months of the semiannual assessment period. For example, a bank that was subject to the jurisdiction of the OCC as of December 31, the date of the fourth quarterly Call Report, would receive a refund of assessments for the second three months of the semiannual assessment period beginning January 1 if it leaves the OCC's jurisdiction by March 31, the date of the first quarterly Call Report.

The proposed rule was intended to eliminate the requirement that banks pay prospectively for one half of each assessment period after they no longer are subject to the jurisdiction of the OCC by setting the refund equal to the prospective portion of the assessment. Under the current rule, the payment due date effectively divides each six-month period into two three-month periods, and a bank subject to the jurisdiction of the OCC on the date of the applicable Call Report (December 31 or June 30) must pay the full assessment on the payment due date of the semiannual assessment (March 31 and September 30) even if it has left OCC jurisdiction by that date. This structure can result in banks prospectively paying assessment fees for three-month periods during which they are not subject to the jurisdiction of the OCC at any time. Under the proposed rule, the payment due date continues to divide each six-month period into two three-month periods. However, a bank that leaves the OCC's jurisdiction after the fourth quarterly Call Report (December 31), but before the date of the first quarterly Call Report (March 31), would not be obligated to pay for the second half of that semiannual assessment period. Similarly, a bank that leaves the OCC's jurisdiction after the second quarterly Call Report (June 30), but before the date of the third quarterly Call Report (September 30) would also not be obligated to pay for the second half of that semiannual assessment period. In doing so, the proposed rule would assess a bank to cover only the relevant three-month period during which it was subject to the jurisdiction of the OCC.

Technical and Conforming Amendments

The proposed rule also included technical and conforming amendments. These were intended to reduce ambiguity and make terminology consistent throughout 12 CFR part 8. The first proposed change would amend §§ 8.2(d) and 8.6(c)(1)(iii) concerning the condition surcharge to replace the phrase ''at its most recent examination'' with the phrase ''prior to December 31 or June 30, as appropriate.'' This change would clarify that the condition surcharge is calculated in tandem with the OCC's calculation of other assessment components based on Call Report information as of December 31 and June 30 of each year.[15] This amendment to the rule would not change the OCC's current practice of calculating a bank's surcharge as of its most recent ratings prior to December 31 or June 30, as appropriate. Under this policy, surcharges are neither raised nor lowered between December 31 and June 30, as appropriate, and the payment due dates of March 31 and September 30, as appropriate.

The second proposed technical change would make several revisions to 12 CFR 8.7 concerning interest on delinquent assessments and fees and refunds in the case of an error or miscalculation of assessments or fees. First, it would add the prefatory clause, ''Within 30 calendar days of receipt of such notice, the OCC shall either—'' at § 8.7(b)(1). This clause was originally included at § 8.7(b) as introductory text and was inadvertently deleted in connection with a prior rulemaking. Restoring it would clarify the OCC's obligations under § 8.7(b). This change would also redesignate the current § 8.7(b)(1) and (2) as § 8.7(b)(1)(i) and (ii), respectively. In addition, the proposed rule would redesignate the current § 8.7(b) concluding text as § 8.7(b)(2). Finally, the proposed rule would simplify the language used in § 8.7(a) and (b) and clarify that provisions dealing with special examination or investigation fees apply to any institution subject to a special examination or investigation. These amendments would not change the OCC's current policy of considering assessment payments delinquent if received after the time for payment specified in 12 CFR 8.2; considering special examination and investigation fees delinquent if not received within 30 calendar days of the invoice date; requiring interest on delinquent payments and fees; and providing either a refund or notice of its unwillingness to accept a refund request within 30 calendar days of receipt of a request.

The proposed rule would also conform all references to the ''Office of the Comptroller of the Currency,'' ''Comptroller of the Currency,'' or ''Office'' to ''OCC,'' except with respect to references to the Notice of Fees; conform all references to ''Notice of Comptroller of the Currency Fees'' or ''Notice of Comptroller of the Currency of Fees'' to ''Notice of Office of the Comptroller of the Currency Fees and Assessments''; add hyphens to all compound modifiers where a hyphen is not currently used; remove references to ''Thrift Financial Reports,'' which are no longer used; remove a duplicate reference to ''Uniform Financial Institutions Rating System'' in 12 CFR 8.6(c)(1)(iii); remove a duplicate and unnecessary citation to authority in 12 CFR 8.6(a); replace an incorrect reference to ''each national bank'' with a reference to ''each Federal branch and agency'' in 12 CFR 8.2(b)(1); add the modifier ''national'' to references to banks and terms, such as ''independent credit card banks,'' as appropriate; add the term ''independent trust'' before references to banks and Federal savings associations in 12 CFR 8.6(c)(1)(iii) and add a reference to independent trust Federal savings associations where the provision currently only refers to banks; and add conforming references to Federal branches and agencies, as necessary.

Comments on the Proposed Rule

The OCC received one comment on the proposed rule. The commenter, a trade association for banks, supported the proposed rule, stating that it would improve the fairness of the assessments process and appropriately refine the scope of fees and charges for banks under the jurisdiction of the OCC. In the commenter's opinion, the proposal would also improve the ability of banks to serve their customers and communities.

III. Description of the Final Rule

The final rule adopts the assessment refund process presented in the proposed rule without change. Under the final rule, banks that exit the jurisdiction of the OCC within the first half of each six-month period beginning the day after the date of the second or fourth quarterly Call Report will receive a refund equal to the prospective portion of the assessment. This change will prevent banks that exit the OCC's jurisdiction from paying assessment fees for the three-month periods during which they are not subject to the OCC's jurisdiction at any time. This change will not affect current payment due

[14] 12 CFR 8.2(a) and (b).

[15] *See* OCC Bulletin 2017–60 (Office the Comptroller of the Currency Fees and Assessments) (describing the process for calculating assessments).

dates or the manner in which assessments are calculated.

The final rule adopts the technical and conforming amendments in the proposed rule without substantive change. These amendments will reduce ambiguity and make terminology consistent throughout part 8. The final rule also makes a technical correction to the text of the proposed rule. This correction revises proposed 12 CFR 8.2(a)(5) and (b)(3) by substituting ''first'' and ''third'' for ''second'' and ''fourth,'' as appropriate, to reflect the new proposed refund policy. This technical correction does not substantively change the partial refund process as proposed and is consistent with the description of the refund policy in the preamble to the proposed rule. The final rule also makes a technical correction to the proposed rule's prefatory clause at § 8.7(b)(1) by removing the word ''notice'' and replacing it with the word ''request.'' This is a nonsubstantive change that aligns the wording with the phraseology in § 8.7(b).

Regulatory Analysis

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) the OCC may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid Office of Management and Budget (OMB) control number. This final rule does not contain a collection of information under the PRA.

Regulatory Flexibility Act

In general, the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires that in connection with a rulemaking, an agency prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities. Under section 605(b) of the RFA, this analysis is not required if an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a brief explanatory statement in the **Federal Register** along with its rule.

The OCC currently supervises approximately 886 small entities.[16] Although the number of OCC-supervised small banks affected will vary each year, the OCC does not expect that the final rule will affect a substantial number (generally defined as five percent or more of OCC-supervised small entities) in any given year, based on the OCC's experience with departures from the charters in recent years. For example, had the final rule applied in 2018, the OCC would have refunded assessments totaling $579,000 to 22 banks, 19 of which were small banks (approximately two percent of OCC-supervised small entities). Similarly, if the final rule had applied in 2017, the OCC would have refunded assessments totaling $663,000 to 16 banks, 12 of which were small banks; in 2016, the OCC would have refunded assessments totaling $392,000 to 26 banks, all of which were small banks; and in 2015, the OCC would have refunded assessments totaling $555,000 to 29 banks, 27 of which were small banks. In each of these years, the number of institutions that would have been affected by the final rule was less than five percent of OCC-supervised small entities. Therefore, the final rule would not have affected a substantial number of small entities during these years.

The OCC also considered whether the final rule will result in a significant economic impact on small entities. In general, the OCC classifies the economic impact of expected cost (or benefit) to comply with a rule on an individual bank as significant if the total estimated monetized costs (or benefits) in one year are greater than 5 percent of the bank's total annual salaries and benefits or 2.5 percent of the bank's total annual non-interest expense. Based on the above criteria, and the refund amounts for the years 2015 through 2018 outlined above, the OCC estimates that impact of the final rule, had it been in place for 2015–2018, would not have had a significant economic impact at any of the affected institutions.

Based on the data and experience of the OCC in recent years with departures from the charters, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The OCC analyzed the final rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the final rule includes a Federal mandate 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 in any one year (adjusted for inflation). The OCC has determined that the final rule will not impose new mandates and, therefore, will not result in the expenditure of $100 million or more annually by state, local, and tribal governments, or by the private sector.

Riegle Community Development and Regulatory Improvement Act of 1994

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) (12 U.S.C. 4802) requires that each Federal banking agency, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations.[17] In addition, new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[18]

Because the final rule does not impose additional reporting, disclosure, or other requirements on IDIs, section 302 of RCDRIA does not apply. Nevertheless, the requirements of section 302 RCDRIA, and the administrative burdens and benefits of the final rule, were considered as part of the overall rulemaking process.

The Congressional Review Act

Pursuant to the Congressional Review Act, the Office of Management and Budget's Office of Information and Regulatory Affairs designated this rule as not a ''major rule'', as defined at 5 U.S.C. 804(2).

[16] The OCC bases its estimate of the number of small entities on the SBA's size thresholds for commercial banks and savings institutions, and trust companies, which are $550 million and $38.5 million, respectively. Consistent with the General Principles of Affiliation in 13 CFR 121.103(a), the OCC counts the assets of affiliated financial institutions when determining if we should classify an OCC-supervised institution as a small entity. The OCC uses December 31, 2017, to represent size because a ''financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' *See* footnote 8 of the U.S. Small Business Administration's *Table of Size Standards.*

[17] 12 U.S.C. 4802(a).

[18] 12 U.S.C. 4802(b).

List of Subjects in 12 CFR Part 8

Assessments, Federal branches and agencies, National banks, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set forth in the preamble, chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 8—ASSESSMENT OF FEES

■ 1. The authority for part 8 continues to read as follows:

Authority: 12 U.S.C. 16, 93a, 481, 482, 1467, 1831c, 1867, 3102, 3108, and 5412(b)(2)(B); and 15 U.S.C. 78c and 78*l*.

■ 2. Section 8.2 is amended by:
■ a. Adding a heading and revising the first column heading for the table in paragraph (a);
■ b. Removing ''the bank's'' and adding ''the national bank's'' in its place in paragraphs (a)(3) and (c)(3)(iii) and (viii);
■ c. Removing ''A bank's'' and adding ''A national bank's'' in its place in paragraph (a)(1);
■ d. Removing ''the bank'' and adding ''the national bank'' in its place in paragraphs (a)(1) and (2) and (c)(1) and (2);
■ e. Removing ''Comptroller of the Currency'' and adding ''OCC'' in its place in paragraphs (a) introductory text and (b)(1);
■ f. Revising paragraph (a)(5);
■ g. Removing ''non-lead bank'' and adding ''non-lead national bank'' in its place in paragraph (a)(6)(i);
■ h. Removing ''Notice of Comptroller of the Currency Fees'' and adding ''Notice of Office of the Comptroller of the Currency Fees and Assessments'' in its place in paragraphs (a)(6)(i) and (b)(4)(i);
■ i. Removing ''Lead bank'' and adding ''Lead national bank'' in its place, removing ''each bank's'' and adding ''each national bank's'' in its place, and removing ''or Thrift Financial Report, as appropriate,'' in paragraph (a)(6)(ii)(A);
■ j. Removing ''Non-lead bank'' and adding ''Non-lead national bank'' in its place and removing ''lead bank'' and adding ''lead national bank'' in its place in paragraph (a)(6)(ii)(B);
■ k. Removing ''six month'' and adding ''six-month'' in its place and removing ''national bank'' and adding ''Federal branch and agency'' in its place in paragraph (b)(1);
■ l. Revising paragraph (b)(3);
■ m. Removing ''Federal branch or agency'' and adding ''Federal branch and agency'' in its place in paragraph (b)(4)(i);
■ n. Removing ''independent credit card banks'' and adding ''independent credit card national banks'' in its place in paragraph (c) heading;
■ o. Removing ''Notice of Comptroller of the Currency of Fees'' and adding ''Notice of Office of the Comptroller of the Currency Fees and Assessments'' in its place in paragraph (c)(1);
■ p. Removing ''independent credit card bank'' and adding ''independent credit card national bank'' in its place in paragraphs (c)(1) and (2) and (c)(3)(viii);
■ q. Removing ''Independent credit card banks'' and adding in its place ''Independent credit card national banks'' and removing ''full service'' and adding ''full-service'' in its place in paragraph (c)(2);
■ r. Removing ''or a bank'' and adding ''or a national bank'' in its place in paragraph (c)(3)(iii);
■ s. Removing ''Independent credit card bank'' and adding ''Independent credit card national bank'' in its place in paragraph (c)(3)(vi);
■ t. Removing ''Independent credit card banks'' and adding ''Independent credit card national banks'' in its place in paragraph (c)(4); and
■ u. Revising paragraph (d).

The revisions read as follows:

§ 8.2 Semiannual assessment.

(a) * * *

TABLE 1 TO PARAGRAPH (a)

If the national bank's or Federal savings association's total assets (consolidated domestic and foreign subsidiaries) are:	*	*	*	*	*	*	*
*	*	*	*	*	*	*	

* * * * *

(5) The specific marginal rates and complete assessment schedule will be published in the ''Notice of Office of the Comptroller of the Currency Fees and Assessments,'' provided for at § 8.8. Each semiannual assessment is based upon the total assets shown in the national bank's or Federal savings association's most recent ''Consolidated Reports of Condition and Income'' (Call Report) preceding the payment date. Each national bank or Federal savings association subject to the jurisdiction of the OCC on the date of the second or fourth quarterly Call Report as appropriate, required by the OCC under 12 U.S.C. 161 and 12 U.S.C. 1464(v), is subject to the full assessment for the next six-month period. National banks and Federal savings associations that are no longer subject to the jurisdiction of the OCC as of the date of the first or third quarterly Call Report, as appropriate, will receive a refund of assessments for the second three months of the semiannual assessment period.

* * * * *

(b) * * *

(3) Each semiannual assessment of each Federal branch and each agency is based upon the total assets shown in the Federal branch's or agency's Call Report most recently preceding the payment date. Each Federal branch or agency subject to the jurisdiction of the OCC on the date of the second and fourth Call Reports is subject to the full assessment for the next six-month period. Federal branches and agencies that are no longer subject to the jurisdiction of the OCC as of the date of the first or third quarterly Call Report, as appropriate, will receive a refund of assessments for the second three months of the semiannual assessment period.

* * * * *

(d) *Surcharge based on the condition of the national bank, Federal savings association, or Federal branch or agency.* Subject to any limit that the OCC prescribes in the ''Notice of Office of the Comptroller of the Currency Fees and Assessments,'' the OCC shall apply a surcharge to the semiannual assessment computed in accordance with paragraphs (a) through (c) of this section. This surcharge will be determined by multiplying the semiannual assessment computed in accordance with paragraphs (a) through (c) of this section by—

(1) 1.5, in the case of any national bank or Federal savings association that receives a composite rating of 3 under the Uniform Financial Institutions Rating System (UFIRS) and any Federal branch or agency that receives a composite rating of 3 under the ROCA rating system (which rates risk management, operational controls,

compliance, and asset quality) at its most recent examination prior to December 31 or June 30, as appropriate; and

(2) 2.0, in the case of any national bank or Federal savings association that receives a composite UFIRS rating of 4 or 5 and any Federal branch or agency that receives a composite rating of 4 or 5 under the ROCA rating system at its most recent examination prior to December 31 or June 30, as appropriate.

■ 3. Section 8.6 is amended by:

■ a. Revising paragraphs (a) introductory text and (a)(1) and (3);

■ b. Removing ''Notice of Comptroller of the Currency fees'' and adding ''Notice of Office of the Comptroller of the Currency Fees and Assessments'' in its place in paragraph (b);

■ c. Removing ''Notice of Comptroller of the Currency Fees'' and adding ''Notice of Office of the Comptroller of the Currency Fees and Assessments'' in its place in paragraphs (b), (c)(1)(i) and (ii), and (c)(3)(vii);

■ d. Removing ''trust banks'' and adding ''trust national banks'' in its place in paragraph (c) heading;

■ e. Removing ''Independent trust banks'' and ''independent trust banks'' wherever they appear and adding ''Independent trust national banks'' and ''independent trust national banks'' in their place, respectively, in paragraph (c)(1);

■ f. Revising paragraph (c)(1)(iii);

■ g. Removing ''Trust banks'' and adding ''Trust national banks'' in its place, removing ''trust bank'' and adding ''trust national bank'' in its place, and removing ''the bank'' and adding ''the national bank'' in its place in paragraph (c)(2); and

■ h. Removing ''Independent trust bank'' and adding ''Independent trust national bank'' in its place in paragraph (c)(3)(v).

The revisions read as follows:

§ 8.6 Fees for special examinations and investigations.

(a) *Fees.* The OCC may assess a fee for:

(1) Examining the fiduciary activities of national banks, Federal branches of foreign banks, and Federal savings associations and related entities;

* * * * *

(3) Conducting special examinations and investigations of an entity with respect to its performance of activities described in section 7(c) of the Bank Service Company Act (12 U.S.C. 1867(c)) if the OCC determines that assessment of the fee is warranted with regard to a particular national bank, Federal branch or agency of a foreign bank, or Federal savings association because of the high risk or unusual nature of the activities performed; the significance to the national bank's, Federal branch's or agency's, or Federal saving association's operations and income of the activities performed; or the extent to which the national bank, Federal branch or agency, or Federal savings association has sufficient systems, controls, and personnel to adequately monitor, measure, and control risks arising from such activities;

* * * * *

(c) * * *

(1) * * *

(iii) *Surcharge based on the condition of the independent trust national bank or of the independent trust Federal savings association.* Subject to any limit that the OCC prescribes in the ''Notice of Office of the Comptroller of the Currency Fees and Assessments,'' the OCC shall adjust the semiannual assessment computed in accordance with paragraphs (c)(1)(i) and (ii) of this section by multiplying that figure by 1.5 for each independent trust national bank and independent trust Federal savings association that receives a composite UFIRS rating of 3 at its most recent examination prior to December 31 or June 30, as appropriate, and by 2.0 for each independent trust national bank and independent trust Federal savings association that receives a composite UFIRS rating of 4 or 5 at such examination.

* * * * *

■ 4. Section 8.7 is amended by revising paragraphs (a) and (b) and removing the undesignated paragraph following paragraph (b) to read as follows:

§ 8.7 Payment of interest on delinquent assessments and examination and investigation fees.

(a) Each national bank, Federal savings association, Federal branch, and Federal agency shall pay to the OCC interest on its delinquent payments of semiannual assessments. In addition, each institution subject to a special examination or investigation fee shall pay to the OCC interest on its delinquent payments of special examination and investigation fees. Semiannual assessment payments will be considered delinquent if they are received after the time for payment specified in § 8.2. Special examination and investigation fees will be considered delinquent if not received by the OCC within 30 calendar days of the invoice date.

(b) In the event that an institution believes that the notice of assessments or special examination and investigation fees contains an error or miscalculation, the institution may provide the OCC with a written request for a revised notice and a refund of any overpayments. Any such request for a revised notice and refund must be made after timely payment of the semiannual assessment under the dates specified in § 8.2 or timely payment of the special examination and investigation fee within 30 calendar days of the invoice date.

(1) Within 30 calendar days of receipt of such request, the OCC shall either—

(i) Refund the amount of the overpayment; or

(ii) Provide notice of its unwillingness to accept the request for a revised notice of assessments. In the latter instance, the OCC and the entity claiming the overpayment shall thereafter attempt to reach agreement on the amount, if any, to be refunded; the OCC shall refund this amount within 30 calendar days of such agreement.

(2) The OCC shall be considered delinquent if it fails to return an overpayment in accordance with the time limitations specified in this paragraph (b). The OCC shall pay interest on any such delinquent payments.

* * * * *

■ 5. Section 8.8 is amended by revising the section heading and paragraph (b) to read as follows:

§ 8.8 Notice of Office of the Comptroller of the Currency fees and assessments.

* * * * *

(b) *Interim and amended notice of fees.* The OCC may issue a ''Notice of Interim Office of the Comptroller of the Currency Fees and Assessments'' or a ''Notice of Amended Office of the Comptroller of the Currency Fees and Assessments'' from time to time throughout the year as necessary. Interim or amended notices will be effective 30 days after issuance.

Dated: August 5, 2019.

Joseph M. Otting,

Comptroller of the Currency.

[FR Doc. 2019–17535 Filed 8–20–19; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 382

[Docket No. DOT–OST–2018–0067]

RIN 2105–ZA05

Guidance on Nondiscrimination on the Basis of Disability in Air Travel

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Final statement of enforcement priorities regarding service animals.

SUMMARY: The U.S. Department of Transportation (DOT or the Department) is issuing a final statement of enforcement priorities to apprise the public of its enforcement focus with respect to the transportation of service animals in the cabin of aircraft. The Department regulates the transportation of service animals under the Air Carrier Access Act (ACAA) and its implementing regulations.

DATES: This final statement is effective August 21, 2019.

ADDRESSES: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Robert Gorman, Senior Trial Attorney, or Blane A. Workie, Assistant General Counsel, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202–366–9342, 202–366–7152 (fax), *robert.gorman@dot.gov* or *blane.workie@dot.gov* (email).

SUPPLEMENTARY INFORMATION:

Background

On May 23, 2018, the Department published two documents relating to transportation of service animals. The first document was an advance notice of proposed rulemaking (ANPRM) seeking comment on amending the Department's Air Carrier Access Act (ACAA) regulation, 14 CFR part 382 (Part 382), with respect to the transportation of service animals. The Department published the ANPRM in response to concerns expressed by individuals with disabilities, airlines, flight attendants, and other stakeholders about the need for a change in the Department's service animal requirements. The ANPRM solicited comments on ways to ensure and improve access to air transportation for individuals with disabilities, while also deterring the fraudulent use of animals not qualified as service animals and ensuring that animals that are not trained to behave properly in public are not accepted for transport. The ANPRM comment period closed on July 9, 2018, with the Department receiving approximately 4,500 comments (Docket DOT–OST–2018–0068). The Department intends to issue a Notice of Proposed Rulemaking (NPRM) on the transportation of service animals by air after reviewing and considering the comments to the ANPRM.

Recognizing that the rulemaking process can be lengthy, on May 23, 2018, the Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) also issued an Interim Statement of Enforcement Priorities (Interim Statement) to apprise the public of its intended enforcement focus with respect to transportation of service animals in the cabin. The Interim Statement addressed various topics regarding the transportation of service animals under the existing disability regulation, including: (1) Types of species accepted for transport; (2) number of service animals that a single passenger may transport; (3) advance notice of travel with a service animal; (4) evidence that an animal is a service animal; (5) check-in for passengers traveling with service animals; (6) documentation for passengers traveling with a service animal; and (7) leashing or containing a service animal while in the aircraft cabin. It was important for the Department to address these issues given confusion regarding current regulatory requirements on the transportation of service animals in the cabin of aircraft, considering new service animal policies that airlines instituted, and in light of disability rights advocates' view that some of these polices are unlawful.

Interim Statement

In the Interim Statement, we noted that our enforcement efforts would be focused ''on clear violations of the current rule that have the potential to adversely impact the largest number of persons.'' 83 FR 23805–23806. With respect to animal species, we indicated that we would focus our enforcement efforts on ensuring that the most commonly used service animals (dogs, cats, and miniature horses) are accepted for transport as service animals. With respect to the number of service animals that an airline must allow a passenger to carry onboard the aircraft, we stated that as a matter of enforcement discretion, we did not intend to take enforcement action if an airline limits a passenger to transporting one emotional support animal (ESA), and two non-ESA service animals, for a total of three service animals, as the Department's service animal regulation does not indicate whether airlines must allow passengers to travel with more than one service animal. With respect to advance notice, we stated that airlines may require passengers traveling with ESAs or psychiatric service animals (PSAs) to provide advance notice, but not passengers traveling with other types of service animals, as DOT's disability regulation prohibits advance notice prior to travel unless specifically permitted in the regulation, as is the case with passengers traveling with PSAs or ESAs. As for proof that an animal is a service animal, we stated that if a passenger's status as an individual with a disability is not clear, then an airline may ask about the passenger's need for a service animal and need not rely solely on paraphernalia such as an identification card, a harness, or a tag. With respect to check-in requirements, we stated that we intended to take enforcement action if airlines require passengers with service animals to check in at the lobby to process service animal documentation. We reasoned that DOT's disability regulation prohibits airlines from denying an individual with a disability the benefit of transportation or related services that are available to other persons, and airlines allow other passengers to check in electronically before arriving at the airport to avoid the inconvenience of checking in at the lobby. With respect to documentation, we stated that we generally did not intend to take enforcement action if airlines require ESA or PSA users to provide veterinary immunization records, health forms, and/or behavioral attestations since DOT's disability regulation permits airlines to ask for advance notice for passengers traveling with ESAs and PSAs, and allows airlines to deny boarding to an animal that poses a direct threat to the health or safety of others. Finally, with respect to containment, we indicated that we did not intend to take enforcement action if an airline imposed reasonable and appropriate measures to control the movement of ESAs in the cabin since DOT's disability regulation does not clearly specify whether or how airlines may restrict the movement of service animals in the cabin, and because we recognized the possibility that ESAs may pose greater in-cabin safety risks than other service animals.

General Comments Received

The comment period on the Interim Statement closed on June 7, 2018; we received a total of 94 comments.[1] Disability advocates (including Paralyzed Veterans of America (PVA), the National Disability Rights Network (NDRN), the Bazelon Center for Mental Health Law/National Alliance on Mental Illness (Bazelon/NAMI), and the National Council on Disability (NCD)) expressed significant concern with the Interim Statement.[2] Many advocates took the view that the Enforcement Office was improperly announcing in advance that it would not enforce certain ACAA violations, and was therefore abdicating its statutory duty to investigate all disability complaints. We note, however, that the Enforcement Office investigates every formal and informal disability complaint, and we will continue to do so in accordance with our statutory obligation.

Advocates also expressed the view that abandoning enforcement of certain claims was arbitrary, capricious, and constitutes an abuse of discretion, which is subject to judicial review under the Administrative Procedure Act (APA). Again, we emphasize that the Enforcement Office is not refusing to enforce certain ACAA violations. We will continue to investigate all complaints alleging violations of the ACAA and Part 382 as it is currently written. We will also continue to determine, within the traditional parameters of agency discretion, how best to use the Enforcement Office's limited resources to pursue enforcement action. The factors affecting the exercise of that discretion include, among other things, the nature and extent of the violations, the number of individuals harmed by the violations, the extent of the harm, and whether the conduct at issue clearly violates the regulatory text.[3]

A flight attendants' union (the Association of Flight Attendants-CWA) generally supported the Interim Statement but expressed concern about safety issues arising from increased use of ESAs. The Association of Flight Attendants-CWA reasoned that ESA issues should be addressed in the airport lobby, as far from the cabin of the aircraft as possible, to reduce the risk of injury to passengers and flight crew onboard the aircraft.

Individual airlines and Airlines for America (A4A) generally supported the Interim Statement. They expressed the view that the Interim Statement provided them the flexibility to address growing fraud and safety concerns with untrained service animals, particularly untrained ESAs. Airlines expressed considerable concern, however, with the Enforcement Office's expressed intention to use its resources to pursue action against airlines that require service animal users to check in at the lobby of the airport. We will discuss these comments, as well as the specific comments of stakeholders relating to other discrete issues, in greater detail below.

Comments and Responses on Topics Addressed in the Interim Statement

1. Species Restrictions

In the Interim Statement, we stated that ''[t]he Enforcement Office intends to exercise its enforcement discretion by focusing its resources on ensuring that U.S. carriers continue to accept the most commonly used service animals (*i.e.,* dogs, cats, and miniature horses) for travel.'' 83 FR 23806. We indicated that the public interest would be better served by this exercise of our enforcement discretion because dogs, cats, and miniature horses are the most commonly used service animals. We stated that while we will focus on ensuring the transport of dogs, cats and miniature horses, we may take enforcement action against carriers for failing to transport other service animals on a case-by-case basis. We also stated that airlines are expected to continue to comply with the existing service animal regulation, which allows airlines to categorically deny transport only to certain unusual species of service animals such as snakes, other reptiles, ferrets, rodents, and spiders.[4]

Disability rights advocates generally expressed no specific objection to our position on species. Airlines have asked us to declare that a wide variety of species (*e.g.,* birds, hedgehogs, insects, and animals with hooves or horns) constitute ''unusual service animals'' that may be categorically banned. They also contend that we have the authority to define ''service animals'' within this Final Statement, because ''service animal'' is not defined within Part 382 itself. We recognize that the existing service animal regulation is not clear with respect to the species of animals that may be categorically banned as ''unusual service animals.'' Nevertheless, these matters are more appropriately reserved to the rulemaking process that has begun with the Service Animal ANPRM.

In this Final Statement, after reviewing the comments on this issue, we believe that it would be in the public interest and within our discretionary authority to prioritize ensuring that the most commonly recognized service animals (*i.e.,* dogs,[5] cats,[6] and miniature horses[7]) are accepted for transport. In accordance with section 382.117(f), airlines will not be subject to enforcement action if they continue to deny transport to snakes, other reptiles, ferrets, rodents, and spiders; however, airlines will remain subject to potential enforcement action if they categorically refuse to transport other animals or species of animals. Airline policies that categorically refuse transport to all service animals that are not dogs, cats, or miniature horses violate the current disability regulation. The extent of enforcement action against these airlines will be determined on a case-by case basis, bearing in mind factors such as consumer complaints describing the harm to consumers from such policies. We also note that, consistent with existing law, an airline may refuse transport to an individual animal regardless of species if the airline determines that specific factors preclude the animal from being transported as a service animal. These factors include a determination that the animal is too large or too heavy, poses a direct threat to the health or safety of others, or would cause a significant disruption in cabin service. 14 CFR 382.117(f).

[1] Most of the comments from individuals were germane to the ANPRM, rather than the Interim Statement, because they typically suggested ways in which the service animal regulation should be amended. The comment of the National Council on Disability was received after the close of the comment period, but was considered.

[2] The following disability advocates provided comments to the Interim Statement: PVA; NDRN; Bazelon/NAMI; NCD; Psychiatric Service Dog Partners + Guide Dog Federation; Guide Dogs for the Blind; Guide Dogs of Texas; Operation Freedom Paws; American Association of People with Disabilities; Autistic Self-Advocacy Network; Disability Rights Education and Defense Fund; and The Arc of the United States.

[3] In the Interim Statement, we indicated that ''to the extent that this interim statement of enforcement priorities conflicts with the Enforcement Office's 2009 Frequently Asked Questions guidance document (*https://www.transportation.gov/airconsumer/frequently-asked-questions-may-13-2009*), this more recent document will control.'' 83 FR 23805–23806. Similarly, to the extent that this Final Statement conflicts with prior service animal guidance, the Final Statement will control.

[4] 14 CFR 382.117(f).

[5] Service animals are limited to dogs under the Americans with Disabilities Act. See 28 CFR 36.104.

[6] Cats join dogs in being one of the two most common species that are used as ESAs. Service Animal Advocates Position and Reasoning, p. 8 at *https://www.regulations.gov/document?D=DOT-OST-2015-0246-0208* (September 15, 2016).

[7] Entities covered by the Americans with Disabilities Act are also required to modify their policies to permit trained miniature horses where reasonable. See 28 CFR 36.302.

2. Number Limits

The Department's service animal regulation is not clear as to whether airlines must allow passengers to travel with more than one service animal. Section 382.117(a) states that an airline ''must permit *a* service animal to accompany *a* passenger with a disability'' (emphasis added). While this language could be read as suggesting that an airline is only required to transport one service animal per passenger, it could also be read as requiring airlines to transport any service animal needed by a particular passenger, even if that passenger needs the assistance of more than one such service animal. Section 382.117(i) references guidance concerning carriage of service animals, which does not have independent mandatory effect, but rather describes how the Department understands the requirements of section 382.117. That guidance states, ''A single passenger legitimately may have two or more service animals.'' See 73 FR 27614, 27661 (May 13, 2008).

As noted in the Interim Statement, the Enforcement Office has stated in the past that it would not subject airlines to enforcement action if airlines limit a passenger to transporting three service animals. See 83 FR 23806. In the Interim Statement, we noted that certain passengers may need the assistance of more than one task-trained service animal, as well as an ESA. We indicated that as a matter of enforcement discretion, our focus would be on ensuring that an airline allows a passenger to transport one ESA, and a total of three service animals if needed.

Disability rights organizations generally did not comment on this position; the two brief comments that we did receive were favorable. Airlines urged the Enforcement Office to ensure that it would not take enforcement action if the airline restricts a passenger to carrying one ESA and one task-trained service animal. Airlines also urged the Enforcement Office to authorize additional restrictions, such as allowing airlines to limit the total number of ESAs on any individual flight.

After reviewing the comments on this topic, we have decided that our enforcement efforts should continue to focus on ensuring that airlines are not restricting passengers from traveling with one ESA and a total of three service animals if needed. We share the view of the commenters that a single ESA would ordinarily be sufficient to provide emotional support on a given flight. However, we disagree with airline comments suggesting that the Enforcement Office should not take action against airlines that limit the total number of ESAs on a flight. While Part 382 may not be clear on the number of service animals each passenger may bring in the cabin, our view is that Part 382 plainly does not allow airlines to deny transport to a service animal accompanying a passenger with a disability because of a limit on the total number of service animals that can be on any flight. Also, under the existing rule, an ESA is considered a service animal. As such, if ten qualified individuals with a disability each need to bring an ESA, then under Part 382 the airline must accept all ten ESAs, so long as the ESAs are sufficiently trained to behave in a public setting. Section 382.117(a) requires airlines to permit a service animal to accompany a passenger with a disability, with no stated limitation based on the number of other passengers with service animals. We also note that section 382.17 prohibits airlines from limiting the number of passengers with a disability on a flight. For enforcement purposes, we will continue to address each complaint that we receive alleging a violation of the Department's current service animal rules on a case-by-case basis, bearing in mind the specific circumstances of the matter, including the passenger's genuine need for multiple service animals, particularly those that are task-trained.[8]

3. Advance Notice

In the Interim Statement, we explained our view that the plain language of Part 382 prohibits carriers from requiring advance notice for passengers traveling with service animals other than ESAs or PSAs, unless the flight segment is 8 hours or more. Requiring advance notice of a passenger's intention to travel with a service animal outside of these specific circumstances violates the Department's regulation. 14 CFR 382.27(a). We received only three comments on this specific topic. All three comments addressed the wisdom of the rule itself, as opposed to our interpretation or enforcement of that rule.[9] In this Final Statement, we see no basis for deviating from the Interim Statement, because it represents a straightforward recitation of established law. The Enforcement Office intends to focus its resources on ensuring that airlines do not require advance notice for passengers traveling with service animals other than ESAs or PSAs, unless the flight segment is 8 hours or more, because advance notice may significantly harm passengers with disabilities as it prevents them from making last minute travel plans that may be necessary for work or family emergencies.

4. Proof That an Animal Is a Service Animal

In the Interim Statement, we addressed airlines' concerns that passengers may be attempting to pass off their pets as service animals by purchasing easily obtained paraphernalia such as harnesses, vests, and tags. We explained our view that under the existing rule, airlines may continue to seek credible verbal assurance that the passenger is an individual with a disability and that the animal is a service animal. Specifically, ''[i]f a passenger's status as an individual with a disability is unclear (for example, if the disability is not clearly visible), then the airline personnel may ask questions about the passenger's need for a service animal. For example, airlines may ask, ''how does your animal assist you with your disability?'' A credible response to this question would establish both that the passenger is an individual with a disability and that the animal is a service animal.'' 83 FR 23806. Stakeholders did not express disagreement with this position. In this Final Statement, we see no reason to deviate from the analysis of the Interim Statement because it represents a well-established interpretation of existing law.

5. Check-in Requirements

In the Interim Statement, we noted that certain airlines now require passengers with service animals to appear in person at the lobby[10] of the airport before the flight to verify that the animal can be transported as a service animal. We also noted that airlines generally allow electronic check-in, a process that typically permits passengers to skip the lobby and proceed directly to the gate if they do not have checked bags. We reasoned that requiring passengers with service animals to check in at the lobby would deny such passengers a benefit of electronic check-in that is available to

[8] Outside of the ESA context, complaints to the Enforcement Office involving multiple service animals are rare.

[9] PSDP contended that the current rule discriminates against passengers with psychiatric disabilities, but noted that in light of the fact that new rules will be proposed, it is not ''pushing for any alteration in DOT's proposed interim enforcement plan when it comes to advance notice.'' Comment of PDSP at 7.

[10] According to A4A and United Airlines, Inc. (United), ''ticket counter'' is an outdated term, and the more appropriate term is the ''lobby.''

other persons who do not have service animals. Accordingly, we concluded that ''the Enforcement Office intends to act should an airline require that a passenger with a service animal check-in at the ticket counter, thereby denying those passengers the same benefits that are available to other passengers.'' 83 FR 23806.

Disability advocates generally supported this position for many of the reasons stated by the Department. Flight attendants (AFA–CWA) disagreed, however, stating that airlines should have the authority to process oversized and poorly behaved animals in the lobby, rather than in the gate area/sterile area. Flight attendants stressed that for the safety of passengers and its members, airlines should address these issues as soon as possible and as far from the aircraft as possible, because available options are reduced as the animal gets closer to boarding the aircraft.

Similarly, airlines expressed substantial concerns with our position. They contend that the Interim Statement represents a significant and unexpected new regulation, issued without the Department first engaging in the full notice and comment procedures required by the Administrative Procedure Act. They also argue that the Interim Statement is based on the incorrect premise that ''lobby verification'' discriminates on the basis of disability. In the airlines' view, lobby verification is nondiscriminatory because it is based on the presence of an animal, not the presence of a disability. They note, for example, that airlines also require passengers with pets to appear in the lobby for processing. A4A and the International Air Transport Association (IATA) filed a joint comment noting that many airlines require lobby check-in for passengers with and without disabilities who travel with an animal in the cabin and emphasized that only passengers with traditional service animals (such as guide dogs) are exempted. Airlines assert that lobby agents, rather than gate agents, are in the best position (both logistically and in terms of expertise) to process animals for transport in the cabin. Airlines also mentioned that certain carriers have already invested in training specialized lobby personnel to process passengers with animals, and that other carriers are experimenting with systems where agents do not appear at gates. Finally, they contend that to minimize the risk of injury to airline personnel and other passengers, it is critical to verify service animal documentation and other requirements (such as the presence of harnesses or leashes, and whether the animal will fit in the passenger's foot space) as far from the confines of the aircraft cabin itself as possible.

As noted above, the purpose of the Final Statement is to inform the public of the Enforcement Office's priorities, not to announce or make new rules or to declare that certain classes of violations will not be enforced. After carefully reviewing the comments submitted and taking a closer look at Part 382, we have arrived at the view that lobby verification is permitted under Part 382 for ESAs and PSAs, because an airline is permitted to exclude a person with a disability from a benefit that is available to other persons where specifically permitted by Part 382. Here, the benefit is the ability to check-in online and proceed directly to the gate, but airlines are permitted under Part 382 to require ESA and PSA users to check in one hour before the check-in time for the general public. For that reason, the Enforcement Office does not view it to be a violation of Part 382 if airlines require lobby check-in for passengers with ESAs or PSAs.

More specifically, section 382.11(a)(3) states that airlines may not exclude an individual with a disability from or deny the person the benefit of any air transportation or related services that are available to other persons, except where specifically permitted by Part 382. Section 382.43(c) requires airlines to have an accessible website which, among other things, would enable a passenger with a disability to check-in for a flight online, similar to other passengers, thereby skipping the lobby and proceeding directly to the gate if he/she does not have checked bags. However, section 382.27(c)(8) allows airlines to require a passenger with a disability to provide up to 48 hours' advance notice and check in one hour before the check-in time for the general public in order to transport an ESA or PSA in the cabin. In our view, at the time that this section was enacted in 2008, the phrase ''check in'' generally meant presenting oneself in person at the airline's ticket counter. As such, we believe that Part 382 as written does contemplate that airlines may require passengers travelling with ESAs or PSAs to present themselves in person in the lobby before proceeding into the secured area. In any event, we do not intend to exercise our enforcement discretion to take action against airlines that impose such a requirement on passengers travelling with ESAs or PSAs. In our view, however, the regulations do not permit airlines to require ''check in one hour before the check-in time for the general public'' for non-ESA/PSA service animals, or to require that passengers with traditional service animal users appear in the lobby for processing. The Enforcement Office intends to act should an airline require that a passenger with a traditional (non-ESA/PSA) service animal check-in at the lobby of an airport.

6. Direct Threat Analysis—Documentation Requests for ESAs and PSAs

In the Interim Statement, we explained that airlines may refuse transportation to any service animal that poses a direct threat to the health or safety of others. We observed, however, that our service animal regulation does not explain how airlines may (or may not) make that assessment. We also noted that airlines may require 48 hours' advance notice of a passenger wishing to travel with an ESA or PSA in order to provide the carrier the necessary time to assess the passenger's documentation. We concluded that ''the Enforcement Office does not intend to use its limited resources to pursue enforcement action against airlines for requiring proof of a service animal's vaccination, training, or behavior for passengers seeking to travel with an ESA or PSA.'' 83 FR 23807. We also indicated that we would continue to monitor the types of information that airlines require from ESA or PSA users to ensure that travel with those animals is not made unduly burdensome or effectively impossible. Airlines strongly supported this position, on the basis that documentation helps personnel to determine whether an ESA or PSA is a direct threat. Airlines have expressed concern to the Department that passengers are increasingly bringing untrained animals onboard aircraft putting passengers and flight crew at risk.

Survey data of PSA and ESA users provided by the United Service Animal Users, Supporters, and Advocates (USAUSA) revealed that almost 90% of the 919 survey respondents indicated that they were concerned about untrained or stressed animals interfering with or harming their animal when they fly. However, Psychiatric Service Dog Partners (PSDP) emphasized that mandates for third-party documentation do not improve safety and serve only to increase burdens to passengers with disabilities. As evidence of the burden that documentation requirements impose on passengers with disabilities, PSDP points to the USAUSA survey, which provides estimates on the cost and time that it would take to obtain additional third-party documentation, and the degree to which such additional

burdens affect users' willingness to fly. PSDP also stressed that each additional documentation creates an incremental additional burden for passengers seeking to fly with a service animal.

Similarly, other disability rights organizations contended that additional documentation is unduly burdensome and represents a deterrent to travel without providing real benefits to airlines. Operation Freedom Paws expressed the view that obtaining a behavioral attestation from a veterinarian would be unduly burdensome, because such documentation is difficult to obtain within 48 hours of travel. The International Association of Canine Professionals and the American Veterinary Association expressed the view that any attestations about an animal's behavior should come from the passenger and not from the professional, because professionals are not able to make such attestations.

Some disability advocates, such as Bazelon/NAMI, also believe that the Department would be acting arbitrarily and capriciously if it allowed airlines to require additional service animal documentation beyond what is explicitly permitted in Part 382. Similarly, the National Council on Disability asserts that ''the additional proof insisted upon by airlines is not legal under the ACAA regulation'' because Part 382 does not clearly authorize that additional proof.[11]

In this Final Statement, we continue to focus our enforcement efforts ''on clear violations of the current rule that have the potential to adversely impact the largest number of persons.'' 83 FR 23805–23806. In general, it is not clear whether airlines are violating Part 382 if they require additional documentation to determine whether a service animal poses a direct threat. Part 382 permits airlines to determine, in advance of flight, whether any service animal poses a direct threat. However, that section is not clear about how airlines would determine whether an animal poses a direct threat to the health or safety of others.

While section 382.117 clearly sets forth the type of medical documentation that airlines may request from ESA and PSA users to reduce likelihood of abuse by passengers wishing to travel with their pets, the regulation does not explicitly permit or prohibit the use of additional documentation related to a service animal's vaccination, training, or behavior. Accordingly, we do not intend to take action against an airline for asking service animal users to present documentation related to a service animal's vaccination, training, or behavior, so long as it is reasonable to believe that the documentation would assist the airline in determining whether an animal poses a direct threat to the health or safety of others.

As noted above, Part 382 clearly allows airlines to require 48 hours' advance notice to receive the requested accommodation of transporting ESAs and PSAs.[12] Therefore, we do not intend to take action against an airline asking an ESA/PSA service animal user to present such documentation up to 48 hours before his or her flight. We will monitor airlines' policies that require service animal users to provide documentation to ensure the documentation is not being used to prevent passengers with disabilities from traveling with their service animals (*e.g.,* an airline requiring a form from a veterinarian guaranteeing how an animal would behave on an aircraft, documentation which virtually all veterinarians would be unwilling to sign).

7. Containing Service Animals in the Cabin

In the Interim Statement, we observed that Part 382 does not clearly specify whether or how airlines may restrict the movement of service animals in the cabin. We noted that ESAs may pose greater in-cabin safety risks because they may not have undergone the same level of training as other service animals (including PSAs). Accordingly, we stated that we would not take action against carriers that impose reasonable restrictions on the movement of ESAs in the cabin so long as the reason for the restriction is concern for the safety of other passengers and crew. We stated that such restrictions may include requiring, where appropriate for the animal's size, that the animal be placed in a pet carrier, the animal stay on the floor at the passenger's feet, or requiring the animal to be on a leash or tether. 83 FR 23807 (May 23, 2018).

Comments were mixed concerning this issue. Airlines contend that movement, harness, and leash restrictions are generally consistent with the Americans with Disabilities Act (ADA). A4A also asked the Department to clarify that they may refuse transportation to an animal in the cabin unless the passenger demonstrates that the animal does not exceed relevant weight limits and will safely fit in the passenger's lap or foot space. American Airlines contended that it is particularly important for cats to be held in a carrier because of allergy concerns and hygiene issues. A4A also asked the Department to make clear that flight attendants are not required to ask other passengers to trade seats or give up their foot space to accommodate large service animals.

Disability rights advocates took a range of positions. For example, Bazelon/NAMI contended that allowing airlines to require containment solely for passengers traveling with an ESA is ''prohibited under the ACAA.'' Comment of Bazelon/NAMI at 3. PSDP supported requirements that service animals be tethered, ''if not contained in a pet carrier and with reasonable exceptions, such as those that are disability-based.'' Comment of PSDP at 16. Many commenters, including PSDP and American Airlines, noted the challenging issues surrounding service animals that are required to be transported in the cabin, but are too large to be contained in a pet carrier.

In this Final Statement, we again observe that Part 382 contains no explicit requirements or prohibitions with respect to containment of ESAs (or other service animals) in the cabin. As with other issues discussed above, we decline to declare that the Enforcement Office will not take enforcement action with respect to containment of service animals in all cases. Rather, we will consider containment issues for all service animals on a case-by-case basis, with a focus on reasonableness. For example, in general, tethering and similar means of controlling an animal that are permitted in the ADA context would appear to be reasonable in the context of controlling service animals in the aircraft cabin. Other factors bearing on reasonableness include, but are not limited to, the size and species of the animal, the right of other passengers to enjoy their own foot space,[13] and the

[11] Comment of NCD at 1, available at *https://www.regulations.gov/document?D=DOT-OST-2018-0067-0097.*

[12] The preamble to the 2008 final rule on ''Nondiscrimination on the Basis of Disability in Air Travel'' clarifies that ''advance notice'' refers to notice provided in advance of the scheduled departure time of the flight. See 73 FR 27614, 27649 (May 13, 2008).

[13] We recognize that guidance on the issue of a service animal encroaching on the foot space of a passenger is not clear. DOT has previously stated that service animals may be placed at the feet of a passenger with a disability so long the animal does not extend into the foot space of a passenger who does not wish to share that space with the animal. See FAA Order 8400.10, Bulletin FSAT 0401A and *https://www.transportation.gov/sites/dot.gov/files/docs/TAM-07-15-05_0.pdf* . Later, DOT has stated that a service animal may need to use a reasonable portion of an adjacent seat's foot space that does not deny another passenger effective use of the space for his or her feet by taking all or most of the passenger's foot space. *https://www.transportation.gov/sites/dot.gov/files/docs/Part%20382-2008_1.pdf. https://www.transportation.gov/sites/dot.gov/files/docs/*

continued ability of the animal to provide emotional support or perform its task while being restrained or kept in a pet carrier.

We will apply this enforcement approach to containment of all service animals, rather than only ESAs, because we have reconsidered our position from the Interim Statement that would have drawn a distinction between movement restrictions for ESAs and movement restrictions for other types of service animals. As Bazelon/NAMI noted in their comments, all service animals (including ESAs) are expected to behave in public. We also note that an animal's status as a task-trained service animal does not preclude the animal from misbehaving. Accordingly, we agree with Bazelon/NAMI about the inappropriateness of making a distinction between ESAs and non-ESA service animals with respect to the importance of the owner controlling and restricting the movement of the animal.

New Topics

After the comment period closed, airlines continued to announce new restrictions on the transportation of service animals. Some of those policies were variations on prior policies, while others raised new issues such as restrictions concerning the breed, age, or weight of the animal. Our responses to these new policies are set forth below.

1. Breed Restrictions

After the comment period for the Interim Statement closed, certain airlines instituted new policies banning ''pit bull type dogs'' as service animals on their flights. The Department's disability regulation allows airlines to deny transport to an animal if, among other things, it poses a direct threat to the health or safety of others. However, the Department is not aware of and has not been presented with evidence supporting the assertion that an animal poses a direct threat simply because of its breed. On June 22, 2018, the Enforcement Office issued a public statement indicating its view that ''a limitation based exclusively on breed of the service animal is not allowed under the Air Carrier Access Act.'' [14] The Enforcement Office continues to take the view that restrictions on specific dog breeds are inconsistent with the current regulation. As stated earlier, the Enforcement Office intends to use available resources to ensure that dogs as a species are accepted for transport. Consistent with existing law, airlines are permitted to find that any specific animal, regardless of breed, poses a direct threat based on behavior. 14 CFR 382.117(f).

2. Age Restrictions

After the comment period to the Interim Statement closed, certain airlines announced that they would not accept service animals of any type that are younger than four months old. Part 382 does not address the minimum age of a service animal. However, all service animals (including ESAs) are expected to be sufficiently trained to behave in public.[15] We do not expect service animals to have completed public access training by the age of four months.[16] Accordingly, as a general matter, we do not envision that it would be a violation of Part 382 to prohibit the transport of service animals younger than four months, as those animals would not be trained to behave properly in a public setting, and we in any event do not anticipate exercising our enforcement discretion to take action against airlines that implement such prohibitions.

3. Weight Restrictions

After the comment period to the Interim Statement closed, at least one airline announced that it would not accept ESAs or PSAs over 65 pounds.[17] Section 382.117(f) allows airlines to determine whether factors preclude a given service animal from being transported in the cabin. These factors include ''whether the animal is too large or too heavy to be accommodated in the cabin, whether the animal would pose a direct threat to the health or safety of others, whether it would cause a significant disruption of cabin service, [or] whether it would be prohibited from entering a foreign country that is the flight's destination.'' Importantly, the rule further provides that ''if no such factors preclude the animal from traveling in the cabin, you must permit it to do so.'' 14 CFR 382.117(f). Under this rule, an animal may be excluded from the cabin if it is too large or too heavy to be accommodated in the specific aircraft at issue. However, in our view, a categorical ban on animals over a certain weight limit, regardless of the type of aircraft for the flight, is inconsistent with section 382.117. We also note that the FAA's guidance pertaining to the location and placement of service animals on aircraft (FAA Order 8900.1, Vol. 3, Ch. 33, Section 6 at ¶ 3–3546) does not indicate that animals over a certain size must be categorically prohibited from the cabin on the basis of safety. We will continue to monitor this issue and to take enforcement action as appropriate.

4. Flight-Length Restrictions

After the comment period to the Interim Statement closed, at least one airline announced that it would not accept ESAs on flights lasting eight hours or more. In our view, Part 382 as written clearly prohibits such policies. Specifically, section 382.117(a)(2) provides that, as a condition of permitting any service animal to travel in the cabin on flights scheduled to take eight hours or more, airlines may require the passenger using the service animal to provide documentation that the animal will not need to relieve itself on the flight or that it can do so in a way that does not create a health or

FAQ_5_13_09_2.pdf (Question 37). This matter is best addressed in notice and comment rulemaking.

[14] In full, the statement reads: ''Under DOT's current rules implementing the Air Carrier Access Act, airlines are required to accommodate passengers with disabilities who depend on the assistance of service animals within limits. Airlines are not required to accommodate unusual service animals, such as snakes, reptiles, ferrets, rodents, and spiders. Recently, the Department issued a Statement of Enforcement Priorities on Service Animals to inform airlines and the public that its Aviation Enforcement Office intends to exercise its enforcement discretion by focusing its limited resources on ensuring that U.S. airlines continue to accept the most commonly used service animals such as dogs for travel. A limitation based exclusively on breed of the service animal is not allowed under the Department's Air Carrier Access Act regulation. However, an airline may refuse to carry service animals if the airline determines there are factors precluding the animal from traveling in the cabin of the aircraft, such as the size or weight of the animal, whether the animal would pose a direct threat to the health or safety of others, whether it would cause a significant disruption of cabin service, or whether the law of a foreign country that is the destination of the flight would prohibit entry of the animal. The Department's Office of Aviation Enforcement and Proceedings investigates every disability complaint that it receives involving airline service, including investigating complaints from passengers alleging an airline denied them travel by air with a service dog. At the conclusion of an investigation, a determination is made as to whether the law was violated. In enforcing the requirements of Federal law, the Department is committed to ensuring that our air transportation system is safe and accessible for everyone.''

[15] The preamble of the Department's 2008 final rule on ''Nondiscrimination on the Basis of Disability in Air Travel'' states that ESAs ''must be trained to behave appropriately in a public setting.'' See 73 FR 27614, 27659 (May 13, 2008).

[16] According to the International Association of Assistance Dog Partners, an assistance dog should be given 120 hours of public access training over a period of six months or more. See *https://www.iaadp.org/iaadp-minimum-training-standards-for-public-access.html.*

[17] It is unclear why the airline imposed the 65-pound limit only on ESAs and PSAs, and did not include other service animals, aside from an apparent view that large ESAs and PSAs pose greater safety threats than other types of large service animals. As we indicate in the section on containment, however, airlines have other means of ensuring safety for large animals aside from banning them outright.

sanitation issue on the flight. Pursuant to section 382.27(a)(9), airlines may require 48 hours' advance notice and check-in one hour before the check-in time for the general public in order to accommodate any service animal on a flight scheduled to last eight hours or more. Thus, in our view, while Part 382 permits airlines to ask for documentation, advance notice, and early check-in to transport service animals on flights scheduled to last eight hours or more, the rule does not permit airlines to prohibit service animals outright on such flights. The Enforcement Office intends to use its available resources to ensure that airlines comply with existing regulations with respect to this issue.

5. Letter or Form From a Mental Health Professional for an ESA or PSA User

After the comment period on the Interim Statement closed, several airlines announced that they would restrict the types of medical forms that they would accept from users of ESAs and PSAs. Specifically, these airlines indicated that they would not accept documentation on the letterhead of a licensed mental health professional treating the passenger's mental or emotional disability; instead, they would only accept the medical forms found on the airlines' own websites. In our view, Part 382 clearly prohibits this practice. Section 382.117(e) states that an airline is not required to accept an ESA or PSA for transportation in the cabin unless the passenger provides medical documentation that meets the specific criteria of section 382.117(e).[18] A document can meet the specific criteria of section 382.117(e) without being a form created by an airline. In other words, while an airline may ask or encourage a passenger to request that the licensed mental health professional treating the passenger fills out the airline's own proprietary medical form, airlines may not reject a medical form or letter that meets the criteria found in the rule. The Enforcement Office intends to use its available resources to ensure that airlines comply with the existing regulation with respect to this issue.

6. Direct Threat Analysis—Documentation Requests for Traditional Service Animals

After the comment period on the Interim Statement closed, at least one airline indicated that it would ask, but not require, passengers with all types of service animals (including traditional service animals such as guide dogs) to carry veterinary forms, to be presented to airline personnel on request.

As we explained in the documentation section above, Part 382 permits airlines to determine, in advance of flight, whether any service animal poses a direct threat, but the rule does not clearly indicate how airlines must make that assessment. Accordingly, we do not intend to take action against an airline for asking users of any type of service animal to present documentation related to the service animal's vaccination, training, or behavior, so long as it is reasonable to believe that the documentation would assist the airline in making a determination as to whether an animal poses a direct threat to the health or safety of others.

However, Part 382 draws relevant distinctions between ESA/PSAs and other types of service animals relating to advance notice. Section 382.27(a) provides that, subject to certain exceptions (including travel with an ESA or PSA), airlines may not require passengers with disabilities to provide advance notice in order to obtain services or accommodations required by law. Therefore, if an airline requires a non-ESA/PSA service animal user to present documentation related to a service animal's vaccination, training, or behavior before the check-in time for the general public, such action in our view clearly violates the advance notice provisions of section 382.27 and we will take enforcement action appropriately.

Final Statement of Enforcement Priorities

The purpose of this Final Statement is to provide the public with greater transparency with respect to the Enforcement Office's interpretation of existing requirements and its exercise of enforcement discretion surrounding service animals. Our enforcement efforts will be focused on clear violations of the current rule that have the potential to impact adversely the largest number of persons. These determinations will be made on a case-by-case basis.

This guidance is not legally binding in its own right and will not be relied on by the Department as a separate basis for affirmative enforcement or other administrative penalty. Conformity with this guidance (as distinct from existing statutes and regulations at Part 382) is voluntary only, and nonconformity will not affect rights and obligations under existing statutes and regulations.

1. Species and Breed Restrictions. The Enforcement Office intends to use available resources to ensure that dogs, cats, and miniature horses are accepted for transport. Airline policies that categorically refuse transport to all service animals that are not dogs, cats, or miniature horses violate the current disability regulation. Categorical restrictions on dog breeds are inconsistent with Part 382 and the Department's enforcement priorities. Airlines will not be subject to enforcement action if they continue to deny transport to snakes, other reptiles, ferrets, rodents, and spiders; however, airlines will remain subject to potential enforcement action if they categorically refuse to transport other animals.

2. Number Restrictions. We will focus our enforcement efforts on ensuring that airlines are not restricting passengers from traveling with one ESA and a total of three service animals if needed. Airlines may not impose categorical restrictions on the total number of service animals to be transported in the aircraft cabin.

3. Weight Restrictions. Airlines may not impose a categorical restriction on service animals over a certain weight, without regard to specific factors that would preclude transport of that animal in the cabin.

4. Age Restrictions. We do not anticipate exercising our enforcement resources to ensure the transport of service animals that are clearly too young to be trained to behave in public.

5. Flight-Length Restrictions. Airlines may not categorically restrict service animals on flights scheduled to last 8 hours or more, and would be subject to potential enforcement action if they do so. On flights scheduled to last 8 hours or more, airlines may ask for 48 hours' advance notice, early check-in, and documentation that the animal will not need to relieve itself on the flight or that it can do so in a way that does not create a health or sanitation issue on the flight.

6. Proof that an Animal is a Service Animal. If a passenger's disability is not clear, airlines may ask limited questions to determine the passenger's need for the animal even if the animal has other indicia of a service animal such as a harness, vest, or tag.

7. Documentation Requirements. We do not anticipate taking enforcement action against an airline for asking users

[18] Section 382.117(e) states that airlines may refuse transportation of an ESA or PSA in the cabin unless the passenger provides documentation, no older than one year from the date of the passenger's scheduled initial flight, on the letterhead of a licensed mental health professional, stating that: (1) The passenger has a mental or emotional disability recognized in the Diagnostic and Statistical Manual of Mental Disorders—Fourth Edition; (2) the passenger needs the ESA or PSA as an accommodation for air travel and/or for activity at the passenger's destination; (3) the individual providing the assessment is a licensed medical health professional, and the passenger is under his or her professional care; and (4) the date and type of the mental health professional's license and the state or other jurisdiction in which it was issued.

of any type of service animal to present documentation related to the animal's vaccination, training, or behavior, so long as it is reasonable to believe that the documentation would assist the airline in determining whether an animal poses a direct threat to the health or safety of others. We will monitor airlines' animal documentation requirements to ensure that they are not being used to unduly restrict passengers with disabilities from traveling with their service animals. Airlines may ask or encourage an ESA and PSA user to submit the medical form provided on the airline's website, but may not reject documentation provided by an ESA or PSA user from a licensed mental health professional treating the passenger that meets all of the criteria found in the rule itself.

8. Lobby Verification. We do not anticipate taking enforcement action against an airline if it requires passengers with ESAs or PSAs to present service animal documentation in the lobby/ticket counter area, rather than the gate/sterile area.

9. Advance Notice/Check-In. Airlines may require ESA/PSA users to provide up to 48 hours' advance notice of travel with an ESA/PSA, and may require ESA/PSA users to appear in the lobby for processing of service animal documentation up to one hour prior to the check-in time for the general public. However, airlines may not require non-ESA/PSA users to provide advance notice of travel with a service animal, or require non-ESA/PSA users to appear in the lobby for processing of service animal documentation.

10. Containment. We will exercise our discretion with respect to containment issues for all service animals on a case-by-case basis, with a focus on reasonableness. For example, in general, tethering and similar means of controlling an animal that are permitted in the ADA context would appear to be reasonable in the context of controlling service animals in the aircraft cabin. Other factors bearing on reasonableness include, but are not limited to, the size and species of the animal, the right of other passengers to enjoy their own foot space, and the continued ability of the animal to provide emotional support or perform its task while being restrained or kept in a pet carrier.

Effective Date

This Final Statement is effective upon publication. Airlines are expected to review their policies and revise them, if necessary, to comply with the Department's disability regulation. As a matter of enforcement discretion, we intend to refrain from taking enforcement action with respect to the issues set forth in this Final Statement for a period of up to 30 days from the date of publication so long as the airline demonstrates that it began the process of compliance as soon as this notice was published in the **Federal Register**. This timeframe should provide airlines with adequate time to review and revise their policies as needed to comply with the ACAA and the Department's disability regulation.

Issued this 8th day of August, 2019, in Washington, DC.

James C. Owens,

Deputy General Counsel, U.S. Department of Transportation.

[FR Doc. 2019–17482 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 744 and 762

[Docket No. 190814–0012]

RIN 0694–AH86

Temporary General License: Extension of Validity, Clarifications to Authorized Transactions, and Changes to Certification Statement Requirements

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: On May 16, 2019, Huawei Technologies Co., Ltd. (Huawei) and sixty-eight of its non-U.S. affiliates were added to the Entity List. Their addition to the Entity List imposed a licensing requirement under the Export Administration Regulations (EAR) regarding the export, reexport, or transfer (in-country) of any item subject to the EAR to any of these 69 listed Huawei entities. The Entity List-based licensing requirement applied in addition to any other license requirement, if any, applicable under the EAR to the transaction in question. On May 22, 2019, the Bureau of Industry and Security (BIS) published a temporary general license, effective May 20, 2019, that modified the effect of the listing in order to temporarily authorize engagement in certain transactions, involving the export, reexport, or transfer (in-country) of items subject to the EAR to the 69 listed Huawei entities. The U.S. Government has decided to extend the temporary general license through November 18, 2019. In order to implement this decision, this final rule revises the temporary general license to remove the expiration date of August 19, 2019, and substitutes the date of November 18, 2019. This final rule also makes certain clarifying changes to the authorized transactions under the temporary general license to improve public understanding. Lastly, this final rule revises the temporary general license by changing which party to the transaction is required to create the certification statement by requiring that the exporter, reexporter, or transferor obtain a certification statement from the pertinent Huawei listed entity prior to using the temporary general license. Concurrently with the this final rule, BIS is also publishing elsewhere in this issue of the **Federal Register** the final rule, *Addition of Certain Entities to the Entity List and Revision of Entries on the Entity List.* This final rule, as a conforming change for the addition of these other non-U.S. affiliates of Huawei to the Entity List, revises the temporary general license to include those additional Huawei affiliates within the scope of the temporary general license.

DATES: This rule is effective August 19, 2019 through November 18, 2019, except for amendatory instructions 1 and 3, which are effective August 19, 2019. The expiration date of the final rule published on May 22, 2019 (84 FR 23468) is extended until November 18, 2019.

FOR FURTHER INFORMATION CONTACT: Director, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, Phone: (949) 660–0144 or (408) 998–8806 or email your inquiry to: *ECDOEXS@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

As published on May 22, 2019, the temporary general license authorizes certain activities, including those necessary for the continued operations of existing networks and to support existing mobile services, including cybersecurity research critical to maintaining the integrity and reliability of existing and fully operational networks and equipment. Exporters, reexporters, and transferors are required to maintain certifications and other records, to be made available when requested by BIS, regarding their use of the temporary general license.

As published on May 22, 2019, and as revised and clarified by this final rule, any exports, reexports, or in-country transfers of items subject to the EAR to any of the 69 listed Huawei entities continue to require a license based on their addition to the Entity List, with the exception of transactions explicitly authorized by the temporary general license and eligible for export, reexport,

or transfer (in-country) prior to May 16, 2019, without a license or under a license exception. License applications will continue to be reviewed under a presumption of denial, as stated in the Entity List entries for the listed Huawei entities.

No persons are relieved of other obligations under the EAR, including but not limited to licensing requirements to the People's Republic of China (PRC or China) or elsewhere and/or the requirements of part 744 of the EAR. The temporary general license also does not authorize any activities or transactions involving Country Group E countries (*i.e.,* Cuba, Iran, North Korea, Sudan, and Syria) or foreign nationals.

Ninety-Day Extension of Validity

At this time, the U.S. Government has decided to extend the temporary general license until November 18, 2019, as revised and clarified as described below. In order to implement this U.S. Government decision, this final rule revises the temporary general license to remove the date of August 19, 2019, and substitutes the date of November 18, 2019, in the introductory text and in paragraph (b)(1) of the temporary general license and in the introductory text of paragraph (c) of Supplement No. 7 to part 744.

Conforming Change for Additional Huawei Affiliates Added to the Entity List

Concurrently with the this final rule, BIS is also publishing elsewhere in this issue of the **Federal Register** the final rule, *Addition of Certain Entities to the Entity List and Revision of Entries on the Entity List.* The other rule adds forty-six additional non-U.S. affiliates of Huawei to the Entity List because they also pose a significant risk of involvement in activities contrary to the national security or foreign policy interests of the United States. *See* the final rule in this same issue of the **Federal Register** for additional information.

This final rule, as a conforming change for the addition of these other non-U.S. affiliates of Huawei to the Entity List, revises paragraph (a) (Identification of non-U.S. affiliates) by removing paragraphs (a)(1) to (a)(68) that identifies the non-U.S. affiliates each by name and adds in its place paragraphs (a)(1) and (a)(2) as a simpler method for identifying the non-U.S. affiliates of Huawei that are within the scope of the temporary general license. Paragraph (a)(1) will identify the non-U.S. affiliates added to the Entity List in the rule published on May 21, 2019 (84 FR 22961), and effective May 16, 2019. Paragraph (a)(2) will identify the non-U.S. affiliates added to the Entity List with a reference to this final rule effective on August 19, 2019.

Clarification of Authorized Transactions Under the Temporary General License

The temporary general license includes paragraph (c) (Authorized transactions) that allows during the validity period of the temporary general license certain exports, reexports, and transfers (in-country) that meet specified criteria. As described below, this final rule removes paragraph (c)(4) without implicating the Entity List-based license requirements for Huawei and its non-U.S. affiliates on the Entity List. Since the temporary general license became effective on May 20, 2019, BIS has received a number of questions regarding the temporary general license and many of these questions have requested clarification regarding the scope of paragraph (c)(1), (2), or (4). BIS intends to soon post on its website Frequently Asked Questions (FAQs) and other guidance to answer the questions received that have broad applicability to exporters, reexporters, and transferors. In addition, BIS has identified certain clarifying changes that should be made to paragraph (c) to improve public understanding of the intended scope of the temporary general license.

This final rule revises paragraph (c)(1) (Continued operation of existing networks and equipment) by adding a new paragraph (c)(1)(i) (Exclusions) to clarify that the scope of the paragraph (c)(1) authorization does not include certain exports, reexports, or transfers (in-country) for existing networks. This final rule adds an exclusion under paragraph (c)(1)(i)(A) to specify that end-devices such as general-purpose computing devices are not considered to be part of an existing and fully operational network. This exclusion also specifies that equipment that is not directly related to the support and maintenance of the network is excluded. An exclusion also is added under new paragraph (c)(1)(i)(B) to specify that transfers of equipment for general business purposes or for activities that are not in direct support of an existing and fully operational network are not included in the temporary general license. This final rule also adds a parenthetical phrase to provide an illustrative example of semiconductor production equipment as a type of equipment that would be excluded under paragraph (c)(1) of the temporary general license. Lastly, this final rule adds clarifying text to the introductory text of paragraph (c)(1) to specify that software for bug fixes, security vulnerability patches, and other updates to existing versions of the software necessary to maintain and support existing and currently 'fully operational networks' and equipment are under paragraph (c)(1) of the temporary general license, provided the software does not enhance the functional capacities of the original software or equipment. The May 22 rule used the phrase 'software updates and patches.' This final rule replaces that text with more specific text to improve public understanding for what software is eligible under paragraph (c)(2). This final rule makes this same type of software clarification to paragraph (c)(2) described below.

This final rule adds and reserves paragraph (c)(1)(ii) to conform to Federal Drafting Handbook requirements for the addition of paragraph (c)(1)(i).

To clarify the scope of paragraph (c)(1) to address questions received from the public, this final rule adds two new notes to paragraph (c)(1). New Note 1 to paragraph (c)(1) clarifies the intended meaning of the terms 'third party' and 'third parties' as used in the paragraph (c)(1) authorization. The note specifies that a 'third party' is intended to be a party such as a telecommunication service provider, and does not include or refer to any of the Huawei listed entities or exporter, reexporter, or transferor.

New Note 2 to paragraph (c)(1) clarifies the intended meaning of the term 'fully operational network,' as used in paragraphs (c)(1) and (3). The new Note 2 specifies that a 'fully operational network' means a 'third party' network that is providing services to that 'third party's' customers. Paragraph (c)(2) of the temporary general license authorizes engagement in transactions necessary to support, including through software updates and patches, existing models of Huawei 'personal consumer electronic devices,' which is being added in place of the undefined term 'handsets' that appeared in the temporary general license as published on May 22, 2019. This final rule removes the term handsets from paragraph (c)(2) and replaces it with the defined term 'personal consumer electronic devices,' which includes phones and other personally-owned equipment, such as tablets, smart watches, and mobile hotspots such as MiFi devices.

This final rule also clarifies, to address questions from the public, that transactions under paragraph (c)(2) include support for personal use of the telecommunications hardware known as customer premises equipment (CPE),

such as network switches, residential internet gateways, set-top boxes, home networking adapters and other personally-owned equipment that enable consumers to access network communications services and distribute them within their residence or small business. Support of CPE is an additional example of the types of basic consumer or small business types of applications that were intended to be included within the scope of paragraph (c)(2). This final rule adds a definition of 'Customer Premises Equipment (CPE)' to paragraph (c)(2). As with the remainder of paragraph (c)(2), the authorization is limited to models of CPE that were available to the public on or before May 16, 2019.

Lastly, this final rule adds clarifying text to paragraph (c)(2) to specify that software for bug fixes, security vulnerability patches, and other updates to existing versions of the software necessary to provide service and support to existing 'personal consumer electronic devices' and CPE are under paragraph (c)(2) of the temporary general license, provided the software does not enhance the functional capacities of the original software or equipment. The May 22 rule used the phrase 'software updates and patches.' This final rule replaces that text with more specific text to improve public understanding for what software is eligible under paragraph (c)(2). As noted above, this final rule makes this same type of software clarification to the introductory text of paragraph (c)(1).

This final rule removes paragraph (c)(4) (Engagement as necessary for development of 5G standards by a duly recognized standards body). BIS has determined that existing provisions of the EAR suffice for purposes of addressing the application of the Entity List-based license requirements to activities in connection with standards development bodies, including 5G standards bodies. BIS has posted a general advisory opinion in the FAQ section of the BIS website under ''Published Technology and Software (§ 734.7),'' at *https://www.bis.doc.gov/index.php/documents/compliance-training/export-administration-regulations-training/1554-ear-definitions-faq/file,* relating to standards development activities. As discussed in the general advisory opinion, the disclosure to any of the Huawei listed entities of technology or software subject to the EAR would be a prohibited activity absent a license from BIS. Information, including technology, that is made available to the public without restrictions upon its further dissemination would not be subject to the EAR if the existing criteria of § 734.7 are met.

BIS has also received questions on the following issues regarding the treatment of imports and services involving Huawei and its sixty-eight non-U.S. affiliates on the Entity List:

- *Treatment of imports into the United States.* The Entity List does not create a license requirement for imports, including imports from entities on the Entity List.
- *Treatment of services.* The Entity List-list based license requirements apply to the export, reexport, and transfer (in-country) of items that are subject to the EAR. The Entity List-based license requirements do not apply to services, provided the service in question does not involve the export, reexport, or transfer (in-country) of items that are subject to the EAR. As part of providing a service, a person must determine whether there will be an export, reexport, or transfer (in-country) of any commodities, software, or technology requiring an EAR authorization. In addition, certain services may be controlled or prohibited under the EAR for other reasons. For example, a U.S. person is prohibited from engaging in exports, reexports, or transfers (in-country) related to certain end uses (as specified in § 744.6) or service an item subject to the EAR with ''knowledge'' of a violation (as specified in §§ 764.2(e) and 736.2(b)(10)).

Changes to Certification Statement Under Temporary General License and Conforming Change to EAR Recordkeeping Requirement

This final rule revises paragraph (d) (Certification statement) of the temporary general license by changing which party to the transaction is required to create the certification statement. This final rule removes the requirement under paragraph (d) for the exporter, reexporter, or transferor to create a certification statement and adds in its place a requirement under paragraph (d) that the exporter, reexporter, or transferor obtain a certification statement and any additional support documentation needed to substantiate the certification statement from the listed Huawei entity that is to receive the items. The certification statement must be obtained from the pertinent Huawei entity prior to exporting, reexporting, or transferring (in-country) any item under the temporary general license. This final rule also makes other clarifying changes to paragraph (d) related to the obligations of the parties to the transaction as it relates to the certification statement.

This final rule makes changes to paragraph (d) by redesignating some of the text as introductory text to paragraph (d), deleting certain text that is no longer needed, and adding new paragraphs (d)(1) (Certification statement required from Huawei or one of its listed non-U.S. affiliates) and (d)(2) (Certification statements may be used for multiple exports, reexports, and transfers (in-country)), as described further below. Paragraph (d)(1) also adds a recordkeeping requirement to specify that the exporter, reexporter, or transferor and the pertinent Huawei entity are each responsible for retaining the certification statement and any additional support documentation needed to substantiate the certification statement for purposes of the EAR recordkeeping requirements under part 762.

New paragraph (d)(1) describes the general requirements for the certification statement, *e.g.,* that the certification statement must be in writing and must be obtained by the exporter, reexporter, or transferor prior to the export, reexport, or transfer (in-country) that is being made under the temporary general license. New paragraph (d)(1) also describes the types of documentation that is needed in order to confirm whether the criteria of paragraph (c)(1) are met when an export, reexport, or transfer (in-country) is in support of a 'fully operational network.'

This final rule adds paragraphs (d)(1)(i)-(v) to specify the information that must be included in the certification statement. Paragraph (d)(1)(i) requires identifying the Huawei entity receiving the items and making the certification statement, and paragraph (d)(1)(ii) requires identifying the items and quantity thereof (for tangible shipments of commodities and software) involved. The Huawei entity must also certify in a single certification statement that: Under paragraph (d)(1)(iii), the end-use of the items to be received will be for an end-use within the scope of a specified authorizing paragraph under paragraph (c) of the temporary general license; under paragraph (d)(1)(iv), the entity will comply with the recordkeeping requirements in part 762, including by providing copies of the certification statements and all other records required under the EAR to any authorized agent, official, or employee of BIS, the U.S. Customs Service, or any other agency of the U.S. Government as required in § 762.7; and under paragraph (d)(1)(v), the individual signing the certification statement has sufficient authority to legally bind the entity.

This final rule also adds a new paragraph (d)(2) (Certification statements may be used for multiple exports, reexports, and transfers (in-country)) to clarify that certification statements obtained under paragraph (d)(1) may be used for multiple exports, reexports, or transfers (in-country) of the same item(s) under the temporary general license provided the information included in the certification statement is still accurate for those additional exports, reexports, or transfers (in-country). New paragraph (d)(2) specifies that if multiple exports, reexports, or transfers (in-country) are made against the same certification statement obtained under paragraph (d)(1), the exporter, reexporter, or transferor relying on that certification statement must maintain a log or other similar record that identifies each item and the quantity thereof for each export reexport, or transfer (in-country) made against that specific certification statement. Lastly, paragraph (d)(2) requires the log or other similar record be retained in accordance with the part 762 recordkeeping requirements.

As a conforming change, in § 762.2 (Records to be retained), this final rule revises paragraph (b)(55) to reference the log or other similar record required by paragraph (d)(2) if multiple exports, reexports, or transfers (in-country) are made against the same paragraph (d)(1) certification statement and any additional support documentation needed to substantiate the certification statement.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA). ECRA, as amended (50 U.S.C. 4801–4852), provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule. As set forth in section 1768 of ECRA, all delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action that have been made, issued, conducted, or allowed to become effective under the Export Administration Act of 1979 (50 U.S.C. 4601 *et seq.*) (as in effect prior to August 13, 2018 and as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 8, 2018, 83 FR 39871 (August 13, 2018)), or the Export Administration Regulations, and were in effect as of August 13, 2018, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under the authority of ECRA.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 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, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 42.5 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule.

In addition to the one collection referenced above, the Commerce Department requested, and OMB authorized, emergency modification of a currently approved information collection 0694–0122, *Miscellaneous Licensing Responsibilities and Enforcement,* involved in today's rule, consistent with 5 CFR 1320.13. The modification of this additional information collection is needed because this final rule will impose requirements on exporters, reexporters, and transfers to obtain a certification statement from Huawei and its non-U.S. affiliates on the Entity List prior to receiving items under a temporary general license under the EAR.

The total estimated annual burden hours for this collection will increase from 96,618 hours to 97,405 hours (an increase of 787 hours) due to the changes included in this final rule.

This emergency collection is needed in order for today's rule to establish a requirement for exporters, reexporters, or transferors to obtain a certification statement from Huawei and its non-U.S. affiliates on the Entity List prior to making exports, reexports, or transfers (in-country) to these listed entities. This action is needed immediately to protect national security and foreign policy interests of the United States to help better ensure that exports, reexports, and transfers (in-country) being made under the temporary general license will be done in accordance with the requirements of the temporary general license.

If this emergency collection were delayed to allow for public comment before becoming effective, U.S. national security and foreign policy interests may be undermined if exports, reexports, or transfers (in-country) are made under the temporary general license that should not have been. The certification requirement included in this final rule is added to ensure appropriate written communication is occurring between Huawei and its non-U.S. affiliates on the Entity List with exporters, reexporters, and transfers prior to items being exported, reexported, or transferred (in-country) under the temporary general license. BIS intends to publish a notice in the **Federal Register** informing the public that DOC submitted a request for an emergency collection and the request was approved by OMB.

The Department has determined the following conditions have been met:

a. The collection of information is needed prior to the expiration of time established under the PRA for normal clearance procedures.

b. The collection of information between these parties to exports, reexports, and transfers (in-country) made under the temporary general license is essential to the mission of the Department, in particular to ensure the proper use of a temporary general license under the EAR.

c. The use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information. Compliance with normal clearance procedures would prevent the collection of information between the parties and may increase the likelihood of exports, reexporters, or transfers (in-country) that would otherwise fall

outside the scope of the temporary general license.

You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of ECRA, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subjects

15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

15 CFR Part 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Reporting and recordkeeping requirements.

Accordingly, parts 744 and 762 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 8, 2018, 83 FR 39871 (August 13, 2018); Notice of September 19, 2018, 83 FR 47799 (September 20, 2018); Notice of November 8, 2018, 83 FR 56253 (November 9, 2018); Notice of January 16, 2019, 84 FR 127 (January 18, 2019).

Supplement No. 7 to Part 744—[AMENDED]

■ 2. Supplement No. 7 to part 744 is amended by revising the introductory text of the supplement and paragraphs (a), (b)(1), (c), and (d) to read as follows:

Supplement No. 7 to Part 744—Temporary General License

Notwithstanding the requirements and other provisions of Supplement No. 4 to this part, which became effective on May 16, 2019, as to Huawei Technologies Co., Ltd. (Huawei), Shenzhen, Guangdong, China, and its non-U.S. affiliates (listed in this supplement and Supplement No. 4 to this part), the licensing and other requirements in the EAR as of May 15, 2019, are restored in part as of May 20, 2019, and through November 18, 2019, pertaining to exports, reexports, and transfers (in-country) of items subject to the EAR to any of the listed Huawei entities. The licensing and other policies of the EAR that were in effect as of May 15, 2019, are available to export, reexport, or transfer (in-country) such items to the listed Huawei entities if the transaction meets the conditions of paragraph (b) of this supplement, is limited in scope to one or more of the activities described in paragraphs (c)(1) through (3) of this supplement, and if the transaction parties satisfy the requirements of paragraph (d)(1) of this supplement and, if applicable, paragraph (d)(2) of this supplement. Thus, for example, the authority of NLR or a License Exception that was available as of May 15, 2019, may be used in connection with a transaction as per this temporary general license.

(a) *Identification of non-U.S. affiliates.* The non-U.S. affiliates to whom the licensing and other requirements of the EAR are restored as described herein are those Huawei entities and affiliates added to the Entity List through the **Federal Register** documents listed in paragraphs (a)(1) and (2) of this supplement:

(1) *Addition of Entities to the Entity List,* published on 5/21/19.

(2) Non-U.S. affiliates of Huawei added to the Entity List on August 19, 2019.

(b) * * *

(1) This temporary general license is effective from May 20, 2019, through November 18, 2019.

* * * * *

(c) *Authorized transactions.* This temporary general license allows, from May 20, 2019, through November 18, 2019, the following:

(1) *Continued operation of existing networks and equipment.* BIS authorizes, subject to other provisions of the EAR, engagement in transactions necessary to maintain and support existing and currently 'fully operational network' and equipment, including software for bug fixes, security vulnerability patches, and other changes to existing versions of the software, subject to legally binding contracts and agreements executed between Huawei, or one of its listed non-U.S. affiliates, and 'third parties' on or before May 16, 2019. Such transactions may not enhance the functional capacities of the original software or equipment.

(i) *Exclusions.* (A) The authorization under paragraph (c)(1) of this supplement extends only to activities such as patching networks and network infrastructure equipment, not end-devices such as general-purpose computing devices that would not be considered to be part of an existing and 'fully operational network.' Paragraph (c)(1) of this supplement does not authorize support for equipment that is not directly related to the support and maintenance of the network.

(B) The provision of the temporary general license under paragraph (c)(1) of this supplement does not authorize transfers of equipment for general business purposes or for activities that are not in direct support of an existing and 'fully operational network' (*e.g.,* semiconductor production equipment).

(ii) [Reserved]

Note 1 to paragraph (c)(1): The term 'third parties' in paragraph (c)(1) of this supplement and the term 'third party' in Notes 2 and 3 to paragraph (c)(1) refer to a party that is not Huawei, one of its listed non-U.S. affiliates, or the exporter, reexporter, or transferor, but rather an organization such as a telecommunications service provider.

Note 2 to paragraph (c)(1): The term 'fully operational network' in paragraph (c)(1) of this supplement, as well as in paragraph (c)(3) of the supplement, refers to a 'third party' network providing services to the 'third party's' customers.

(2) *Support to existing 'personal consumer electronic devices' and 'Customer Premises Equipment (CPE)'.* BIS authorizes, subject to other provisions of the EAR, engagement in transactions necessary to provide service and support, including software for bug fixes, security vulnerability patches, and other changes to existing versions of the software, to existing Huawei 'personal consumer electronic devices.' Such transactions may not enhance the functional capacities of the original software or equipment. For the purposes of this paragraph (c)(2), the

term 'personal consumer electronic devices' is defined as including phones and other personally-owned equipment, such as a tablets, smart watches, and mobile hotspots such as MiFi devices. The authorized transactions under this paragraph (c)(2) include support for personal use of telecommunications hardware known as 'Customer Premises Equipment (CPE),' such as network switches, residential internet gateways, set-top boxes, home networking adapters and other personally-owned equipment that enables consumers to access network communications services and distribute them within their residence or small business. The authorization conferred by this paragraph (c)(2) is limited to models of Huawei 'personal consumer electronic devices' and 'CPE' that were available to the public on or before May 16, 2019.

(3) *Cybersecurity research and vulnerability disclosure.* BIS authorizes, subject to other provisions of the EAR, the disclosure to Huawei and/or to its listed non-U.S. affiliates of information regarding security vulnerabilities in items owned, possessed, or controlled by Huawei or any of its non-U.S. affiliates when related to the process of providing ongoing security research critical to maintaining the integrity and reliability of existing and currently 'fully operational network' and equipment.

(d) *Certification statement.* Prior to making an export, reexport, or transfer (in-country) pursuant to the temporary general license, the exporter, reexporter, or transferor must obtain a certification statement and any additional support documentation needed to substantiate the certification statement from the listed Huawei entity that will receive the item(s), as specified in paragraph (d)(1) of this supplement.

(1) *Certification statement required from Huawei or one of its listed non-U.S. affiliates.* Prior to any export, reexport, or transfer (in-country) under the temporary general license to Huawei or any of its listed non-U.S. affiliates identified in paragraph (a) of this supplement, the exporter, reexporter, or transferor must obtain a certification statement from the entity that will receive the item(s). The temporary general license also requires the party exporting, reexporting, or transferring (in-country) an item ''subject to the EAR'' to obtain, from the listed Huawei entity receiving the item, a certification statement under paragraph (d) of this supplement specifying how the export, reexport, or in-country transfer satisfies the provisions of the temporary general license, including specifying whether the activity or activities that will be supported by the transaction fall within paragraph (c)(1), (2), or (3) of this supplement. In order to substantiate the certification statement for transactions that fall within paragraph (c)(1), the exporter, reexporter, or transferor must obtain documentation from Huawei or one of its listed non-U.S. affiliates showing that there was a legally binding contract or agreement executed between the listed Huawei entity and a 'third party' on or before May 16, 2019. The exporter, reexporter, or transferor and the listed Huawei entity are each responsible for retaining the certification statement and any additional support documentation needed to substantiate the certification statement under paragraph (d). *See* part 762 of the EAR for record retention requirements. The certification statement must be in writing (which may be conveyed by email), be signed and dated by an individual of sufficient authority to legally bind the listed entity, and shall provide the information required in paragraphs (d)(1)(i) and (ii) of this supplement and the certifications specified in paragraphs (d)(1)(iii) through (v) of this supplement.

(i) Name of the entity; complete physical address, to include shipping, corporate, and end user addresses, if different (simply listing a post office box is insufficient); telephone number; email address; website (if available); and name and title of individual signing the certification statement;

(ii) A complete list of the item(s), including the applicable Export Control Classification Number(s) or designation (if EAR99) for the item(s) under the EAR, and (for tangible shipments of commodities and software) the quantity or quantities of the item(s) that will be exported, reexported, or transferred under the authority of the temporary general license (this inclusive list may cover multiple exports, reexports, or transfers (in-country) under the temporary general license of the same item(s); *see* paragraph (d)(2) of this supplement);

(iii) The end-use of the item(s) to be received as an export, reexport, or transfer (in-country) falls within the scope of a specified authorizing paragraph under paragraph (c) of this supplement (a general statement or declaration that the item falls within the scope of paragraph (c) or the scope of the temporary general license will not be sufficient, as the specific authorizing paragraph under paragraph (c) must be identified);

(iv) The entity will comply with the recordkeeping requirements in part 762 of the EAR, including by providing copies of the certification statement and all other export, reexport, or transfer (in-country) records required to be retained in part 762 to any authorized agent, official, or employee of BIS, the U.S. Customs Service, or any other agency of the U.S. Government as required in § 762.7 of the EAR; *and*

(v) The individual signing the certification statement, on behalf of the consignee identified in paragraph (a) of this supplement, has sufficient authority to legally bind the entity.

(2) *Certification statements may be used for multiple exports, reexports, and transfers (in-country).* Exporters, reexporters, and transferors may rely on the certification statements obtained under paragraph (d)(1) of this supplement for multiple exports, reexports, and transfers (in-country) involving the same item(s) to the same consignee/end-user, provided the information included remains accurate for those additional exports, reexports, and transfers (in-country). If one certification statement is used for multiple exports, reexports, or transfers (in-country) made pursuant to the temporary general license, the exporter, reexporter, and transferor must maintain a log or other similar record that identifies each such export, reexport, and transfer (in-country) against that specific certification statement. The log or other similar record must be retained in accordance with part 762 of the EAR.

PART 762—[AMENDED]

■ 3. The authority citation for part 762 is revised to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2018, 83 FR 39871 (August 13, 2018).

■ 4. Section 762.2 is amended by revising paragraph (b)(55) to read as follows:

§ 762.2 Records to be retained.

* * * * *

(b) * * *

(55) Supplement No. 7 to part 744, Temporary General License Certification Statements and logs or other records required, including any additional support documentation needed to substantiate the certification statement, under paragraph (d) of Supplement 7 to part 744 of this chapter.

* * * * *

Dated: August 15, 2019.

Nazak Nikakhtar,

Assistant Secretary of Industry and Analysis, International Trade Administration, Performing the Non-Exclusive Duties of the Under Secretary of Industry and Security.

[FR Doc. 2019–17920 Filed 8–19–19; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 190814–0013]

RIN 0694–AH86

Addition of Certain Entities to the Entity List and Revision of Entries on the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: Huawei Technologies Co., Ltd. (Huawei) and sixty-eight of its non-U.S. affiliates were added to the Entity List effective May 16, 2019. Their addition to the Entity List imposed a licensing requirement under the Export Administration Regulations (EAR) regarding the export, reexport, or transfer (in-country) of any item subject to the EAR to any of these sixty-nine listed Huawei entities. The Bureau of Industry and Security (BIS) is now adding forty-six additional non-U.S. affiliates of Huawei to the Entity List because they also pose a significant risk of involvement in activities contrary to the national security or foreign policy interests of the United States. Nineteen of these forty-six affiliated entities are being added to the existing entry for Huawei; the other twenty-seven entities are being added under new, separate entries. This rule also modifies the existing entries for Huawei and three Huawei affiliates in China by moving the three affiliates under the entry for Huawei instead of continuing to list them under separate entries, and by adding one alias and four addresses to the Huawei entry, including the addresses for those three affiliates. The entries for five other existing entries for Huawei affiliates in China, Belgium, and Brazil are also being modified by this rule.

DATES: This rule is effective August 19, 2019.

FOR FURTHER INFORMATION CONTACT: Director, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, Phone: (949) 660–0144 or (408) 998–8806 or email your inquiry to: *ECDOEXS@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Entity List (Supplement No. 4 to part 744 of the Export Administration Regulations (EAR)) identifies entities for which there is reasonable cause to believe, based on specific and articulable facts, that have been involved, are involved, or pose a significant risk of being or becoming involved in activities contrary to the national security or foreign policy interests of the United States. The EAR (15 CFR parts 730–774) impose additional license requirements on, and limit the availability of all or most license exceptions for, exports, reexports, and transfers (in-country) to listed entities. The license review policy for each listed entity is identified in the ''License review policy'' column on the Entity List, and the impact on the availability of license exceptions is described in the relevant **Federal Register**notice adding entities to the Entity List. BIS places entities on the Entity List pursuant to part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote.

ERC Entity List Decisions

Additions to the Entity List

Under § 744.11(b) (Criteria for revising the Entity List) of the EAR, an entity for which there is reasonable cause to believe, based on specific and articulable facts, that the entity has been involved, is involved, or poses a significant risk of being or becoming involved in activities that are contrary to the national security or foreign policy interests of the United States, and those acting on behalf of such entities, may be added to the Entity List. Paragraphs (b)(1) through (b)(5) of § 744.11 provide an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States.

As stated in the rule published on May 21, 2019 (84 FR 22961), and effective May 16, 2019, that added Huawei, the ERC determined that there is reasonable cause to believe that Huawei has been involved in activities determined to be contrary to the national security or foreign policy interests of the United States. In addition, as stated in the May 21 rule, the ERC determined that there was reasonable cause to believe that the affiliates pose a significant risk of becoming involved in activities contrary to the national security or foreign policy interests of the United States due to their relationship with Huawei. To illustrate, as set forth in the Superseding Indictment filed in the Eastern District of New York (see the rule published on May 21, 2019), Huawei participated along with certain affiliates, including one or more non-U.S. affiliates, in alleged criminal violations of U.S. law. The Superseding Indictment also alleges that Huawei and affiliates acting on Huawei's behalf engaged in a series of deceptive and obstructive acts designed to evade U.S. law and to avoid detection by U.S. law enforcement. *See* rule published on May 21, 2019 for additional information on this determination and the resulting additions to the Entity List.

This rule implements the decision of the ERC to add forty-six additional entities to the Entity List, with twenty-seven of the forty-six added under new, separate entries, and the other nineteen added under the existing entry for Huawei. The additions and modifications impact affiliates of Huawei in twenty-five different destinations: Argentina, Australia, Bahrain, Belarus, Belgium, Brazil, People's Republic of China (China), Costa Rica, Cuba, Denmark, France, India, Indonesia, Italy, Kazakhstan, Mexico, New Zealand, Panama, Portugal, Romania, Russia, South Africa, Sweden, Thailand, and the United Kingdom.

Pursuant to § 744.11(b), the ERC determined to add these forty-six non-U.S. affiliates of Huawei to the Entity List because they present a significant risk of acting on Huawei's behalf to engage in activities determined to be contrary to the national security or foreign policy interests of the United States. Without the imposition of a license requirement to these affiliated entities, there is reasonable cause to believe that Huawei would seek to use them to evade the restrictions imposed by its addition to the Entity List.

These additional forty-six non-U.S. affiliates of Huawei raise sufficient concern that prior review of exports, reexports, or transfers (in-country) of items subject to the EAR involving these entities, and the possible imposition of

license conditions or license denials on shipments to these entities will enhance BIS's ability to prevent activities contrary to the national security or foreign policy interests of the United States.

As with the Huawei entities added to the Entity List effective May 16, 2019, BIS imposes for each of the entities added in this final rule a license requirement for all items subject to the EAR, unless the transaction is authorized by the *Savings Clause* in this final rule, and a license review policy of a presumption of denial. Similarly, no license exceptions are available for exports, reexports, or transfers (in-country) to the persons being added to the Entity List in this rule, except as allowed in the *Savings Clause* in this final rule.

The acronym ''a.k.a.'' (also known as) is used in entries on the Entity List to identify aliases, thereby assisting exporters, reexporters, and transferors in identifying entities on the Entity List.

This final rule adds the following twenty-seven entities in new entries to the Entity List:

Argentina

- Huawei Tech Investment Co., Ltd. Argentina.

Australia

- Huawei Technologies (Australia) Pty Ltd.

Bahrain

- Huawei Technologies Bahrain.

Belarus

- Bel Huawei Technologies LLC, including one alias (BellHuawei Technologies LLC).

China

- Hui Tong Business Ltd.;
- Shanghai HiSilicon Technologies Co., Ltd.; *and*
- Shenzhen HiSilicon Technologies Co., Electrical Research Center.

Costa Rica

- Huawei Technologies Costa Rica SA, including one alias (Huawei Technologies Costa Rica Sociedad Anonima).

Cuba

- Huawei Cuba.

Denmark

- Huawei Denmark.

France

- Huawei France, including one alias (Huawei Technologies France SASU).

India

- Huawei Technologies India Private Limited, including one alias (Huawei Technologies India Pvt., Ltd.).

Indonesia

- Huawei Tech Investment, PT.

Italy

- Huawei Italia; *and*
- Huawei Milan Research Institute.

Kazakhstan

- Huawei Technologies LLC Kazakhstan.

Mexico

- Huawei Technologies De Mexico S.A.

New Zealand

- Huawei Technologies (New Zealand) Company Limited.

Panama

- Huawei Technologies Cr Panama S.A.

Portugal

- Huawei Technology Portugal.

Romania

- Huawei Technologies Romania Co., Ltd.

Russia

- Huawei Russia.

South Africa

- Huawei Technologies South Africa Pty Ltd.

Sweden

- Huawei Sweden.

Thailand

- Huawei Technologies (Thailand) Co.

United Kingdom

- Centre for Integrated Photonics Ltd.; *and*
- Huawei Technologies (UK) Co., Ltd., including one alias (Huawei Software Technologies Co., Ltd.).

Modification to the Entity List

This final rule implements the decision of the ERC to modify six existing entries that were first added to the Entity List in the rule published on May 21, 2019, effective May 16, 2019. The modifications are being made to assist exporters, reexporters, and transferors to more easily identify Huawei entities that are subject to Entity List license requirements.

This final rule modifies the existing entry for Huawei Technologies Co., Ltd. (Huawei), by adding one alias, Shenzhen Huawei Technologies, and nineteen new entities (identified below) to that entry, and by moving under that entry three non-U.S. affiliates of Huawei that were added as separate entities under China in the rule published on May 21, 2019: Huawei Digital Technologies (Suzhou) Co., Ltd.; Shanghai Huawei Technologies Co., Ltd.; and Zhejiang Huawei Communications Technology Co., Ltd. This final rule modifies the existing entries for these three entities by removing them as separate entries, and adding them as affiliates under the Huawei entry. This final rule also updates the addresses of these three entities as part of their consolidation under the Huawei entry. The nineteen additional affiliates being included under the Huawei entry are as follows:

- Beijing Huawei Longshine Information Technology Co., Ltd.;
- Hangzhou New Longshine Information Technology Co., Ltd.;
- Hangzhou Huawei Communication Technology Co., Ltd.;
- Hangzhou Huawei Enterprises;
- Huawei Marine Networks Co., Ltd.;
- Huawei Mobile Technology Ltd.;
- Huawei Tech. Investment Co.;
- Huawei Technology Co., Ltd. Chengdu Research Institute;
- Huawei Technology Co., Ltd. Hangzhou Research Institute;
- Huawei Technologies Co., Ltd. Beijing Research Institute;
- Huawei Technologies Co., Ltd. Material Characterization Lab;
- Huawei Technologies Co., Ltd. Xi'an Research Institute;
- Huawei Terminal (Shenzhen) Co., Ltd.;
- Nanchang Huawei Communication Technology;
- Ningbo Huawei Computer & Net Co., Ltd.;
- Shenzhen Huawei Anjiexin Electricity Co., Ltd.;
- Shenzhen Huawei New Technology Co., Ltd.;
- Shenzhen Huawei Technology Service; *and*
- Shenzhen Huawei Technologies Software.

This final rule also implements the decision of the ERC to modify the existing entries for Huawei Technologies Research & Development Belgium NV and Huawei do Brasil Telecomunicacoes Ltda, which were added to the Entity List under the destinations of Belgium and Brazil, respectively, in the rule published on May 21, 2019. BIS is modifying these existing entries by updating addresses for the two entities.

Savings Clause

Shipments of items removed from eligibility for a License Exception or for export or reexport without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export or reexport, on August 19, 2019, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR).

This savings clause does not apply to exports or reexports to Huawei Digital Technologies (Suzhou) Co., Ltd.; Huawei do Brasil Telecomunicacoes Ltda; Huawei Technologies Research & Development Belgium NV; Shanghai Huawei Technologies Co., Ltd.; or Zhejiang Huawei Communications Technology Co., Ltd., which were added to the Entity List in the rule published on May 21, 2019. Please see that rule for the savings clause applicable to these five entities.

Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA). ECRA, as amended (50 U.S.C. 4801–4852), provides the legal basis for BIS's principal authorities and serves as the authority under which BIS issues this rule. As set forth in sec. 1768 of ECRA, all delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action that have been made, issued, conducted, or allowed to become effective under the Export Administration Act of 1979 (50 U.S.C. 4601 *et seq.*) (as in effect prior to August 13, 2018 and as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 8, 2018, 83 FR 39871 (August 13, 2018)), or the Export Administration Regulations, and were in effect as of August 13, 2018, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under the authority of ECRA.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 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, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves a collection currently approved by OMB under control number 0694–0088, Simplified Network Application Processing System. This collection includes, among other things, license applications, and carries a burden estimate of 42.5 minutes for a manual or electronic submission for a total burden estimate of 31,878 hours. BIS expects the burden hours associated with this collection to increase by 283 (42.5 × 400) hours for an estimated cost increase of $8,490 ($30 × 400 hours). You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to Section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4801–4852), which was included in the John S. McCain National Defense Authorization Act for Fiscal Year 2019, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for part 744 continues to read as follows:

Authority: 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 8, 2018, 83 FR 39871 (August 13, 2018); Notice of September 19, 2018, 83 FR 47799 (September 20, 2018); Notice of November 8, 2018, 83 FR 56253 (November 9, 2018); Notice of January 16, 2019, 84 FR 127 (January 18, 2019).

■ 2. Supplement No. 4 to part 744 is amended:

■ a. By adding in alphabetical order a heading for Argentina and one Argentinean entity, ''Huawei Tech Investment Co., Ltd. Argentina''.

■ b. By adding in alphabetical order a heading for Australia and one Australian entity, ''Huawei Technologies (Australia) Pty Ltd.''.

■ c. By adding in alphabetical order a heading for Bahrain and one Bahraini entity, ''Huawei Technologies Bahrain''.

■ d. Under Belarus, by adding in alphabetical order, one Belarusian entity, ''Bel Huawei Technologies LLC''.

■ e. By revising one Belgian entity, ''Huawei Technologies Research & Development Belgium NV''.

■ f. By revising one Brazilian entity, ''Huawei do Brasil Telecomunicacoes Ltda''.

■ g. Under China,

■ i. By adding in alphabetical order, three Chinese entities, ''Hui Tong Business Ltd.,'' ''Shanghai HiSilicon Technologies Co., Ltd.,'' and ''Shenzhen HiSilicon Technologies Co., Electrical Research Center'';

■ ii. By revising one Chinese entity, ''Huawei Technologies Co., Ltd.,'' and

■ iii. By removing three Chinese entities, ''Huawei Digital Technologies

(Suzhou) Co., Ltd.'', ''Shanghai Huawei Technologies Co., Ltd.'', and ''Zhejiang Huawei Communications Technology Co., Ltd.'';

■ h. By adding in alphabetical order a heading for Costa Rica and one Costa Rican entity, ''Huawei Technologies Costa Rica SA''.

■ i. By adding in alphabetical order a heading for Cuba and one Cuban entity, ''Huawei Cuba''.

■ j. By adding in alphabetical order a heading for Denmark and one Danish entity, ''Huawei Denmark''.

■ k. Under France, by adding in alphabetical order, one French entity, ''Huawei France''.

■ l. Under India, by adding in alphabetical order, one Indian entity, ''Huawei Technologies India Private Limited''.

■ m. By adding in alphabetical order a heading for Indonesia and one Indonesian entity, ''Huawei Tech Investment, PT''.

■ n. By adding in alphabetical order a heading for Italy and two Italian entities, ''Huawei Italia'', and ''Huawei Milan Research Institute''.

■ o. Under Kazakhstan, by adding in alphabetical order, one Kazakhstani entity, ''Huawei Technologies LLC Kazakhstan''.

■ p. By adding in alphabetical order a heading for Mexico and one Mexican entity, ''Huawei Technologies De Mexico S.A.''.

■ q. By adding in alphabetical order a heading for New Zealand and one New Zealander entity, ''Huawei Technologies (New Zealand) Company Limited''.

■ r. Under Panama, by adding in alphabetical order, one Panamanian entity, ''Huawei Technologies Cr Panama S.A''.

■ s. By adding in alphabetical order a heading for Portugal and one Portuguese entity, ''Huawei Technology Portugal''.

■ t. Under Romania, by adding in alphabetical order, one Romanian entity, ''Huawei Technologies Romania Co., Ltd.''.

■ u. Under Russia, by adding in alphabetical order, one Russian entity, ''Huawei Russia''.

■ v. Under South Africa, by adding in alphabetical order, one South African entity, ''Huawei Technologies South Africa Pty Ltd.''.

■ w. Under Sweden, by adding in alphabetical order, one Swedish entity, ''Huawei Sweden''.

■ x. Under Thailand, by adding in alphabetical order, one Thai entity, ''Huawei Technologies (Thailand) Co.''.

■ y. Under the United Kingdom, by adding in alphabetical order, two British entities, ''Centre for Integrated Photonics Ltd.'', and ''Huawei Technologies (UK) Co., Ltd.''

The additions and revisions read as follows:

Supplement No. 4 to Part 744—Entity List

* * * * *

Country	Entity	License requirement	License review policy	**Federal Register** citation
*	* *	*	* *	*
ARGENTINA	Huawei Tech Investment Co., Ltd. Argentina, Av. Leandro N. Alem 815, C1054 CABA, Argentina.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER, 8/21/19.
*	* *	*	* *	*
AUSTRALIA	Huawei Technologies (Australia) Pty Ltd., L6 799 Pacific Hwy, Chatswood, New South Wales, 2067, Australia.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
*	* *	*	* *	*
BAHRAIN	Huawei Technologies Bahrain, Building 647 2811 Road 2811, Block 428, Muharraq, Bahrain.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
BELARUS	Bel Huawei Technologies LLC, a.k.a., the following one alias, -BellHuawei Technologies LLC. 5 Dzerzhinsky Ave., Minsk, 220036, Belarus.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
	* *	*	* *	*
BELGIUM	Huawei Technologies Research & Development Belgium NV. Technologiepark 19, 9052 Zwijnaarde Belgium	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR 22963, 5/21/19. 84 FR [INSERT FR PAGE NUMBER, 8/21/19.
*	* *	*	* *	*
BRAZIL	Huawei do Brasil Telecomunicacoes Ltda, Av James Clerk Maxwell, 400 Cond. Techno Park, Campinas 13069380, Brazil.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR 22963, 5/21/19.

Country	Entity	License requirement	License review policy	Federal Register citation
*	* * *	*	* *	*
CHINA, PEOPLE'S REPUBLIC OF.	* * *	*	* *	*
	Huawei Technologies Co., Ltd., a.k.a., the following one alias, —Shenzhen Huawei Technologies, and to include the following addresses and the following 22 affiliated entities: Addresses for Huawei Technologies Co., Ltd.: Bantian Huawei Base, Longgang District, Shenzhen, 518129, China; *and* No. 1899 Xi Yuan Road, High-Tech West District, Chengdu, 611731; *and* C1, Wuhan Future City, No. 999 Gaoxin Ave., Wuhan, Hebei Province; *and* Banxuegang Industrial Park, Buji Longgang, Shenzhen, Guangdong, 518129, China; *and* R&D Center, No. 2222, Golden Bridge Road, Pu Dong District, Shanghai, China. Affiliated entities: *Beijing Huawei Longshine Information Technology Co., Ltd.,* a.k.a., the following one alias: —Beijing Huawei Longshine, to include the following subordinate. Q80–3–25R, 3rd Floor, No. 3, Shangdi Information Road, Haidian District, Beijing, China. *Hangzhou New Longshine Information Technology Co., Ltd.,* Room 605, No. 21, Xinba, Xiachang District, Hangzhou, China. *Hangzhou Huawei Communication Technology Co., Ltd.,* Building 1, No. 410, Jianghong Road, Changhe Street, Binjiang District, Hangzhou, Zhejiang, China. *Hangzhou Huawei Enterprises,* No. 410 Jianghong Road, Building 1, Hangzhou, China. *Huawei Digital Technologies (Suzhou) Co., Ltd.,* No. 328 XINHU STREET, Building A3, Suzhou (Huawei R&D Center, Building A3, Creative Industrial Park, No. 328, Xinghu Street, Suzhou), Suzhou, Jiangsu, China. *Huawei Marine Networks Co., Ltd.,* a.k.a., the following one alias:—Huawei Marine. Building R4, No. 2 City Avenue, Songshan Lake Science & Tech Industry Park, Dongguan, 523808, *and* No. 62, Second Ave., 5/F–6/F, TEDA, MSD–B2 Area, Tianjin Economic and Technological Development Zone, Tianjin, 300457, China. *Huawei Mobile Technology Ltd.,* Huawei Base, Building 2, District B, Shenzhen, China. *Huawei Tech. Investment Co.,* U1 Building, No. 1899 Xiyuan Avenue, West Gaoxin District, Chengdu City, 611731, China.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR 22963, 5/21/19.

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Huawei Technology Co., Ltd. Chengdu Research Institute, No. 1899, Xiyuan Ave., Hi-Tech Western District, Chengdu, Sichuan Province, 610041, China. *Huawei Technology Co., Ltd. Hangzhou Research Institute,* No. 410, Jianghong Rd., Building 4, Changhe St., Binjiang District, Hangzhou, Zhejiang Province, 310007, China. *Huawei Technologies Co., Ltd. Beijing Research Institute,* No. 3, Xinxi Rd., Huawei Building, ShangDi Information Industrial Base, Haidian District, Beijing, 100095, China; *and* No. 18, Muhe Rd., Building 1–4, Haidian District, Beijing, China. *Huawei Technologies Co., Ltd. Material Characterization Lab,* Huawei Base, Bantian, Shenzhen 518129, China. *Huawei Technologies Co., Ltd. Xi'an Research Institute,* National Development Bank Building (Zhicheng Building), No. 2, Gaoxin 1st Road, Xi'an High-tech Zone, Xi'an, China. *Huawei Terminal (Shenzhen) Co., Ltd.,* Huawei Base, B1, Shenzhen, China. *Nanchang Huawei Communication Technology,* No. 188 Huoju Street, F10–11, Nanchang, China. *Ningbo Huawei Computer & Net Co., Ltd.,* No. 48 Daliang Street, Ningbo, China. *Shanghai Huawei Technologies Co., Ltd.,* R&D center, No. 2222, Golden Bridge Road, Pu Dong District, Shanghai, 286305 Shanghai, China, China. *Shenzhen Huawei Anjiexin Electricity Co., Ltd.,* a.k.a., the following one alias: —Shenzhen Huawei Agisson Electric Co., Ltd. Building 2, Area B, Putian Huawei Base, Longgang District, Shenzhen, China; *and* Huawei Base, Building 2, District B, Shenzhen, China. *Shenzhen Huawei New Technology Co., Ltd.,* Huawei Production Center, Gangtou Village, Buji Town, Longgang District, Shenzhen, China. *Shenzhen Huawei Technology Service,* Huawei Base, Building 2, District B, Shenzhen, China. *Shenzhen Huawei Technologies Software,* Huawei Base, Building 2, District B, Shenzhen, China. *Zhejiang Huawei Communications Technology Co., Ltd.,* No. 360 Jiangshu Road, Building 5, Hangzhou, Zhejiang, China.			
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	Hui Tong Business Ltd., Huawei Base, Electrical Research Center, Shenzhen, China.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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	Shanghai HiSilicon Technologies Co., Ltd., Room 101, No. 318, Shuixiu Road, Jinze Town (Xiqi), Qingpu District, Shanghai, China.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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Country	Entity	License requirement	License review policy	Federal Register citation
	Shenzhen HiSilicon Technologies Co., Electrical Research Center, Huawei Base, Shenzhen, China.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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COSTA RICA	Huawei Technologies Costa Rica SA, a.k.a., the following one alias: —Huawei Technologies Costa Rica Sociedad Anonima. S.J, Sabana Norte, Detras De Burger King, Edif Gru, Po Nueva, San Jose, Costa Rica.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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CUBA	Huawei Cuba, Cuba.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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DENMARK	Huawei Denmark, Vestre Teglgade 9, Kobenhavn Sv, Hovedstaden, 2450, Denmark.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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FRANCE	* *	*	* *	*
	Huawei France, a.k.a., the following one alias: —Huawei Technologies France SASU. 36–38, quai du Point du Jour, 92659 Boulogne-Billancourt cedex, France.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE , 8/21/19.
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INDIA	* *	*	* *	*
	Huawei Technologies India Private Limited, a.k.a., the following one alias: —Huawei Technologies India Pvt., Ltd. Level-3/4, Leela Galleria, The Leela Palace, No. 23, Airport Road, Bengaluru, 560008, India; *and* SYNO 37, 46,45/3,45/4 ETC KNO 1540, Kundalahalli Village Bengaluru Bangalore KA 560037 India.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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INDONESIA	Huawei Tech Investment, PT, Bri Ii Building 20Th Floor, Suite 2005 , Jl. Jend., Sudirman Kav. 44–46, Jakarta, 10210, Indonesia.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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ITALY	Huawei Italia, Via Lorenteggio, 240, Tower A, 20147 Milan, Italy.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
	Huawei Milan Research Institute, Milan, Italy.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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KAZAKHSTAN	* *	*	* *	*

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Huawei Technologies LLC Kazakhstan, 191 Zheltoksan St., 5th floor, 050013, Bostandyk, District of Almaty, Republic of Kazakhstan.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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MEXICO	Huawei Technologies De Mexico S.A., Avenida Santa Fé No. 440, Torre Century Plaza Piso 15, Colonia Santa Fe, Delegación Cuajimalpa de Morelos, C.P. 05348, Distrito Federal, CDMX, Mexico; *and* Laza Carso, Torre Falcón, Lago Zurich No. 245, Piso 18, Colonia Ampliacion Granda, Delegación Miguel Hidalgo, CDMX, Mexico.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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NEW ZEALAND	Huawei Technologies (New Zealand) Company Limited, 80 Queen Street, Auckland Central, Auckland, 1010, New Zealand.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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PANAMA	Huawei Technologies Cr Panama S.A, Ave. Paseo del Mar, Costa del Este Torre MMG, Piso 17 Ciudad de Panamá, Panama.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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PORTUGAL	Huawei Technology Portugal, Avenida Dom João II, 51B—11°.A 1990–085 Lisboa, Portugal.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/219/19.
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ROMANIA	Huawei Technologies Romania Co., Ltd., Ion Mihalache Blvd, No. 15–17,1st District, 9th Floor of Bucharest Tower center, Bucharest, Romania.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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RUSSIA	* * *	*	* *	*
	Huawei Russia, Business-Park ''Krylatsky Hills'', 17 bldg. 2, Krylatskaya Str., Moscow 121614, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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SOUTH AFRICA	* * *	*	* *	*
	Huawei Technologies South Africa Pty Ltd., 128 Peter St Block 7 Grayston Office Park, Sandton, Gauteng, 1682, South Africa.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
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SWEDEN	* * *	*	* *	*

Country	Entity	License requirement	License review policy	Federal Register citation
	Huawei Sweden, Skalholtsgatan 9–11 Kista, 164 40 Stockholm, Sweden.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
*	* * *	*	*	*
THAILAND	* * *	*	*	*
	Huawei Technologies (Thailand) Co., 87/1 Wireless Road, 19th Floor, Capital Tower, All Seasons Place, Pathumwan, Bangkok, 10330, Thailand.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
	* * *	*	*	*
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UNITED KINGDOM.	* * *	*	*	*
	Centre for Integrated Photonics Ltd., B55 Adastral Park, Phoenix House, Martlesham Heath, Ipswich, IP5 3RE United Kingdom.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
	* * *	*	*	*
	Huawei Technologies (UK) Co., Ltd., a.k.a., the following one alias: —Huawei Software Technologies Co. Ltd. 300 South Oak Way, Green Park, Reading, RG2 6UF; *and* 6 Mitre Passage, SE 10 0ER, United Kingdom.	For all items subject to the EAR. (See § 744.11 of the EAR.)	Presumption of denial	84 FR [INSERT FR PAGE NUMBER , 8/21/19.
	* * *	*	*	*
*	* * *	*	*	*

Dated: August 15, 2019.

Nazak Nikakhtar,

Assistant Secretary of Industry and Analysis, International Trade Administration, Performing the Non-Exclusive Duties of the Under Secretary of Industry and Security.

[FR Doc. 2019–17921 Filed 8–19–19; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2019–0714]

Drawbridge Operation Regulation; New River, Fort Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from drawbridge regulations; request for comments.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Florida East Coast Railway (FEC) Railroad Bridge across the New River, mile 2.5, at Fort Lauderdale, Florida. This deviation is necessary to test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. Under this deviation, the bridge shall not be closed more than 60 combined minutes in each consecutive 120-minute block of time, and at no time will this bridge be closed to navigation for more than 60 consecutive minutes of time. This deviation supports ongoing negotiations between the railroad and maritime stakeholders as the parties discuss a Final Rule that reasonably meets their interests.

DATES: This deviation is effective from 12:01 a.m. on August 20, 2019, to 11:59 p.m. on October 18, 2019.

Comments must reach the Coast Guard on or before September 19, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0714 using Federal eRulemaking Portal at *http://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this test deviation, call or email LT Samuel Rodriguez-Gonzalez, U.S. Coast Guard, Sector Miami Waterways Management Division; telephone 305–535–4307, email *Samuel.Rodriguez-Gonzalez@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Background, Purpose and Legal Basis

The Florida East Coast Railway (FEC) Railroad Bridge across the New River, mile 2.5, at Fort Lauderdale, Florida is a single-leaf bascule railroad bridge with a 4 foot vertical clearance at mean high water in the closed position. The normal operating schedule for the bridge is found in 33 CFR 117.313(c). There has been an increase in rail traffic over the bridge in recent years due the start of passenger rail service. This test deviation provides a block schedule for the bridge to operate allowing for a more consistent operating schedule.

The draw shall operate as follows:

(1) The bridge shall be constantly tended.

(2) The bridge tender will utilize a VHF–FM radio to communicate on channels 9 and 16 and may be contacted by telephone at 305–889–5572.

(3) Signs will be posted displaying VHF radio contact information and

telephone numbers for the bridge tender and dispatch. A countdown clock giving notice of time remaining before bridge closure shall remain at the bridge site and must be visible for maritime traffic.

(4) A bridge log will be maintained including, at a minimum, bridge opening and closing times.

(5) When the draw is in the fully open position, green lights will be displayed to indicate that vessels may pass.

(6) When a train approaches, the lights go to flashing red then the draw lowers and locks.

(7) After the train has cleared the bridge, the draw opens and the lights return to green.

(8) The bridge shall not be closed more than 60 minutes combined in each consecutive 120-minute block of time beginning at 12:01 a.m. each day. At no time will the bridge be closed to navigation for more than 60 consecutive minutes of time.

(9) The bridge shall remain open to maritime traffic when trains are not crossing.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

II. 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.*

Dated: August 19, 2019.

Barry Dragon,

Director, Bridge Branch, Seventh Coast Guard District.

[FR Doc. 2019–18109 Filed 8–19–19; 4:15 pm]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0690]

RIN 1625–AA00

Safety Zone; Fireworks Display, Delaware River, Chester, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Delaware River near Talen Energy Stadium in Chester, PA, from 9:30 p.m. to 10:30 p.m. on August 31, 2019, during the Philadelphia Union Post-Game Fireworks Display. The safety zone is necessary to ensure the safety of participant vessels, spectators, and the boating public during the event. This regulation prohibits persons and non-participant vessels from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port (COTP) Delaware Bay or a designated representative.

DATES: This rule is effective from 9:30 p.m. through 10:30 p.m. on August 31, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0690 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 Thomas Welker, Sector Delaware Bay, Waterways Management Division, U.S. Coast Guard; telephone (215) 271–4814, email *Thomas.j.welker@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
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)(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 and contrary to the public interest to do so. There is insufficient time to allow for a reasonable comment period prior to the date of the event. The rule must be in force by August 31, 2019. We are taking immediate action to ensure the safety of spectators and the general public from hazards associated with the fireworks display. Hazards include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

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 impracticable and contrary to the public interest because immediate action is needed to mitigate the potential safety hazards associated with a fireworks displays in this location.

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 Delaware Bay (COTP) has determined that potential hazards associated with the fireworks to be used in this August 31, 2019 display will be a safety concern for anyone within a 300 yard radius of the barge. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a temporary safety zone on the waters of the

Delaware River near Talen Energy Stadium in Chester, PA, during a fireworks display scheduled to take place between 9:30 p.m. and 10:30 p.m. on August 31, 2019. The fireworks will be launched from a barge in the river, which will be anchored at approximate position latitude 39°49′43″ N, longitude 075°22′39″ W. The safety zone includes all navigable waters within 300 yards of the fireworks barge. No person or vessel will be permitted to enter, transit through, anchor in, or remain within the safety zone without obtaining permission from the COTP Delaware Bay or a designated representative. If the COTP Delaware Bay or a designated representative grants authorization to enter, transit through, anchor in, or remain within the safety zone, all persons and vessels receiving such authorization must comply with the instructions of the COTP Delaware Bay or a designated representative. The Coast Guard will provide public notice of the safety zone by Local Notice to Mariners and Broadcast Notice to Mariners.

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, 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.

The impact of this rule is not significant for the following reasons: (1) The enforcement period will last one hour when vessel traffic is usually low; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the COTP Delaware Bay or a designated representative, a portion of the channel will remain open so that persons and vessels will be able to operate in the surrounding area during the enforcement period; (3) persons and vessels will still be able to enter, transit through, anchor in, or remain within the regulated area if authorized by the COTP Delaware Bay or a designated representative; and (4) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene actual notice from designated representatives.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.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 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 rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the navigable water in the Delaware River, during a fireworks display lasting approximately

one hour. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration (REC) 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, 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.T05–0690 to read as follows:

§ 165.T05–0690 Safety Zone; Fireworks Display, Delaware River, Chester, PA.

(a) *Location.* The following area is a safety zone: All waters of Delaware River off Chester, PA, within 300 yards of the barge anchored in approximate position latitude 39°49′43″ N, longitude 075°22′39″ W.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard petty officer, warrant or commissioned officer on board a Coast Guard vessel or on board a federal, state, or local law enforcement vessel assisting the Captain of the Port (COTP), Delaware Bay in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter or remain in the zone, contact the COTP or the COTP's representative via VHF–FM channel 16 or 215–271–4807. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) No vessel may take on bunkers or conduct lightering operations within the safety zone during its enforcement period.

(4) This section applies to all vessels except those engaged in law enforcement, aids to navigation servicing, and emergency response operations.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Effective period.* This safety zone will be effective and enforced from 9:30 p.m. until 10:30 p.m. on August 31, 2019.

Dated: August 15, 2019.

Scott E. Anderson,

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

[FR Doc. 2019–17964 Filed 8–20–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2019–0164; FRL–9998–58–Region 2]

Approval of Air Quality Implementation Plans; New Jersey; Determination of Attainment for the 1971 Sulfur Dioxide National Ambient Air Quality Standard; Warren County Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a determination that the New Jersey portion of the Northeast Pennsylvania-Upper Delaware Valley Interstate Air Quality Control Region (Warren County) Sulfur Dioxide (SO_2) Nonattainment Area has attained the 1971 SO_2 primary and secondary National Ambient Air Quality Standards (NAAQS). This action does not constitute a redesignation to attainment. The Warren County Nonattainment Area will remain nonattainment for the 1971 primary and secondary NAAQS until the EPA determines that the Area meets the Clean Air Act (CAA) requirements for redesignation to attainment, including an approved maintenance plan. This action is being taken under the CAA.

DATES: This final rule is effective on September 20, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R02–OAR–2019–0164. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kenneth Fradkin, (212) 637–3702, or by email at *fradkin.kenneth@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The EPA designated all of Warren County, New Jersey as attainment for the 1971 SO_2 primary and secondary NAAQS on March 3, 1978 (43 FR 8962). On December 31, 1987 (52 FR 49408), the EPA redesignated portions of Warren County as nonattainment for both the primary and secondary 1971 SO_2 NAAQS at the request of the State of New Jersey (the State) to revise the air quality designation for the area. EPA issued a minor correction to the redesignation on March 14, 1988 (53 FR 8182).

The 1971 SO_2 NAAQS consisted of two primary standards for the protection of public health and one secondary standard for the protection of public welfare. The primary SO_2 NAAQS addressed 24-hour average and annual average ambient SO_2 concentrations. The secondary standard addressed 3-hour average ambient SO_2 concentrations. The level of the annual SO_2 standard was 0.03 parts per million (ppm) (or 80 micrograms per cubic meter ($\mu g/m^3$)) not to be exceeded in a calendar year. See 40 CFR 50.4(a). The level of the 24-hour standard was 0.14 ppm (or 365 $\mu g/m^3$), not to be exceeded more than once per calendar year. See 40 CFR 50.4(b). The level of the secondary SO_2 standard is a 3-hour standard of 0.5 ppm (or 1300 $\mu g/m^3$), not to be exceeded more than once per calendar year. See 40 CFR 50.5(a).

The EPA initially designated all of Warren County, which is part of the Northeast Pennsylvania-Upper Delaware Valley Interstate Air Quality Control Region (AQCR), as ''better than national standards'' (otherwise known as ''attainment'') for the 1971 primary and

secondary SO_2 NAAQS on March 3, 1978 (43 FR 8962). On April 30, 1986 and June 26, 1986, the New Jersey Department of Environmental Protection (NJDEP) submitted a request to EPA to revise the air quality designation for parts of Warren County from ''attainment'' to ''nonattainment'' with respect to the 1971 primary and secondary SO_2 NAAQS. The EPA revised the designations for those parts of Warren County to ''does not meet standards'' (otherwise known as ''nonattainment'') based on the State's request under section 107 of the CAA and the EPA's assessment of air dispersion screening modeling performed by the NJDEP and others that showed portions of Warren County were in violation of the SO_2 NAAQS.

The December 31, 1987 nonattainment redesignation for Warren County included the entire Townships of Harmony, Oxford, White, and Belvidere, and portions of Liberty [1] and Mansfield [2] Townships. See 52 FR at 49411, 53 FR 8182, and 40 CFR 81.331. The remaining portion of Warren County remained designated as attainment.

New Jersey was required to submit an attainment SIP to the EPA by May 15, 1992, *i.e.,* within 18 months [3] of November 15, 1990. The Warren County Nonattainment Area was required to attain the SO_2 NAAQS within five years [4] after November 15, 1990. Therefore, the Warren County SO_2 Nonattainment Area's attainment date was November 15, 1995.

On June 14, 2018, the Center for Biological Diversity, Center for Environmental Health, and Sierra Club (CBD) filed suit against the EPA in the U.S. District Court for the Northern District of California seeking to compel the EPA to, among other things, determine that New Jersey had failed to submit a required SIP for the New Jersey portion of the Northeast Pennsylvania-Upper Delaware Valley Interstate Air Quality Control Region (part) nonattainment area, and amended that complaint on December 17, 2018. See *Center for Biological Diversity, et al.,* v. *Wheeler,* Civ. No. 18–cv–3544–YGR (N.D. Cal.). This case is still pending.

The NJDEP submitted a request on August 17, 2018 for the EPA to make a determination that the Warren County SO_2 Nonattainment Area had attained the 1971 primary and secondary SO_2 NAAQS (Warren County SO_2 Clean Data Request). On May 20, 2019 (84 FR 22768) the EPA proposed to make the determination that the Warren County Nonattainment Area attained the 3-hour, 24-hour, and annual 1971 SO_2 NAAQS. The details of the NJDEP submittal and the rationale for EPA's proposed action are explained in the Notice of Proposed Rulemaking (NPR) and will not be restated here.

On July 23, 2019 NJDEP submitted a supplement to the Warren County SO_2 Clean Data Request to provide clarification that New Jersey has met its obligation to satisfy Nonattainment New Source Review (NNSR) and the Emission Inventory (EI) SIP requirements for the 1971 SO_2 NAAQS through previous SIP submittals to the EPA on February 19, 1993 [5] (for NNSR) and June 11, 2015 [6] (for EI).

EPA's final determination that the area has attained the 3-hour, 24-hour, and annual 1971 SO_2 NAAQS, suspends the requirements for the State to submit a reasonable further progress plan, attainment demonstration, contingency measures and any other planning SIP relating to attainment of the 3-hour, 24-hour, and annual 1971 SO_2 NAAQS for so long as the Warren County Nonattainment Area continues to meet each NAAQS. Although these requirements will be suspended, the EPA would not be precluded from acting upon these elements at any time if submitted to the EPA for review and approval.

II. What comments did the EPA receive on the proposal and what are the EPA's responses?

The public comment period on EPA's proposed determination opened May 20, 2019, the date of its publication in the **Federal Register**, and closed on June 19, 2019. During this period, the EPA received one set of public comments that were submitted anonymously in response to the NPR. A summary of the comments, and the EPA's response, is provided below.

Comment: The commenter asserts that the EPA incorrectly used annual emissions to predict maintenance of a 3-hour and 24-hour standard, and therefore cannot approve a clean data determination as the annual data does not predict maximum potential emissions from sources in the nonattainment area in such a way that will affect the short-term standards. Annual emission reductions do not solve nonattainment problems, the commenter claims, and the EPA must stop relying on annual emissions, for short-term standards. The commenter further argues that the EPA should be using potential emissions rather than actual emissions as sources in the nonattainment area are not required to keep their actual emissions as low. The commenter also asserts that the EPA should reanalyze potential emissions from the Portland Generation Station since the facility is subject to the BAT (or Best Available Technology) emission limits of 2,287.2 pounds (lbs.)/day and 39.67 tons/year of SO_2 from No. 2 oil instead of Title 25 Pennsylvania Code [Pa. Code] Section 123.22 since no such citation exists in Portland's current Title V permit.

EPA Response: The commenter's assertion that the EPA is evaluating maintenance of the NAAQS in the NPR (*i.e.,* using annual emissions to predict maintenance for the 3-hour and 24-hour standard) is incorrect. In this rulemaking, EPA is determining that current air quality meets these air quality standards, an action known as a Clean Data Determination (CDD), not whether the area will maintain the standard. In a Clean Data Determination, it is appropriate to use actual emissions in the state's air quality modeling or other assessments because such emissions inform actual conditions, *i.e.,* whether the current air quality in the area is attaining the standards. This action does not require a demonstration of maintenance. By contrast, in an action for redesignation under CAA section 107(d)(3),which is not the case here, the State would need to submit, and the EPA would be required to approve, a maintenance plan that provides for a demonstration of attainment and maintenance of the NAAQS. The NPR published on May 20, 2019 (84 FR 22768), was limited to a CDD for the Warren County Nonattainment Area for the 3-hour, 24-hour, and annual 1971 SO_2 NAAQS—and not redesignation to attainment. The EPA has not received a request from the State for redesignation of the Warren County Nonattainment Area to attainment. At the time the State chooses to make such a redesignation request, it must still meet the statutory requirements for a redesignation, which includes submission of a maintenance plan, to be redesignated to attainment. Nevertheless, in response to this comment, the EPA examined relevant reductions in allowable emissions and, as discussed below, concluded that potential emissions are below levels needed to assure continued attainment.

EPA also believes that the commenter understates the utility of annual

[1] Portions of Liberty south of UTM coordinate N4522 and West of UTM E505 (See 53 FR 8182, March 14, 1988).

[2] Portions of Mansfield west of UTM E505 (See 53 FR 8182, March 14, 1988).

[3] CAA § 191(b).

[4] CAA § 192(b).

[5] EPA approval at 61 FR 38591 (July 25, 1996).

[6] EPA approval at 82 FR 44099 (September 21, 2017).

emissions data. EPA recognizes that air quality on a 3-hour or 24-hour average basis is a function of the magnitude of emissions during periods when the meteorology is conducive to poor air quality. At the same time, if annual emissions are low, particularly in cases like this where average emissions are about two orders of magnitude lower than the levels shown to yield attainment, the annual emissions data create a high likelihood that emissions during critical periods will be low enough not to cause violations of the applicable air quality standard. As noted in the NPR and the EPA's Technical Support Document (TSD), actual SO_2 emissions from the Martins Creek Generating Station (Martins Creek), located in Northampton, Pennsylvania (PA), and the Portland Generating Station (Portland) also located in Northampton, PA, have declined substantially since the EPA's SO_2 nonattainment designation (December 31, 1987, 52 FR 49408). Actual annual SO_2 emissions from those sources declined 99.8 percent, from 58,721 tons per year in 1990 to an average of 129 tons per year in 2015–2017. Martin's Creek, which in 1990 emitted 33,300 tons of SO_2 per year, has shut down its coal-fired boilers, and the remaining oil-fired boilers are currently emitting an average of 88 tons of SO_2 per year. Portland, which in 1990 emitted 25,400 tons of SO_2 per year, has shut down its coal units, and is currently emitting less than 0.5 tons of SO_2 per year. No other source in the area emits more than 15 tons of SO_2 per year.

In any case, EPA has conducted a further examination of short-term emissions data from significant sources in the Warren County area. Modeling discussed in the notice of proposed rulemaking demonstrated that the pertinent SO_2 standards would be attained with Martins Creek emitting at approximately 32,000 pounds per hour and Portland emitting approximately 15,000 pounds per hour.[7] The highest hourly emission rate from the remaining emission points at Martins Creek (Units 3 and 4) in the last three years was about 1,300 pounds per hour.[8] Most of Portland has been shut down, and the remaining unit (Unit 5), which mostly fires natural gas, had maximum emissions in the last three years of about 30 pounds per hour.[9] Thus, short term emissions data clearly support EPA's conclusion that the Warren County area is attaining the 1971 SO_2 standards.

Although this action is focused on current actual air quality, EPA also considered potential (or allowable) SO_2 emissions in its analysis of the State's CDD request. As the EPA noted in the TSD, the allowable SO_2 emissions from the principal contributing sources at Martin's Creek and Portland as well as sources located in the Warren County nonattainment area decreased 81 percent, from 208,186 tons per year in 1987 to 38,747 tons per year in 2018, *i.e.,* a reduction from 47,531 pounds per hour to 8,846 pounds per hour.

The air dispersion modeling conducted in June 1999 (the 1999 study) showed that attainment could be assured for the 3-hour, 24-hour, and annual 1971 SO_2 NAAQS with only slight reductions in the emissions that were ''allowable'' (what the commenter would call the potential emissions) at that time. The facilities were modeled at their maximum, short-term emission rate limits. Specifically, this modeling showed (as noted earlier in this section) that the area would attain the 1971 SO_2 standards with allowable emissions of approximately 32,000 pounds per hour from Martins Creek, and approximately 15,000 pounds per hour from Portland emitting. Since the 1999 study, Martins Creek and Portland have had dramatic decreases in allowable emissions as a result of unit shutdowns, more stringent operating permits, and a more stringent SIP-approved Sulfur in Fuels regulation under Title 25 Pa. Code Chapter 123, section 123.22 [10] that would reduce the predicted SO_2 concentrations.

Both the Martins Creek and Portland facilities have shut down and/or dismantled several emissions units. At Martins Creek, coal-fired Units 1 and 2 have been shut down and dismantled since September 2007. Martins Creek Auxiliary boiler 4B has also shut down. Similarly, Portland has permanently shut down its Coal-fired Units 1 & 2 in compliance with a Consent Decree. Martins Creek currently limits its No. 6 Oil-fired Units 3 and 4 to burning only No. 6 oil at no more than 0.5 percent sulfur to comply with the revised 25 Pa. Code Chapter 123, section 123.22, even though these equipment's emissions were modeled at a sulfur content of 1 percent.

Further, both the Martins Creek and Portland facilities' operating permits contain more stringent operating conditions. Martins Creek Units 3 and 4's allowable emissions were reduced from 77,109 tons per year in 1999 to 38,544 tons per year in 2018, corresponding to hourly emission rates declining from 17,605 pounds per hour to 8,800 pounds per hour. Further, Martins Creek combustion turbines are currently permitted to use only natural gas. Portland's combustion turbines Units 3, 4 and 5 are limited to burning No. 2 oil at no more than 0.05 percent sulfur under 25 Pa. Code Chapter 123, section 123.22. Portland Unit 1 ceased burning coal in May 2014, and Unit 2 did so in June 2013.

Current allowable emission rates are substantially below the levels found in 1999 to provide for attainment. As noted earlier in this section, the allowable SO_2 emissions from the principal contributing sources at Martin's Creek and Portland as well as sources located in the Warren County nonattainment area decreased from 47,531 pounds per hour in 1987 to 8,846 pounds per hour in 2018. Consequently, this evidence provides further support for the conclusion that the Warren County nonattainment area is now attaining and will continue to attain the SO_2 NAAQS.

The EPA disagrees with the commenter's suggestion that the EPA should reanalyze potential emissions from the Portland facility since it is subject to BAT limits (which is 2,287.2 lbs./day and 39.67 tons/year of SO_2 from No. 2 oil) instead of the No. 2 fuel oil limits in 25 Pa Code Chapter 123, section123, because the PA regulatory provision is not listed in Portland's current Title V permit.

25 Pa Code Chapter 123, section123.22 is a SIP-approved regulation that includes maximum allowable sulfur content limits of 0.05 percent sulfur by weight for No. 2 and lighter distillate oil for combustion all units. The rule is federally enforceable, and the sulfur fuel limits currently apply to the Portland facility.

The EPA notes that Portland combustion turbines Units 3 and 4 were modeled in June 1999 at a much higher (and more conservative) emission rate than the BAT limit of 2,287 lbs./day cited by the commenter. Unit 3 was modeled at 16.51 grams per second (equivalent to 3,145 lbs./day), and Unit 4 was modeled at 22.36 grams per sec (equivalent to 4,259 lbs./day). See Table 2–1 Sulfur Dioxide Emissions for the Sources Modeled in the Martins Creek modeling report (ID: EPA–R02–OAR–2019–0164–0003) included in the docket of the rulemaking. Because the

[7] See Table 2–1 Sulfur Dioxide Emissions for the Sources Modeled in the Martins Creek modeling report (ID: EPA–R02–OAR–2019–0164–0003) included in the docket of the rulemaking.

[8] Current and historical data collected as part of EPA's emissions trading program is available at *https://ampd.epa.gov/ampd/.*

[9] Current and historical data collected as part of EPA's emissions trading program is available at *https://ampd.epa.gov/ampd/.*

[10] On July 10, 2014, the EPA approved 25 Pa. Code Chapter 123, section 123.22 into the PA SIP (79 FR 39330).

June 1999 modeling was based on more conservative emissions estimates, any additional modeling using the suggested BAT limit would also support that the limits that the Warren County Nonattainment Area sources are meeting limits are resulting in attainment, and the conclusions of the CDD would not change.

III. Final Action

The EPA is finalizing a determination that the Warren County Nonattainment Area has attained the 3-hour, 24-hour, and annual 1971 SO_2 NAAQS. This ''Clean Data Determination'' is based on air quality monitoring data, air quality dispersion modeling information, as well as other supporting information indicated in this final rule. EPA's determination that the area has attained the 3-hour, 24-hour, and annual 1971 SO_2 NAAQS, suspends the requirements for the State to submit a reasonable further progress plan, attainment demonstration, contingency measures and any other planning SIP relating to attainment of the 3-hour, 24-hour, and annual 1971 SO_2 NAAQS for so long as the Warren County Nonattainment Area continues to meet each NAAQS. Although these requirements are suspended, the EPA would not be precluded from acting upon these elements at any time if submitted to the EPA for review and approval.

Issuance of a CDD does not constitute a redesignation of the Warren County Nonattainment Area to attainment for the 3-hour, 24-hour, and annual 1971 SO_2 NAAQS under CAA section 107(d)(3). The CDD does not involve approving any maintenance plan for the Warren County Nonattainment Area, nor does it serve as a determination that the Warren County Nonattainment Area has met all the requirements for redesignation under the CAA; any such redesignation would require, among other things, that the attainment is attributable to permanent and enforceable measures. Therefore, the designation status of the Warren County Nonattainment Area will remain nonattainment for the 3-hour, 24-hour, and annual 1971 SO_2 NAAQS until the EPA takes final rulemaking action to determine that the Warren County Nonattainment Area meets the CAA requirements for redesignation to attainment.

IV. Statutory and Executive Order Reviews

This action finalizes a determination of attainment for the 1971 SO_2 NAAS based on air quality and other information that results in the suspension of certain Federal requirements and would not impose any additional requirements. 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 it is not a significant regulatory action under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 1985, 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, 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 attainment determination 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. 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 October 21, 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, Sulfur oxides, Reporting and recordkeeping requirements.

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

Dated: August 8, 2019.

Peter D. Lopez,

Regional Administrator, Region 2.

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 FF—New Jersey

■ 2. In § 52.1576, paragraph (e) is added to read as follows:

§ 52.1576 Determinations of attainment.

* * * * *

(e) EPA has determined, as of August 21, 2019, that the Warren County Nonattainment Area has attained the 3-hour, 24-hour, and annual 1971 sulfur dioxide national ambient air quality standard (NAAQS). This determination (informally known as a Clean Data

Determination) is based on air quality monitoring data, air quality dispersion modeling information, and other supporting information. This determination suspends the requirements for the State to submit a reasonable further progress plan, attainment demonstration, contingency measures and any other plan elements relating to attainment of the 3-hour, 24-hour, and annual 1971 SO_2 NAAQS for as long as the area continues to meet each NAAQS.

[FR Doc. 2019–17834 Filed 8–20–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2019–0239; FRL–9998–50–Region 5]

Air Plan Approval; Ohio; Redesignation of the Columbus, Ohio Area to Attainment of the 2015 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) finds that the Columbus, Ohio area is attaining the 2015 ozone National Ambient Air Quality Standard (NAAQS or standard) and is acting in accordance with a request from the Ohio Environmental Protection Agency (Ohio EPA) to redesignate the area to attainment for the 2015 ozone NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Columbus area includes Delaware, Fairfield, Franklin, and Licking Counties. Ohio EPA submitted this request on April 23, 2019. EPA is also approving, as a revision to the Ohio State Implementation Plan (SIP), the State's plan for maintaining the 2015 ozone NAAQS through 2030 in the Columbus area. Finally, EPA finds adequate and is approving Ohio's 2023 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Columbus area.

DATES: This final rule is effective August 21, 2019.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2019–0239. All documents in the docket are listed in the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov.*

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

I. What is being addressed in this document?

This rule takes action on the April 23, 2019, submission from Ohio EPA requesting redesignation of the Columbus area to attainment for the 2015 ozone standard. The background for this action is discussed in detail in EPA's proposal, dated July 3, 2019 (84 FR 31814). In that rulemaking, we noted that, under EPA regulations at 40 CFR part 50, the 2015 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration is equal to or less than 0.070 parts per million, when truncated after the third decimal place, at all of the ozone monitoring sites in the area. (*See* 40 CFR 50.15 and appendix U of part 50.) Under the CAA, EPA may redesignate nonattainment areas to attainment if sufficient complete, quality-assured data are available to determine that the area has attained the standard and if it meets the other CAA redesignation requirements in section 107(d)(3)(E). The proposed rule provides a detailed discussion of how Ohio has met these CAA requirements.

As discussed in the proposed rule, quality-assured and certified monitoring data for 2016–2018 and preliminary data for 2019 show that the Columbus area has attained and continues to attain the 2015 ozone standard. In the maintenance plan submitted for the area, Ohio has demonstrated that the ozone standard will be maintained in the area through 2030. Finally, Ohio has adopted 2023 and 2030 VOC and NO_X MVEBs for the Columbus area that are supported by Ohio's maintenance demonstration.

II. What comments did we receive on the proposed rule?

EPA provided a 30-day review and comment period for the July 3, 2019, proposed rule. The comment period ended on August 2, 2019. We received one comment in support of EPA's proposed action. We received no adverse comments on the proposed rule.

III. What action is EPA taking?

EPA is determining that the Columbus nonattainment area is attaining the 2015 ozone standard, based on quality-assured and certified monitoring data for 2016–2018 and that the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus changing the legal designation of the Columbus area from nonattainment to attainment for the 2015 ozone standard. EPA is also approving, as a revision to the Ohio SIP, the State's maintenance plan for the area. The maintenance plan is designed to keep the Columbus area in attainment of the 2015 ozone NAAQS through 2030. Finally, EPA finds adequate and is approving the newly-established 2023 and 2030 MVEBs for the Columbus area.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule ''grants or recognizes an exemption or relieves a restriction,'' and section 553(d)(3), which allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, this rule relieves the State of planning requirements for this ozone nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 21, 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

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: August 8, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

Title 40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. In § 52.1870, the table in paragraph (e) is amended under ''Summary of Criteria Pollutant Maintenance Plan'' by adding a new entry for ''Ozone (8-Hour, 2015)'' before the entry for ''PM–10'' to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
*	*	*	*	*	*	*
Summary of Criteria Pollutant Maintenance Plan				

EPA-APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
*	* *	*	*	* *
Ozone (8-Hour, 2015).	Columbus (Delaware, Fairfield, Franklin, and Licking Counties).	4/23/2019	8/21/2019, [insert **Federal Register** citation].	
*	* *	*	*	* *

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. Section 81.336 is amended by revising the entry for Columbus, OH in the table entitled ''Ohio-2015 8-Hour Ozone NAAQS [Primary and Secondary]'' to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—2015 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area [1]	Designation		Classification	
	Date [2]	Type	Date [2]	Type
* *	*	* *	*	* *
Columbus, OH:	8/21/2019	Attainment.		
Delaware County				
Fairfield County				
Franklin County				
Licking County				
* *	*	* *	*	* *

[1] Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

[2] This date is August 3, 2018, unless otherwise noted.

* * * * *

[FR Doc. 2019–17795 Filed 8–20–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0201; FRL–9997–14]

C_1-C_4 Linear and Branched Chain Alkyl D-Glucitol Dianhydro Alkyl Ethers; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes exemptions from the requirement of a tolerance for residues of pesticide inert ingredients within the C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers (AD–GDAE) cluster. These exemptions are being established with the following terms: When used as an inert ingredient (solvent, co-solvent, viscosity modifier and adjuvant) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest, on animals, and in antimicrobial formulations applied to food-contact surfaces in public-eating places, dairy-processing equipment, and food-processing equipment, and utensils, and in antimicrobial formulations used for dairy processing equipment, and food-processing equipment and utensils. Exponent, Inc., on behalf of Croda, Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster when used in accordance with the terms of these exemptions.

DATES: This regulation is effective August 21, 2019. Objections and requests for hearings must be received on or before October 21, 2019, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0201, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael 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. How can I get electronic access to other related information?

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

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2018–0201 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 21, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2018–0201, by one of the following methods:

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

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

II. Petition for Exemption

In the **Federal Register** of October 18, 2018 (83 FR 52787) (FRL–9984–21), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–11109) by Exponent, Inc. (1150 Connecticut Ave, Suite 1100, NW, Washington, DC 20036), on behalf of Croda, Inc. (315 Cherry Lane New Castle, DE 19720). The petition requested that 40 CFR be amended by establishing exemptions from the requirement of a tolerance for residues of C1–C4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers (C1–C4 Linear and Branched Chain AD–GDAE) cluster—d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl-(CAS Reg. No. 5306–85–4); d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-ethyl- (CAS Reg. No. 30915–81–2); d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-propyl) (CAS Reg. No. 107644–13–3); d-glucitol, 1,4:3,6-dianhydro-2,5-bis-O-(1-methylethyl)-,(iso-propyl diether) (CAS Reg. No. 103594–41–8); d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-butyl- (CAS Reg. No. 103594–42–9); d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-(1-methylpropyl)-, (CAS Reg. No. not assigned); and d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-(2-methylpropyl)-, (CAS Reg. No. not assigned) when used as an inert ingredient (solvent, co-solvent, viscosity modifier and adjuvant) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest under 40 CFR 180.910, applied in or on animals under 40 CFR 180.930, in antimicrobial formulations used in food-contact surfaces in public-eating places, dairy-processing equipment, and food-processing equipment and utensils under 40 CFR 180.940(a) and in antimicrobial formulations used for dairy-processing equipment, and food-processing equipment and utensils under 40 CFR 180.940(b). That document referenced a summary of the petition prepared by Exponent, Inc. on behalf of Croda, Inc., the petitioner, which is available in the docket, *http://www.regulations.gov.* Although one comment was submitted in response to the relating to notice of filing regarding the use of pesticides generally, it was not specific to tolerances or this rulemaking.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

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

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

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

The seven compounds included in the cluster are C_1-C_4 linear and branched chain glucitol, 1,4:3,6-dianhydro ether congeners of isosorbide, which is described as a fused ring furo[3,2-b]furan, d-glucitol heterocycle. These chemicals are similar in structure and are expected to be similar in regard to toxicity profile. Therefore, d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- was selected as a suitable analogue to represent toxicity due to exposure to the seven compounds included in the cluster and all toxicological studies were conducted with d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl-.

The acute oral and dermal toxicities are low in rats and rabbits, respectively. C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers are not irritating to the skin or eyes in the rabbit. Acute inhalation and sensitization studies are not available for review.

New Zealand white rabbits exposed for 8 days via gavage to doses as high as 300 mg/kg/day of d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- do not exhibit adverse effects. No adverse effects are observed up to 375 mg/kg/day in rats following 13 weeks of exposure via gavage to d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl-. Conversely, adverse effects are observed in the dog following 13 weeks of exposure via capsule to d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl-. Decreased mean body weight, body weight gain, food consumption, changes in clinical biochemistry, lower levels of red blood cells (RBCs), hemoglobin and hematocrit and decreased relative liver weights are observed in dogs at 700 mg/kg/day. The no-observed-adverse-effect level (NOAEL) is 100 mg/kg/day.

No fetal susceptibility is observed in the developmental toxicity studies in rats and rabbits. Developmental studies with d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl-in the rat and rabbit show no maternal or developmental adverse effects up to 375 and 300 mg/kg/day, respectively, the highest doses tested. No reproduction toxicity studies are available for review, however, no evidence of toxicity to reproductive organs is observed in the 13-week oral toxicity studies in the rat or dog up to 375 and 700 mg/kg/day, respectively.

The Ames test and chromosomal aberrations assay in human lymphocytes are negative. Therefore, d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- is not considered mutagenic.

D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- is not expected to be carcinogenic based on a Derek Nexus structural alert analysis. No structural alerts for carcinogenicity or mutagenicity are indicated in the analysis.

Neurotoxicity and immunotoxicity studies are not available for review. However, no evidence of neurotoxicity and immunotoxicity is observed in the submitted studies.

Metabolism studies are not available for the C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster. However, based on the classical metabolic pathways for the alkyl and aryl etherases, it is expected that the C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster would be metabolized to monoethers, isosorbide (the common and major metabolite), and sorbitol.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

The 13-week oral toxicity study in dogs is selected for the chronic dietary exposure scenario as well as intermediate-term incidental oral, dermal and inhalation exposure scenarios. The NOAEL is 100 mg/kg/day, and the LOAEL is 700 mg/kg/day based on decreased mean body weight, body weight gain and food consumption, changes in clinical biochemistry, lower levels of RBCs, hemoglobin and hematocrit and decreased relative liver weights. This represents the lowest NOAEL in the database in the most sensitive species. The developmental studies in rats and rabbits are selected for short-term exposure scenarios. These studies are considered co-critical, the NOAEL is 300 mg/kg/day, the highest dose tested.

The standard inter- and intra-species uncertainty factors of 10x are applied; as discussed below in Unit IV.D., the Agency applied a 1x Food Quality Protection Act (FQPA) Safety Factor (SF). The default factor of 100% is applied for the dermal absorption rate and the inhalation absorption rate.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster in food as follows:

No adverse effects attributable to a single exposure of endpoint was identified for d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl-; therefore, an acute dietary exposure assessment was not conducted.

In conducting the chronic dietary exposure assessment using the Dietary Exposure Evaluation Model DEEM–FCIDTM, Version 3.16, EPA used food consumption information from the U.S. Department of Agriculture's (USDA's) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, no residue data were submitted for d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl-. In the absence of specific residue data, EPA has developed an approach which uses surrogate information to derive upper bound exposure estimates for the subject inert ingredient. Upper bound exposure estimates are based on the highest tolerance for a given commodity from a list of high use insecticides, herbicides, and fungicides. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum entitled ''Alkyl Amines Polyalkoxylates (Cluster 4): Acute and Chronic Aggregate (Food and Drinking Water) Dietary Exposure and Risk Assessments for the Inerts,'' (D361707, S. Piper, 2/25/09) and can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2008–0738.

In the dietary exposure assessment, the Agency assumed that the residue level of the inert ingredient would be no higher than the highest tolerance for a given commodity. Implicit in this assumption is that there would be similar rates of degradation (if any) between the active and inert ingredient and that the concentration of inert ingredient in the scenarios leading to these highest levels of tolerances would be no higher than the concentration of the active ingredient.

The Agency believes the assumptions used to estimate dietary exposures lead to an extremely conservative assessment of dietary risk due to a series of compounded conservatisms. First, assuming that the level of residue for an inert ingredient is equal to the level of residue for the active ingredient will overstate exposure. The concentrations of active ingredient in agricultural products are generally at least 50 percent of the product and often can be much higher. Further, pesticide products rarely have a single inert ingredient; rather there is generally a combination of different inert ingredients used which additionally reduces the concentration of any single inert ingredient in the pesticide product in relation to that of the active ingredient.

Second, the conservatism of this methodology is compounded by EPA's decision to assume that, for each commodity, the active ingredient which will serve as a guide to the potential level of inert ingredient residues is the active ingredient with the highest tolerance level. This assumption overstates residue values because it would be highly unlikely, given the high number of inert ingredients, that a single inert ingredient or class of ingredients would be present at the level of the active ingredient in the highest tolerance for every commodity. Finally, a third compounding conservatism is EPA's assumption that all foods contain residues of the inert ingredient at the highest tolerance level. In other words, EPA assumed 100 percent of all foods are treated with the inert ingredient at the rate and manner necessary to produce the highest residue legally possible for an active ingredient. In summary, EPA chose a very conservative method for estimating what level of inert residue could be on food, then used this methodology to choose the highest possible residue that could be found on food and assumed that all food contained this residue. No consideration was given to potential degradation between harvest and consumption even though monitoring data shows that tolerance level residues are typically one to two orders of magnitude higher than actual residues in food when distributed in commerce.

Accordingly, although sufficient information to quantify actual residue levels in food is not available, the compounding of these conservative assumptions will lead to a significant exaggeration of actual exposures. EPA does not believe that this approach underestimates exposure in the absence of residue data.

To assess dietary exposure due to its use in antimicrobial products, EPA calculated the daily dietary dose (DDD) and the estimated daily intake (EDI) as described in the Food Drug Administration (FDA) model. The assessment considered: Application rates, residual solution or quantity of solution remaining on the treated surface without rinsing with potable water, surface area of the treated surface which comes into contact with food, pesticide migration fraction, and body weight. These assumptions are based on FDA guidelines (2003). Dietary exposures due to antimicrobial uses are aggregated with the aforementioned dietary exposures.

2. *Dietary exposure from drinking water.* For the purpose of the screening-level dietary risk assessment to support this request for an exemption from the requirement of a tolerance for C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers, a conservative drinking water concentration value of 100 ppb based on screening-level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for parent compound. These values were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- may be used as an inert ingredient in pesticide products that are registered for specific uses that may result in residential exposure. A conservative residential exposure and risk assessments were completed for pesticide products containing d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- as inert ingredients. The Agency assessed pesticide products containing d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- using exposure scenarios (treated lawns, mopping, wiping and aerosol spray) to represent conservative residential handler exposure. Further details of this residential exposure and risk analysis can be found at *http://www.regulations.gov* in the

memorandum entitled: ''JITF Inert Ingredients. Residential and Occupational Exposure Assessment Algorithms and Assumptions Appendix for the Human Health Risk Assessments to Support Proposed Exemption from the Requirement of a Tolerance When Used as Inert Ingredients in Pesticide Formulations,'' (D364751, 5/7/09, Lloyd/LaMay in docket ID number EPA–HQ–OPP–2008–0710. D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- is also present in some anti-acne and anti-aging topically applied pharmaceuticals products. The typical use levels of d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- in these products are limited to less than 5.44% to 15% weight/weight (w/w). These products are used sparingly and applied selectively to limited areas of the skin.

The Agency does not have sufficient data to quantitatively assess exposures to d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- that result from these non-pesticidal uses. However, the Agency believes the assessments of exposures due to pesticide uses are protective of these non-pesticidal uses. Based on the available data on the typical reported concentration ranges of d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- topically applied pharmaceuticals as well as the specific use and limited exposures resulting from such uses, the Agency anticipates that exposures to d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- that might result from anti-acne and anti-aging topically applied pharmaceutical products uses are likely to be markedly less than the conservatively-estimated exposures resulting from pesticide use. Therefore, the Agency believes that any contribution to the estimated pesticide exposure resulting from topically applied pharmaceuticals products is likely to be insignificant in comparison to the estimates for exposure from pesticide use and these exposures have not been aggregated with other non-residential exposures.

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

EPA has not found C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster to share a common mechanism of toxicity with any other substances, and C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA SF. In applying this provision, EPA either retains the default value of 10x, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

The Agency has concluded that there is reliable data to determine that infants and children will be safe if the FQPA SF of 10x is reduced to 1x for the chronic dietary assessment for the following reasons. The toxicity database for C1–C4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster contains subchronic, developmental and mutagenicity studies. There is no indication of immunotoxicity or neurotoxicity in the available studies; therefore, there is no need to require an immunotoxicity or neurotoxicity study. Fetal susceptibility is not observed in developmental toxicity studies in the rat and rabbit. No maternal or developmental toxicity is observed in either study up to 300 mg/kg/day. A reproduction toxicity is not available; however, reproduction parameters were not affected in the submitted studies at doses as high as 375 and 700 mg/kg/day in the rat and dog, respectively. Based on the adequacy of the toxicity database, the conservative nature of the exposure assessment and the lack of concern for prenatal and postnatal sensitivity, the Agency has concluded that there is reliable data to determine that infants and children will be safe if the FQPA SF of 10x is reduced to 1x.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster from food and water will utilize 70.6% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster is currently used as an inert ingredient in pesticide products that are registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 148 for adult males and females. Adult residential exposure combines high-end dermal and inhalation handler exposure from indoor hard surface, aerosol spray with a high-end post application dermal exposure from contact with treated lawns. The combined short-term

aggregated food, water, and residential pesticide exposures result in an aggregate MOE of 122 for children. Children's residential exposure includes total exposures associated with contact with treated surfaces (dermal and hand-to-mouth exposures). Because EPA's level of concern for C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster is an MOE of less than 100, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster is currently used as an inert ingredient in pesticide products that are registered for uses that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential exposures to C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures result in aggregate MOEs of 434 for adult males and females. Adult residential exposure includes high end post application dermal exposure from contact with treated lawns. The combined intermediate-term aggregated food, water, and residential exposures result in an aggregate MOE of 125 for children. Children's residential exposure includes total exposures associated with contact with treated surfaces (dermal and hand-to-mouth exposures). Because EPA's level of concern for C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster is an MOE of less than 100, these MOEs are not of concern.

5. *Aggregate cancer risk for U.S. population.* Based on a DEREK structural alert analysis, the lack of mutagenicity, and the lack of specific organ toxicity in the chronic toxicity study, C1-C4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster residues.

V. Other Considerations

Analytical Enforcement Methodology

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

VI. Conclusions

Therefore, exemptions from the requirement of a tolerance are established for residues of the following seven compounds within the C1-C4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers (AD–GDAE) cluster: (1) d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- (CAS Reg. No. 5306–85–4); (2) d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-ethyl- (CAS Reg. No. 30915–81–2); (3) d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-propyl) (CAS Reg. No.107644–13–3); (4) d-glucitol, 1,4:3,6-dianhydro-2,5-bis-O-(1-methylethyl)-,(iso-propyl diether) (CAS Reg. No. 103594–41–8); (5) d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-butyl- (CAS Reg. No. 103594–42–9); (6) d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-(1-methylpropyl)-, (CAS Reg. No. not assigned); and (7) d-glucitol, 1,4:3,6-dianhydro-2,5-di-O-(2-methylpropyl)-, (CAS Reg. No. not assigned) when used as an inert ingredient (solvent, co-solvent, viscosity modifier and adjuvant) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest under 40 CFR 180.910; applied in or on animals under 40 CFR 180.930; when used in antimicrobial formulations applied to food-contact surfaces in public-eating places, dairy-processing equipment, and food-processing equipment and utensils under 40 CFR 180.940(a) limited to 500 ppm; and in antimicrobial formulations used for dairy-processing equipment, and food-processing equipment and utensils under 40 CFR 180.940(b) limited to 1,000 ppm.

VII. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

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

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

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

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 8, 2019.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.910, add alphabetically the following inert ingredients to the table to read as follows:

§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * * * * * *		
D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl- (CAS Reg. No. 5306–85–4); D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-ethyl- (CAS Reg. No. 30915–81–2); D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-propyl) (CAS Reg. No.107644–13–3); D-glucitol, 1,4:3,6-dianhydro-2,5-bis-O-(1-methylethyl)-,(iso-propyl diether) (CAS Reg. No. 103594–41–8); D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-butyl- (CAS Reg. No. 103594–42–9); D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-(1-methylpropyl)-, (CAS Reg. No. not assigned); and D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-(2-methylpropyl)-, (CAS Reg. No. not assigned).		solvent, co-solvent, viscosity modifier, and adjuvant.
* * * * * * *		

■ 3. In § 180.930, add alphabetically the following inert ingredients to the table to read as follows:

§ 180.930 Inert ingredients applied to animals; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * * * * * *		
D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-methyl-(CAS Reg. No. 5306–85–4); D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-ethyl- (CAS Reg. No. 30915–81–2); D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-propyl) (CAS Reg. No.107644–13–3); D-glucitol, 1,4:3,6-dianhydro-2,5-bis-O-(1-methylethyl)-,(iso-propyl diether) (CAS Reg. No. 103594–41–8); D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-butyl- (CAS Reg. No. 103594–42–9); D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-(1-methylpropyl)-, (CAS Reg. No. not assigned); and D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-(2-methylpropyl)-, (CAS Reg. No. not assigned).		solvent, co-solvent, viscosity modifier, and adjuvant.
* * * * * * *		

■ 4. In § 180.940, add alphabetically the following inert ingredients to the tables in paragraphs (a) and (b) to read as follows:

§ 180. 940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).

* * * * *

(a) * * *

Pesticide chemical	CAS Reg. No.	Limits
* * * *	* *	*
C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster	5306–85–4; 30915–81–2; 107644–13–3; 103594–41–8; 103594–42–9.	When ready for use, the end-use concentration is not to exceed 500 ppm.
D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-(1-methylpropyl)-, ...	None	
D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-(2-methylpropyl)-, (CAS Reg. No. not assigned).	None	
* * * *	* *	*

(b) * * *

Pesticide chemical	CAS Reg. No.	Limits
* * * *	* *	*
C_1-C_4 linear and branched chain alkyl d-glucitol dianhydro alkyl ethers cluster	5306–85–4; 30915–81–2; 107644–13–3; 103594–41–8; 103594–42–9.	When ready for use, the end-use concentration is not to exceed 1,000 ppm.
D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-(1-methylpropyl)-, ...	None	
D-glucitol, 1,4:3,6-dianhydro-2,5-di-O-(2-methylpropyl)-, (CAS Reg. No. not assigned)	None	
* * * *	* *	*

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[FR Doc. 2019–17993 Filed 8–20–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 770

[EPA–HQ–OPPT–2018–0174; FRL–9994–47]

RIN 2070–AK47

Technical Issues; Formaldehyde Emission Standards for Composite Wood Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is publishing this final rule to amend the formaldehyde standards for composite wood products regulation. EPA is publishing these amendments to address certain technical issues and to further align the final rule requirements with the California Air Resources Board (CARB) Airborne Toxic Control Measures (ATCM) Phase II program. Addressing these technical issues will add clarity for regulated entities. These revisions to the existing rule will also streamline compliance programs and help to ensure continued smooth transitions for supply chains to comply with the requirements associated with regulated composite wood products.

DATES: This final rule is effective on August 21, 2019. The incorporation by reference of certain material is approved by the Director of the Federal Register as of August 21, 2019. The incorporation by reference of other material was approved by the Director of the Federal Register as of February 10, 2017.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0174, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Todd Coleman, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–1208; email address: *coleman.todd@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

You may be affected by this final rule if you manufacture (including import), sell, supply, offer for sale, test, or work with certification firms that certify hardwood plywood, medium-density fiberboard, particleboard, and/or products containing these composite wood materials in the United States. 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:

- Veneer, plywood, and engineered wood product manufacturing (NAICS code 3212).
- Manufactured home (mobile home) manufacturing (NAICS code 321991).
- Prefabricated wood building manufacturing (NAICS code 321992).
- Furniture and related product manufacturing (NAICS code 337).
- Furniture merchant wholesalers (NAICS code 42321).
- Lumber, plywood, millwork, and wood panel merchant wholesalers (NAICS code 42331).

- Other construction material merchant wholesalers (NAICS code 423390), *e.g.,* merchant wholesale distributors of manufactured homes (*i.e.,* mobile homes) and/or prefabricated buildings.
- Furniture stores (NAICS code 4421).
- Building material and supplies dealers (NAICS code 4441).
- Manufactured (mobile) home dealers (NAICS code 45393).
- Motor home manufacturing (NAICS code 336213).
- Travel trailer and camper manufacturing (NAICS code 336214).
- Recreational vehicle (RV) dealers (NAICS code 441210).
- Recreational vehicle merchant wholesalers (NAICS code 423110).
- Engineering services (NAICS code 541330).
- Testing laboratories (NAICS code 541380).
- Administrative management and general management consulting services (NAICS code 541611).
- All other professional, scientific, and technical services (NAICS code 541990).
- All other support services (NAICS code 561990).
- Business associations (NAICS code 813910).
- Professional organizations (NAICS code 813920).

If you have any questions regarding the applicability of this action, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

A. Comments Received on Technical Issues

1. Stakeholder Feedback and the June 28, 2018 Public Meeting. Since the formaldehyde standards for composite wood products final rule (*see* 81 FR 89674) was promulgated on December 12, 2016, EPA received letters, inquiries, and general correspondence from industry stakeholders, including the Composite Panel Association, Hardwood Plywood Veneer Association, Kitchen Cabinet Manufacturers Association, and various EPA-recognized TSCA Title VI Third Party Certifiers (TSCA Title VI TPCs), regarding a number of technical issues with the testing and certification provisions of the rule. Stakeholders requested EPA consider amending certain provisions of the TSCA Title VI regulations to improve regulatory clarity and further align the rule with the California Air Resources Board (CARB) Airborne Toxic Control Measures (ATCM) Phase II program. Correspondence from these industry stakeholders is included in the docket for this action.

Then, on May 24, 2018, the Agency published a notice in the **Federal Register** (*see* 83 FR 24104) announcing a public meeting at the EPA headquarters office in Washington, DC on June 28, 2018 to discuss and obtain input on the technical issues that stakeholders have raised since the December 12, 2016 final rule. The publication of this notice also opened a 60-day public comment period to allow the public time to submit any additional data, information, or comments to discuss in the public meeting and for the Agency to consider in developing this proposal. The Agency received 8 comments during the 60-day comment period for the public meeting, and one comment after the closure of the comment period. A transcript of this public meeting, letters, correspondence, comments, and background materials are also posted in the docket for this action.

2. Notice of Proposed Rulemaking. Based on the comments and attendee feedback from the June 28, 2018 public meeting and the previously submitted letters and correspondence following the December 12, 2016 final rule, the Agency identified 14 technical issues that the Agency discussed in the November 1, 2018, Technical Issues proposed rule (*see* 83 FR 54892) to amend the TSCA Title VI regulation. The Agency received 13 comments on the proposed amendments during the proposed rule public comment period, which closed on December 3, 2018. A copy of the proposed rule, supporting documents, public comments, and background materials are posted in the docket for this action.

B. What action is the Agency taking?

1. Experimental resins and mill start-up and restart situations. EPA proposed, and is now finalizing, not making any amendments for mill start-up and restarts, or the use of new or otherwise experimental resins. EPA did not receive any public comments in opposition to the proposal to continue addressing the use of experimental resins and mill start-up guidance in the frequently asked questions section of the formaldehyde web page instead of amending the final rule. As such, for these issues regulated entities should continue to use the guidance posted in the frequently asked questions of the Agency's formaldehyde homepage here: *https://www.epa.gov/formaldehyde/frequent-questions-regulated-stakeholders-about-implementing-formaldehyde-standards#newmills* to conduct mill start-up and restart situations, as needed.

2. Annual correlations between the third-party certifier ASTM E1333 or equivalent ASTM D6007 apparatus and any other mill quality control testing method. The Agency proposed to remove the annual correlation requirement between the ASTM E1333–14 apparatus (or contract laboratory's ASTM E1333–14 apparatus) or equivalent ASTM D6007–14 apparatus and any other approved method for quality control testing for the first three years, and then every two years thereafter or when there is a significant change in the operation at the mill or when there is a reason to believe the correlation is no longer valid. The proposal to remove this requirement received full support from all commenters, except for one who opposed removing the provision but without providing data or other supporting information to justify their position. Because of the broad support from commenters, the Agency is removing the requirement for TSCA Title VI TPCs and mills to show correlation between the TSCA Title VI TPC's ASTM E1333–14 apparatus (or contract laboratory's ASTM E1333–14 apparatus) or equivalent ASTM D6007–14 apparatus and any other mill quality control testing methods at 40 CFR 770.20(b) on an annual basis for the first three years after initial correlation establishment, and every two years thereafter to continue certifying composite wood products. Instead, EPA is only requiring an initial showing of correlation, and an update in the event that there is a significant change in equipment, procedure, the qualifications of testing personnel, or reason to believe that the correlation is no longer valid. This amendment further aligns the EPA testing requirements with the CARB ATCM Phase II program, which does not require annual correlations between the TPC (or contract laboratory) ASTM E1333–14 apparatus or equivalent ASTM D6007–14 apparatus and any other approved method for quality control testing. As such, EPA is finalizing this provision as proposed.

3. Equivalence or correlation on like-size or similar sized apparatuses. The Agency proposed amending 40 CFR 770.20(d) to allow the TSCA Title VI TPC to use their ASTM E1333–14 apparatus (or their contract laboratory's ASTM E1333–14 apparatus) to demonstrate equivalence to multiple ASTM D6007–14 apparatuses of a similar model or size and construction located in the same TSCA Title VI TPC laboratory, or contract laboratory.

Similar model chambers are those that are manufactured by the same manufacturer and bear the same model number or bear a model number that succeeds a previous model number that has been discontinued or otherwise is no longer being manufactured but would be deemed the equivalent by the manufacturer. Similar size and construction chambers must have an identical chamber volume capacity or be constructed in a way that would result in the same sample holding capacity and operational parameters (*e.g.,* airflow speed, time to conduct testing, etc.) as another chamber, but need not be made by the same manufacturer. CARB allows the same approach under the ATCM Phase II program and there has been no negative impact on generation of data to demonstrate valid equivalence between test methods. The Agency received comments supporting this provision and did not receive any comments against finalizing this provision as proposed. EPA is therefore finalizing this provision as proposed.

EPA also proposed updating the correlation requirement at 40 CFR 770.20(d) to allow multiple similar model or size and construction mill quality control test method apparatuses located at any one physical mill quality control testing laboratory to demonstrate correlation to the TSCA Title VI TPC test apparatus as required under 40 CFR 770.20(d). Like the amendment to the equivalence testing requirement, EPA believes this amendment will not negatively impact the quality of the quality control testing data. EPA did not receive any public comment against updating this provision. As such, EPA is finalizing this provision as proposed.

4. Averaging of emission test results during quarterly, non-complying lot, equivalence, and correlation testing. EPA proposed adding paragraph (iv) to 40 CFR 770.20(c)(2) and amending paragraph (i) at 40 CFR 770.22(c)(2) to align with the CARB ATCM Phase II program regarding averaging test results during quarterly testing and non-complying lot retesting. The Agency proposed to add a testing averaging provision to the rule and received predominately positive support for the amendment. Although one commenter did not support the amendment, no data or other supporting information were provided to support their comment. All other commenters were in support of the proposal with minor language adjustments to further align the provision with the CARB ATCM Phase II program which allows averaging of test results using the ASTM D 6007–14 apparatus.

The CARB-approved method for averaging test results in quarterly and non-complying lot testing accounts for formaldehyde emission variability across any one composite wood product panel while ensuring the products still meet the applicable emission standards. This method is outlined in CARB's method at 17 California Code of Regulations section 93120.9(a)(2)(A) and (B)(2) and Appendix 2 (g)(8) of its regulation, to allow nine subsamples from any one panel to be collected and tested in groups of three in three separate ASTM D6007–14 test apparatuses deemed equivalent to the ASTM E1333–14 apparatus (Ref. 1). This results in three data points, which are then averaged to obtain one final value that accounts for emission variability across that one panel (Ref. 1). Under these requirements, the nine subsamples should be evenly distributed and represent similar sizes to one another as they are collected from any one panel. EPA is finalizing a provision to allow nine subsamples from any one panel to be collected and tested in groups of three in three separate ASTM D6007–14 test apparatuses deemed equivalent to the ASTM E1333–14 apparatus at 40 CFR 770.20(c)(2)(iv). EPA will also continue to allow for testing of one sample, in one ASTM D6007–14 apparatus deemed equivalent to the ASTM E1333–14 apparatus, without the use of averaging if the TPC and mill choose to do so. EPA received comments in support of adding paragraph (iv) to 40 CFR 770.20(c)(2) and amending paragraph (i) at 40 CFR 770.22(c)(2). As such, EPA is finalizing these amendments. EPA is also finalizing a conforming amendment to paragraph (ii) at 40 CFR 770.22(c)(2) in order to account for the possibility of averaging.

One commenter noted that averaging of subsamples in the ASTM E1333–14 apparatus would not be permitted under the CARB program. EPA recognizes that only full-sized panels would be tested in the ASTM E1333–14 apparatus and updated the regulatory text at 40 CFR 770.20(c)(2)(iv) from the proposal to reflect this.

Another commenter noted that the method used for averaging is equally important in development of equivalence and correlation testing and noted that this option should be added in the final rule. As such, EPA is finalizing this rule to update regulatory text at 40 CFR 770.20(d) to allow for test sample averaging in the demonstration of equivalence or correlation when using the ASTM D6007–14 apparatus.

5. Equivalence testing emission ranges. EPA proposed amending the provision at 40 CFR 770.20(d) for TSCA Title VI TPCs to demonstrate equivalence under specified emission ranges. This proposal aligned with the CARB ATCM, which specifies that ten comparison tests must be conducted, consisting of at least five comparison tests in two of three specified emission ranges. CARB's ATCM at 17 California Code of Regulations section 93120.9(a)(2)(B)(3) also specifies the three emission test ranges to be: (1) Low—for products demonstrating formaldehyde emissions of less than 0.07 parts per million (ppm); (2) intermediate—for products demonstrating formaldehyde emissions from 0.07 ppm to less than 0.15 ppm; and (3) upper—for products demonstrating formaldehyde emissions from 0.15 ppm to 0.25 ppm (Ref. 1).

EPA is finalizing this rule as proposed to align with CARB's ATCM and its requirement for ten comparison tests, consisting of five comparison tests in two of the three specified ranges with a modification to the emission ranges and a modification to the requirement for demonstration across two ranges based on comments submitted by CARB staff (*see* EPA–HQ–OPPT–2018–0174–0022).

The final rule will assign formaldehyde emissions ranges of less than or equal to 0.05 ppm for the low range, formaldehyde emissions greater than 0.05 ppm up to 0.15 ppm for the intermediate range, and formaldehyde emissions greater than 0.15 ppm for the upper range. The change to the low range deviates from the current guidance under the CARB ATCM Phase II program; however, CARB has informed the Agency that they intend to update their emission ranges to be the same as EPA's in the future. The amended low emission range corresponds to the TSCA Title VI emission standard for hardwood plywood.

EPA proposed to allow TSCA Title VI TPCs who will only certify in the low or intermediate ranges to demonstrate equivalence for those ranges, using at least five comparison tests to demonstrate equivalence in a given range. A CARB comment on this proposal (*see* EPA–HQ–OPPT–2018–0174–0041) stated that this provision should only apply to TSCA Title VI TPCs who are certifying hardwood plywood, as TSCA Title VI TPCs who are certifying medium density fiberboard and particleboard would have to demonstrate equivalence in the intermediate range; if these TSCA Title VI TPCs were to seek no-added formaldehyde or ultra low-emitting formaldehyde limited exemptions for their mills producing these products,

then it would be necessary to demonstrate equivalence in the lower range as well. Therefore, demonstrating equivalence in only one range would only apply to TSCA Title VI TPCs who are only certifying products which are required to test at or below the 0.05 ppm threshold for the low range. After further consideration of CARB's comments, EPA agrees that the proposed amendment should be modified to address CARB's comment and is finalizing this provision to only apply to cases where the TPC is certifying only hardwood plywood in the low range and demonstrating equivalence in the low range. The final rule will allow three equivalence testing ranges with the option to only demonstrate equivalence in the lower range if all of the TPC's certified products will meet the lower emission range.

6. Determination of equivalence only if mill uses TSCA Title VI TPC for all testing. EPA proposed to amend 40 CFR 770.20(d) to clarify that mills that do not perform any testing on-site at the mill and instead use their TSCA Title VI TPC for all quarterly and quality control testing would not be required to establish correlation as they are already using a TSCA Title VI TPC ASTM E1333–14 apparatus, or an ASTM D6007–14 apparatus that has demonstrated equivalence. EPA's posted guidance on this issue in the form of a frequently asked question on the Agency's formaldehyde homepage noted that the ASTM D6007–14 test apparatus that shows equivalence to the TSCA Title VI TPCs ASTM E1333–14 test apparatus according to 40 CFR 770.20(d) would necessarily show correlation to itself under 40 CFR 770.20(d)(2) and could be used as a quality control test method without additional correlation testing (Ref. 2). EPA did not receive any public comments suggesting that finalizing this provision would be an issue for TSCA Title VI TPCs or mills. As such, EPA is finalizing this provision allowing TSCA Title VI TPCs to conduct quality control testing for mills with an ASTM E1333–14 apparatus, or an ASTM D6007–14 apparatus that has demonstrated equivalence, as proposed.

7. Correlation coefficients and ''r'' values. EPA proposed to amend 40 CFR 770.20(d)(2) to expand the options for TSCA Title VI TPCs and mills in establishing correlation coefficients and ''*r*'' values beyond the linear regression model currently required by the TSCA Title VI regulations. The amendment adds the CARB ATCM Phase II-approved cluster approach (also known as the point of origin approach in practice) and threshold approach to give TSCA Title VI TPCs three different options for demonstrating correlations. To develop this amendment, EPA used CARB's alternative correlation coefficient and ''*r*'' value method guidance document (CWP–10–001 [June 8, 2010]), which outlined these two additional approaches for how TSCA Title VI TPCs certifying composite wood products under the CARB ATCM Phase II program may show correlation (Ref. 3). The Agency proposed to expand the options to allow three different methods of demonstrating correlation and received predominately positive support for the amendment of this provision in the final rule. Although one commenter did not support how EPA proposed the amendment to the final rule, no data or supporting information was provided to support their comment and all other commenters were in full support of the proposal. As such, EPA is finalizing the addition of rule provisions for the ''cluster approach'' and ''threshold approach'' in 40 CFR 770.20(d)(2)(i) and updating the requirement for certification at 40 CFR 770.15(c)(1)(vii) and 770.15(c)(2)(v).

8. Notifications of exceedance of quality control limit (QCL). EPA proposed an amendment at 40 CFR 770.7(c)(4)(v)(C) to clarify that notification of a non-complying lot through EPA's Central Data Exchange system by a TSCA Title VI TPC is required within 72 hours of the time when the TSCA Title VI TPC is notified of the third consecutive QCL exceedance by a panel producer. EPA received comments in support of addressing the ambiguity in the timing of reporting as written in the original version of this provision. Thus, EPA is finalizing this provision as proposed, adding only that the notification must be given when the TPC is notified of the third ''consecutive'' QCL exceedance based on commenter feedback (*see* EPA–HQ–OPPT–2018–0174–0041). EPA believes that the use of the term consecutive further promotes clarity and highlights exactly when notification should be given to EPA.

9. No-added formaldehyde (NAF)-based resin and ultra low-emitting formaldehyde (ULEF) resin testing requirements. EPA proposed an amendment to the NAF and ULEF testing requirements to further align with the CARB ATCM Phase II program. The December 12, 2016 TSCA Title VI final rule required that under the NAF requirements at 40 CFR 770.17 a minimum of five tests be conducted pursuant to the NAF two-year limited exemption application, while CARB's TPC Bulletin 1 notes that 13 tests are the minimum permitted for a limited testing exemption (Ref. 4). Additionally, the December 12, 2016 TSCA Title VI final rule required that, under the ULEF requirements at 40 CFR 770.18, a minimum of ten tests be conducted pursuant to the ULEF two-year exemption or reduced testing application requirements, while CARB's TPC Bulletin 1 notes that 26 tests are the minimum permitted for a limited testing exemption (Ref. 4). Stakeholders noted that, although EPA accepts existing CARB executive orders that document that panel producers are in good standing with CARB and have met the requirements for limited testing exemptions for NAF and ULEF products as outlined in 40 CFR 770.17(d) and 770.18(e), the two programs were not equal in the number of samples required and the CARB ATCM Phase II program requires more samples. To align with how TSCA Title VI TPCs currently test to obtain a NAF two-year testing exemption and ULEF two-year testing exemption or reduced testing, and to promote regulatory consistency between the two programs, for TSCA Title VI, EPA is adopting the CARB-required 13 tests for NAF and 26 tests for ULEF limited exemptions. The Agency does not believe this amendment alters in any significant aspect how TSCA Title VI TPCs and panel producers currently conduct testing under the CARB ATCM Phase II or TSCA Title VI program, as EPA allows the use of equal or more stringent testing approaches (*i.e.,* more tests) and it is EPA's understanding that TSCA Title VI TPCs have continued to conduct testing the same way they have done (*i.e.,* using more tests) since the inception of CARB's ATCM Phase II program in 2009. EPA did not receive any public comments on this proposed amendment. As such, EPA is finalizing this provision as proposed.

10. Voluntary Consensus Standards incorporated by reference at 40 CFR 770.99. EPA proposed to update the references for two International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) voluntary consensus standards that were incorporated by reference in the December 12, 2016 final rule. Table 1 in this Unit outlines the voluntary consensus standards that will be updated in this final rule and the respective updated versions. All other standards in the formaldehyde standards for composite wood products regulation will continue to be incorporated by reference as they appear in the existing regulation.

TABLE 1—VOLUNTARY CONSENSUS STANDARDS COMPARISON

Current standard established by final rule (81 FR 89674)	Status	Update to be promulgated effective August 21, 2019
ISO/IEC 17025–2005(E) General requirements for the competence of testing and calibration laboratories.	Updated version	ISO/IEC 17025:2017(E) General requirements for the competence of testing and calibration laboratories.
ISO/IEC 17011–2004(E) Conformity assessments—General requirements for accreditation bodies accrediting conformity assessments bodies.	Updated version	ISO/IEC 17011:2017(E) Conformity assessments—requirements for accreditation bodies accrediting conformity assessments bodies.

EPA did not receive any public comments related to updating the references to these standards. As such, EPA is finalizing this update as proposed. Any future versions or updates to withdrawn/superseded standards will be announced by EPA through a separate **Federal Register** document with opportunity for public comment.

11. Clarification in the non-complying lot provisions. EPA proposed to clarify the intent of the non-complying lot provisions at 40 CFR 770.22 and how those provisions apply to fabricators, importers, retailers, and distributors who are notified by panel producers that composite wood products they were supplied are found to be non-compliant after those composite wood products have been further fabricated into component parts or finished goods. The Agency previously posted guidance on this issue in the form of frequently asked questions on EPA's formaldehyde website homepage. The guidance outlines the regulatory requirements for all entities in the supply chain and makes clear that, if a panel is still in panel form, then the entity in possession of the non-compliant panel, which includes fabricators, is to work with the panel producer to isolate, treat, and retest the panel, as needed. If by the time a fabricator receives notification the panel from the non-complying lot has been incorporated into a component part or finished good, then the remainder of 40 CFR 770.22 does not apply (Ref. 5).

EPA notes that the regulatory intent behind the non-complying lot provisions at 40 CFR 770.22 is to manage those non-compliant composite wood products in their panel form to prevent them from entering the fabrication supply chain, but not to require action after those panels have been used in the fabrication of component parts or finished goods. One commenter (*see* EPA–HQ–OPPT–2018–0174–0037) did not support the proposal as published and noted that once a panel enters a fabricator's custody it can become a logistical challenge to track. The commenter believed that the non-complying lot provisions should not apply to fabricators. EPA understands that in some cases the management of panels once broken from bundles by a fabricator or other downstream entity can be a logistical challenge; however, the December 12, 2016 final rule and accompanying Response to Comments document (*see* EPA–HQ–OPPT–2016–0461–0034) made it clear that the onus is on the fabricator or downstream entity to be able to track all panels in their panel form back to the lot from which they came by some sort of labeling/marking method as required by 40 CFR 770.45(a). EPA believes that for a non-complying lot event, requiring action by all entities in the supply chain who possess the panels in panel form prevents further distribution of the noncomplying panels in the supply and fabrication chains. As such, the Agency is finalizing this provision as proposed, which includes clarifying language in 40 CFR 770.22 to make clear the initial regulatory intent of the December 12, 2016 final rule.

12. Labels on regulated composite wood products and finished goods containing composite wood products at point of manufacture, fabrication, and/or import. EPA proposed a provision to clarify in 40 CFR 770.45 that regulated composite wood products and finished goods containing composite wood products must be labeled at the point of manufacture or fabrication, and if imported, the label must be applied to the products as a condition of importation. Under TSCA, the term ''manufacture'' includes import, meaning that regulated composite wood products or finished goods containing such products imported into the customs territory of the United States must be accompanied at the time of importation by a label as required by 40 CFR 770.45. EPA received public comment supporting this provision. EPA also received public comment asking how this provision will be applied to Foreign Trade Zones (FTZs). Foreign merchandise admitted into an FTZ constitutes ''imported merchandise which has not been properly released from Customs custody in the Customs territory.'' (*see* 19 CFR 146.1). EPA notes that FTZs are not considered customs territory for purposes of customs laws (including TSCA section 13 import certification) but are considered customs territory for purposes of other federal laws (*see* 19 U.S.C. 81c and general note 2 of the Harmonized Tariff Schedule of the United States). Any composite wood products or finished goods containing composite wood products must, therefore, be labeled upon importation in order to be admitted into an FTZ. Prior to release from CBP custody at a port of entry, a TSCA Section 13 import certification is required for all regulated composite wood products, component parts fabricated using composite wood products, and finished goods fabricated using composite wood products (*see* 19 CFR 12.121(a)(3)(i)). EPA is therefore finalizing this provision as proposed.

13. Labels on panels manufactured under NAF limited exemption at 40 CFR 770.17 and ULEF limited exemption at 40 CFR 770.18. EPA proposed a provision to allow for panels manufactured under a limited exemption at 40 CFR 770.17 and 770.18, or NAF and ULEF panels covered by existing CARB executive orders, as outlined in 40 CFR 770.17(d) and 770.18(e), to be labeled as TSCA Title VI ''compliant'' and not TSCA Title VI ''certified.'' Several commenters were opposed to this proposal and noted that significant marketplace confusion would result from any changes on panel-level labeling changes. Although some commenters supported the change, ultimately, after further consideration, EPA determined that adding another term into the labeling provisions of the final rule would likely cause more confusion than clarity on the panel labeling provision. EPA will therefore not finalize any provisions to change the regulatory language at 40 CFR 770.45(a) from the required use of the term ''certified'' on composite wood products. All composite wood products certified under the standard testing paradigm at 40 CFR 770.20, and those composite wood products manufactured through an EPA or CARB limited exemption under 40 CFR 770.17 and

770.18, should continue to be labeled as TSCA Title VI ''certified.''

14. TSCA Title VI manufactured-by date. EPA proposed updating the manufactured-by date in the Code of Federal Regulations to correspond to the manufactured-by date of June 1, 2018 resulting from the court order announced by EPA in a **Federal Register** notice on April 4, 2018 (*see* 83 FR 14375). Specifically, EPA will replace ''December 12, 2018'' with ''June 1, 2018'' in 40 CFR 770.2(e) (introductory text), 770.2(e)(1), 770.2(e)(4), 770.10(a), 770.12(a), 770.15(a), 770.30(b) (introductory text), and 770.30(c). For more information on the litigation and court order, please see 83 FR 14375. EPA did not receive any comments on the proposal to update these provisions. EPA is finalizing these manufactured-by date text changes, as proposed.

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

These regulations are established under authority of Section 601 of TSCA, 15 U.S.C. 2697.

III. Effective Date

As discussed in the proposed rule as an option (*see* 83 FR 54894), EPA is making the effective date of this final rule immediate upon publication of this final rule in order to provide regulated stakeholders clarity on the provisions and the ability to immediately begin adjusting their certification programs to as needed to accommodate the Formaldehyde Standards for Composite Wood Products March 22, 2019 end date to the CARB reciprocity provision (*see* 83 FR 14375). EPA believes an immediate effective date provides TSCA Title VI TPCs and panel producers appropriate and prompt relief from maintaining separate certification programs for the CARB ATCM Phase II certified products and TSCA Title VI certified products they manage and manufacture.

IV. Incorporation by Reference

A. Material Newly Incorporated by Reference in This Final Rule

EPA is finalizing the use of the following voluntary consensus standards issued by International Organization for Standardization/International Electrotechnical Commission:

1. ISO/IEC 17011:2017(E) Conformity assessments—requirements for accreditation bodies accrediting conformity assessments bodies. This standard specifies general requirements for accreditation bodies assessing and accrediting conformity assessment bodies. For the purposes of this standard, conformity assessment bodies are organizations providing the following conformity assessment services: Testing, inspection, management system certification, personnel certification, product certification and, in the context of this standard, calibration.

2. ISO/IEC 17025:2017(E) General requirements for the competence of testing and calibration laboratories. This standard specifies the general requirements for the competence to carry out tests or calibrations, including sampling. It covers testing and calibration performed using standard methods, non-standard methods, and laboratory-developed methods.

B. Material Previously Incorporated by Reference That Is Unchanged

ASTM D6007–14 and E13333–14 were previously approved for incorporation by reference on February 10, 2017.

C. Where can I obtain copies of the material incorporated by reference?

Copies of the standards referenced in the final regulatory text at 40 CFR 770.3 and 770.7 have been placed in the docket for this final rule. You may also obtain copies of these standards from the International Organization for Standardization, 1, ch. de la Voie-Creuse, CP 56, CH–1211, Geneve 20, Switzerland, or by calling +41–22–749–01–11, or at *http://www.iso.org.* Additionally, each of these standards is available for inspection at the OPPT Docket in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA, West Bldg., 1301 Constitution Ave. NW, Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. The use of these voluntary consensus standards was approved by the Director of the Federal Register for the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

V. References

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

1. California Air Resources Board. Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products. Final Regulation Order. April 2008.
2. U.S. Environmental Protection Agency. Frequent Questions about Starting-up New Composite Wood Mills and the Use of Experimental Products and Resins. 2018. *https://www.epa.gov/formaldehyde/frequent-questions-regulated-stakeholders-about-implementing-formaldehyde-standards#experiementalproductsresins.*
3. California Air Resources Board. Third Party Certification Guideline: Establishing a Correlation with an Acceptable Correlation Coefficient (''*r*'', Value). June 2010. *https://www.arb.ca.gov/toxics/compwood/certifiers.htm.*
4. California Air Resources Board. Third Party Certifier Bulletin 1 (revised). August 2012. *https://www.arb.ca.gov/toxics/compwood/certifiers.htm.*
5. U.S. Environmental Protection Agency. Frequent Questions for Regulated Stakeholders about Implementing the Formaldehyde Standards for Composite Wood Products Act. 2018. *https://www.epa.gov/formaldehyde/frequent-questions-regulated-stakeholders-about-implementing-formaldehyde-standards.*

VI. Statutory and Executive Order Reviews

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

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA because it does not create any new reporting or recordkeeping obligations. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2070–0185.

C. Regulatory Flexibility Act (RFA)

The Agency certifies that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule

relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. As addressed in Unit II.B., this action would not significantly alter the TSCA Title VI regulations or supporting economic analysis for the December 12, 2016 final rule as published and will provide technical amendments to further align the EPA's TSCA Title VI program with the CARB ATCM Phase II program. This action will relieve or have no net regulatory burden for directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This final rule will not impose substantial direct compliance costs on Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it does not concern an environmental health risk or safety risk. This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. As addressed in Unit II.B., this action would not significantly alter the December 12, 2016 final rule as published and proposes technical amendments to further align the EPA's TSCA Title VI program with the CARB ATCM Phase II program.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards. EPA is finalizing the use of the following voluntary consensus standards issued by International Organization for Standardization/ International Electrotechnical Commission:

1. ISO/IEC 17011:2017(E) Conformity assessments—requirements for accreditation bodies accrediting conformity assessments bodies.

2. ISO/IEC 17025:2017(E) General requirements for the competence of testing and calibration laboratories.

Copies of the standards referenced in the final regulatory text at 40 CFR 770.3 and 770.7 have been placed in the docket for this final rule. See Unit IV. for information on how to obtain copies of these standards from other sources.

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

EPA has determined that this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The Agency presented the results of an environmental justice analysis in the December 12, 2016 TSCA Title VI final rule economic analysis (*see* EPA–HQ–OPPT–2016–0461–0028) that supports this determination. This action would not significantly alter the final rule or the environmental justice analysis. The environmental justice analysis monetized the benefits from reducing the number of cases of nasopharyngeal cancer and sensory irritation and included an environmental justice analysis that expanded on the primary benefits analysis by analyzing the monetized impacts specifically for minority and low-income populations. This action will propose technical amendments to further align the EPA's TSCA Title VI program with the CARB ATCM Phase II program.

VI. Congressional Review Act (CRA)

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). Section 808 of the CRA allows the issuing agency to make a rule effective sooner than otherwise provided by CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. As required by 5 U.S.C. 808(2), the determination to make this final rule effective immediately, upon publication in the **Federal Register** is supported by a brief statement in Unit III.

List of Subjects in 40 CFR Part 770

Environmental protection, Formaldehyde, Incorporation by reference, Reporting and recordkeeping requirements, Third-party certification, Toxic substances, Wood, Incorporation by Reference.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 770—FORMALDEHYDE STANDARDS FOR COMPOSITE WOOD PRODUCTS

■ 1. The authority citation for part 770 continues to read as follows:

Authority: 15 U.S.C. 2697(d).

■ 2. In § 770.2, revise paragraph (e) introductory text and paragraphs (e)(1) and (4) to read as follows:

§ 770.2 Applicability and compliance dates.

* * * * *

(e) Beginning June 1, 2018, all manufacturers (including importers), fabricators, suppliers, distributors, and retailers of composite wood products, and component parts or finished goods containing these materials, must comply with this part, subject to the following:

(1) Beginning June 1, 2018, laminated product producers must comply with the requirements of this part that are applicable to fabricators.

* * * * *

(4) Composite wood products manufactured (including imported) before June 1, 2018 may be sold, supplied, offered for sale, or used to

fabricate component parts or finished goods at any time.

§ 770.3 [Amended]

■ 3. In § 770.3:
■ a. In the term ''Assessment'', remove ''17011:2004(E)'' and add in its place ''17011:2017(E)'';
■ b. In the term ''EPA TSCA Title VI Laboratory Accreditation Body or EPA TSCA Title VI Laboratory AB'', remove ''17025:2005(E)'' and add in its place ''17025:2017(E)'';
■ c. In the terms ''Reassessment'' and ''Surveillance On-Site Assessment'' remove ''17011:2004(E)'' and add in its place ''17011:2017(E)'' and place the term ''Surveillance On-Site Assessment'' in proper alphabetical order;
■ d. In the terms ''Reassessment'' and ''Surveillance On-Site Assessment'' remove ''sections 7.5 to 7.11'' and add in its place ''sections 7.4 to 7.13''; and
■ e. In the term ''TPC Laboratory'', remove ''17025:2005(E)'' and add in its place ''17025:2017(E)''.

■ 4. In § 770.7:
■ a. In paragraphs (a)(1)(ii), (a)(5)(ii), (b)(1)(ii), (b)(5)(ii) remove ''ISO/IEC 17011:2004(E)'' and add in its place ''ISO/IEC 17011:2017(E);'' and,
■ b. In paragraphs (a)(5)(i)(F), (b)(1)(iii), (b)(5)(i) introductory text, (b)(5)(i)(A), (c)(1)(ii), (c)(2)(iv), remove ''ISO/IEC 17025:2005(E)'' and add in its place ''ISO/IEC 17025:2017(E);'' and,
■ c. In paragraph (a)(5)(ii) and (b)(5)(ii) remove ''section 7.11'' and add in its place ''section 7.9;'' and,
■ d. Revise paragraph (c)(4)(v)(C).

The revision reads as follows:

§ 770.7 Third party certification.

* * * * *

(c) * * *

(4) * * *

(v) * * *

(C) Notification of a panel producer exceeding its established QCL for three consecutive quality control tests within 72 hours of the time that the TPC becomes aware of the third consecutive exceedance. The notice must include the product type, dates of the quality control tests that exceeded the QCL, quality control test results, ASTM E1333–14 (incorporated by reference, see § 770.99) or ASTM D6007–14 method (incorporated by reference, see § 770.99) correlative equivalent values in accordance with § 770.20(d), the established QCL value(s) and the quality control method used.

* * * * *

■ 5. In § 770.10, revise paragraph (a) to read as follows:

§ 770.10 Formaldehyde emission standards.

(a) Except as otherwise provided in this part, the emission standards in this section apply to composite wood products sold, supplied, offered for sale, or manufactured (including imported) on or after June 1, 2018 in the United States. These emission standards apply regardless of whether the composite wood product is in the form of a panel, a component part, or incorporated into a finished good.

* * * * *

■ 6. In § 770.12, revise paragraph (a) to read as follows:

§ 770.12 Stockpiling.

(a) The sale of stockpiled inventory of composite wood products, whether in the form of panels or incorporated into component parts or finished goods, is prohibited after June 1, 2018.

* * * * *

■ 7. In § 770.15, revise paragraphs (a), (c)(1)(vii), and (c)(2)(v) to read as follows:

§ 770.15 Composite wood product certification.

(a) Beginning June 1, 2018, only certified composite wood products, whether in the form of panels or incorporated into component parts or finished goods, are permitted to be sold, supplied, offered for sale, or manufactured (including imported) in the United States, unless the product is specifically exempted by this part.

* * * * *

(c) * * *

(1) * * *

(vii) Correlation data and linear regression equation (or, under the threshold approach, the correlation data and the upper limit); and

* * * * *

(2) * * *

(v) Correlation data and linear regression equation (or, under the threshold approach, the correlation data and the upper limit); and

* * * * *

■ 8. In § 770.17, revise paragraph (a)(4) to read as follows:

§ 770.17 No-added formaldehyde based resin.

(a) * * *

(4) Three months of routine quality control tests under § 770.20, including a showing of correlation in accordance with § 770.20(d)(2), totaling not less than thirteen quality control tests.

* * * * *

■ 9. In § 770.18, revise paragraph (a)(4) to read as follows:

§ 770.18 Ultra low-emitting formaldehyde based resins.

(a) * * *

(4) Six months of routine quality control tests under § 770.20, including a showing of correlation in accordance with § 770.20(d)(2), totaling not less than twenty-six quality control tests.

* * * * *

■ 10. In § 770.20:
■ a. Add paragraph (c)(2)(iv);
■ b. Revise paragraphs (d) introductory text and (d)(1) introductory text;
■ c. Add paragraph (d)(1)(iv); and
■ e. Revise the paragraphs (d)(2) introductory text and (d)(2)(i).

The additions and revisions read as follows:

§ 770.20 Testing requirements.

* * * * *

(c) * * *

(2) * * *

(iv) Test results may represent a single chamber value or, if using the ASTM D6007–14 apparatus, the average value of testing nine specimens representing evenly distributed portions of an entire panel. The nine specimens must be tested in groups of three specimens, resulting in three data points, which must be averaged to represent one test value for the panel those specimens represent.

* * * * *

(d) *Equivalence or correlation.* Equivalence between ASTM E1333–14 (incorporated by reference, see § 770.99) and ASTM D6007–14 (incorporated by reference, see § 770.99) must be demonstrated by EPA TSCA Title VI TPCs at least once each year or whenever there is a significant change in equipment, procedure, or the qualifications of testing personnel, or reason to believe that the equivalence is no longer valid. Equivalence may be demonstrated between several similar model or size and construction ASTM E1333–14 (incorporated by reference, see § 770.99) and ASTM D6007–14 (incorporated by reference, see § 770.99) apparatuses located in the same EPA TSCA Title VI TPC laboratory. Once equivalence has been established for three consecutive years, equivalence must be demonstrated every two years or whenever there is a significant change in equipment, procedure, or the qualifications of testing personnel. Correlation between ASTM E1333–14 (incorporated by reference, see § 770.99) or, upon a showing of equivalence in accordance with paragraph (d) of this section, ASTM D6007–14 (incorporated by reference, see § 770.99) and any other test method used for quality control testing must be demonstrated by EPA

TSCA Title VI TPCs or panel producers, respectively, before the certification of composite wood products, and then whenever there is a significant change in equipment, procedure, the qualifications of testing personnel, or reason to believe that the correlation is no longer valid. Correlation may be established between several similar model or size and construction mill quality control test methods defined in paragraph (b)(1) of this section located at any one physical mill quality control testing laboratory to the EPA TSCA Title VI TPC's laboratory's ASTM E1333–14 (incorporated by reference, see § 770.99) and/or ASTM D6007–14 (incorporated by reference, see § 770.99) apparatus. If the TPC laboratory's ASTM E1333–14 or equivalent ASTM D6007–14 test chamber is used for panel producer quality control testing, no correlation as determined in paragraph (d)(2) of this section would be required. Equivalence and correlation sample selection should be conducted in accordance with paragraph (c)(2)(iv) of this section.

(1) *Equivalence between ASTM E1333–14 and ASTM D6007–14 when used by the TPC for quarterly testing.* Equivalence must be demonstrated for at least five comparison sample sets in each range tested by the TPC, which compare the results of the two methods. Equivalence must be demonstrated for any ranges listed in paragraph (d)(1)(iv) of this section that represent the formaldehyde emissions of composite wood products tested by the TPC.

* * * * *

(iv) *Equivalence Ranges.* EPA TSCA Title VI TPCs must demonstrate equivalence in at least two of the three formaldehyde emission ranges listed in paragraphs (d)(1)(iv)(A) through (C) of this section unless the EPA TSCA Title VI TPC will only certify hardwood plywood products in the low range. If the EPA TSCA Title VI TPC will only certify hardwood plywood products in the low range, the EPA TSCA Title VI TPC may demonstrate equivalence in only that range and would then be restricted to only certifying those composite wood products in that range. Equivalence in one range must be demonstrated for at least five comparison sample sets in that range which compare the two methods.

(A) *Lower Range:* Less than, or equal to 0.05 ppm.

(B) *Intermediate Range:* Greater than 0.05 ppm to less than or equal to 0.15 ppm.

(C) *Upper Range:* Greater than 0.15 ppm.

(2) *Correlation between ASTM E–1333–14 (incorporated by reference, see § 770.99), or equivalent ASTM D6007–14 (incorporated by reference, see § 770.99), and any quality control test method.* Correlation must be demonstrated by establishing an acceptable correlation coefficient (''r'' value) or following the threshold approach at paragraph (d)(2)(i)(B) of this section.

(i) *Correlation.* The correlation must be based on a minimum sample size of five data pairs and a simple linear regression (unless the threshold approach at paragraph (d)(2)(i)(B) of this section is used) where the dependent variable (Y-axis) is the quality control test value and the independent variable (X-axis) is the ASTM E1333–14 (incorporated by reference, see § 770.99) test value or, upon a showing of equivalence in accordance with paragraph (d) of this section, the equivalent ASTM D6007–14 (incorporated by reference, see § 770.99) test value. Either composite wood products or formaldehyde emissions reference materials can be used to establish the correlation.

(A) *Cluster Approach.* A panel producer may work with its EPA TSCA Title VI TPC to develop a correlation and linear regression between the TPC's ASTM E1333–14 (incorporated by reference, see § 770.99) or equivalent ASTM D6007–14 (incorporated by reference, see § 770.99) test method and the panel producer's quality control method under paragraph (b) of this section. In the event of clustered test results, a panel producer may fit a line through a point near the origin (the intersection of the X and Y axes) and the average value of the clustered data pairs. The point near the origin should represent the value for the EPA TSCA Title VI TPC's ASTM E1333–14 (incorporated by reference, see § 770.99) or equivalent ASTM D6007–14 (incorporated by reference, see § 770.99) test method and the panel producer's quality control method under § 770.20(b) when each testing apparatus is empty or when a very low emitting sample is tested. The average value of the clustered data pairs represents the average of a minimum of five data pairs that compare the test results of the EPA TSCA Title VI TPC's ASTM E1333–14 (incorporated by reference, see § 770.99) or equivalent ASTM D6007–14 (incorporated by reference, see § 770.99) test method with the panel producer's quality control method under paragraph (b) of this section. The line between the point near the origin and the average value of the cluster provides the linear regression. This line may be used by the panel producer and TPC to develop a quality control limit for the product.

(B) *Threshold Approach.* As an alternative to the linear regression and cluster approaches, a panel producer may use the average value of the clustered data pairs from the EPA TSCA Title VI TPC's ASTM E1333–14 (incorporated by reference, see § 770.99) or equivalent ASTM D6007–14 (incorporated by reference, see § 770.99) test method and the panel producer's quality control method under paragraph (b) of this section as the quality control limit for the product. In this approach, no linear regression line is established. The average value would be assigned as the upper quality control limit for production of the subject composite wood product and must be below the applicable emission standard.

* * * * *

■ 11. In § 770.22, revise paragraphs (c)(2)(i) and (ii) and add paragraph (f)(1) and reserved paragraph (f)(2) to read as follows:

§ 770.22 Non-complying lots.

* * * * *

(c) * * *

(2) * * *

(i) At least one test panel must be randomly selected so that it is representative of the entire non-complying lot and is not the top or bottom panel of a bundle. Panel sampling shall be conducted according to the quarterly testing procedure at § 770.20(c)(2)(iv). The panel may be selected from properly stored samples set aside by the panel producer for retest in the event of a failure.

(ii) The average of the three samples or the single chamber value (as described in § 770.20(c)(2)(iv)) must test at or below the level that indicates that the product is in compliance with the applicable emission standards in § 770.10.

* * * * *

(f) * * *

(1) If a fabricator, importer, distributor, or retailer is notified that they have been supplied a non-complying lot after those composite wood products have been fabricated into component parts or finished goods, the notification requirement at paragraph (d)(1) of this section does not apply.

(2) [Reserved]

■ 12. In § 770.30, revise paragraphs (b) introductory text and (c) to read as follows:

§ 770.30 Importers, fabricators, distributors, and retailers.

* * * * *

(b) Importers must demonstrate that they have taken reasonable precautions

by maintaining, for three years, bills of lading, invoices, or comparable documents that include a written statement from the supplier that the composite wood products, component parts, or finished goods are TSCA Title VI compliant or were produced before June 1, 2018 and by ensuring the following records are made available to EPA within 30 calendar days of request:

* * * * *

(c) Fabricators, distributors, and retailers must demonstrate that they have taken reasonable precautions by obtaining bills of lading, invoices, or comparable documents that include a written statement from the supplier that the composite wood products, component parts, or finished goods are TSCA Title VI compliant or that the composite wood products were produced before June 1, 2018.

* * * * *

■ 13. In § 770.45, revise paragraph (a) introductory text and add paragraph (f) to read as follows:

§ 770.45 Labeling.

(a) Panels or bundles of panels that are imported, sold, supplied, or offered for sale in the United States must be labeled with the panel producer's name, the lot number, the number of the EPA TSCA Title VI TPC, and a statement that the products are TSCA Title VI certified. If a composite wood panel is not individually labeled, the panel producer, importer, distributor, fabricator, or retailer must have a method (*e.g.,* color-coded edge marking) sufficient to identify the supplier of the panel and linking the information on the label to the products. This information must be made available to potential customers upon request. The label may be applied as a stamp, tag, or sticker.

* * * * *

(f) All panels (or bundles of panels) and finished goods (or boxes or bundles containing finished goods) must be properly labeled pursuant to paragraphs (a), (b), and (c) of this section before being imported into the United States, except as provided in paragraph (e) of this setion.

■ 14. In § 770.99, revise paragraphs (e)(1) and (3) to read as follows:

§ 770.99 Incorporation by reference.

* * * * *

(e) * * *

(1) ISO/IEC 17011:2017(E) Conformity assessments—requirements for accreditation bodies accrediting conformity assessments bodies (Second Edition), November 2017.

* * * * *

(3) ISO/IEC 17025:2017(E) General requirements for the competence of testing and calibration laboratories (Third Edition), November 2017.

* * * * *

[FR Doc. 2019–17284 Filed 8–20–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 19–127, RM–11830; DA 19–654]

Radio Broadcasting Services; Kahlotus, Washington

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of Xana HD Solutions, LLC., the Audio Division amends the FM Table of Allotments, by allotting Channel 283A at Kahlotus, Washington, as the first local service. A staff engineering analysis indicates that Channel 283A can be allotted to Kahlotus, Washington, consistent with the minimum distance separation requirements of the Commission's rules with a site restriction of 6.2 kilometers (3.88 miles) southeast of Kahlotus. The reference coordinates are 46–38–00 NL 118–38–10 WL. Channel 283A at Kahlotus, Washington is located within 320 kilometers (199 miles) of the U.S.-Canadian border. Canadian concurrence has been received.

DATES: Effective September 2, 2019.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 19–127, adopted July 18, 2019, and released July 19, 2019. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW, Washington, DC 20554. The full text is also available online at *http://apps.fcc.gov/ecfs/.* This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission will send a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. Amend § 73.202 by:

■ a. In the table in paragraph (b), adding a table heading and under Washington adding Kahlotus, Channel 283A, in alphabetical order; and

■ b. Removing the parenthetical authority citation at the end of the section.

The additions read as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) * * *

TABLE 1 TO PARAGRAPH (b)

	Channel No.
* * * * *	
Washington	
* * * * *	
Kahlotus	283A
* * * * *	

[FR Doc. 2019–16179 Filed 8–20–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 190725–0004]

RIN 0648–BI11

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Amendment 13; Correction

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

ACTION: Final rule; correction.

SUMMARY: This action corrects the **SUPPLEMENTARY INFORMATION** section to the final rule published on July 31, 2019, which had an incorrect numeral in the citation for a previously published notice. This correction provides a revision to the citation.

DATES: Effective August 30, 2019.

ADDRESSES: Electronic copies of Amendment 13 may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-13-modifications-spiny-lobster-gear-requirements-and-cooperative-management.* Amendment 13 includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, Southeast Regional Office, NMFS, telephone: 727–824–5305; email: *Kelli.ODonnell@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Need for Correction

In a final rule NMFS published on July 31, 2019, beginning on page 37149, make the following correction in the **SUPPLEMENTARY INFORMATION** section. On page 37149 in the third column, revise the first sentence of the second paragraph to read as follows:

''On April 2, 2019, NMFS published a notice of availability (NOA) for Amendment 13 and requested public comment (84 FR 12573).''

Dated: August 14, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–17909 Filed 8–20–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140902739–5224–02; RTID 0648–XX007]

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fishery; 2019 Illex Squid Quota Harvested

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

ACTION: Temporary rule; reduction of possession limit.

SUMMARY: Beginning August 21, 2019, through December 31, 2019, Federal *Illex* squid vessel permit holders are prohibited from fishing for, catching, possessing, transferring or landing more than 10,000 lb (4,535 kg) of *Illex* squid per trip, and from landing *Illex* squid more than once per calendar day. This prohibition is effective when NMFS projects that 95 percent of the 2019 annual catch limit will have been caught by the effective date. This action is intended to prevent over harvest of *Illex* squid for the fishing year.

DATES: Effective 0001 hr local time, August 21, 2019, through December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Alyson Pitts, Fishery Management Specialist, (978) 281–9352.

SUPPLEMENTARY INFORMATION: Regulations for the *Illex* squid fishery are at 50 CFR part 648. The regulations at § 648.24(a)(2) require that when the Regional Administrator projects that *Illex* squid catch will reach 95 percent of the domestic annual harvest (DAH) quota, NMFS must prohibit Federal *Illex* squid vessel permit holders from directed fishing. Vessels may not catch, possess, transfer, or land more than 10,000 lb (4,535 kg) of *Illex* squid per trip, or land *Illex* squid more than once per calendar day. The Regional Administrator monitors the *Illex* squid fishery catch annually based on dealer reports, state data, and other available information. When 95 percent of the DAH has been reached, NMFS must provide at least 72 hours of notice to the public that it made this determination. NMFS must also publish the date that the catch is projected to reach 95 percent of the quota, and the date when prohibitions on catch and landings for the remainder of the fishing year become effective.

The Regional Administrator has determined, based on dealer reports and other available information, that the *Illex* squid fleet will catch 95 percent of the total *Illex* squid DAH quota for the 2019 season through December 31, 2019, by August 21, 2019. Therefore, effective 0001 August 21, 2019, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 10,000 lb (4,535 kg) of *Illex* squid, and may not land *Illex* squid more than once per calendar day. Vessels that have entered port before 0001 hr on August 21, 2019, may offload and sell more than 10,000 lb (4,535 kg) of *Illex* squid from that trip. Also, federally permitted dealers may not receive *Illex* squid from federally permitted *Illex* squid vessels that harvest more than 10,000 lb (4,535 kg) of *Illex* squid through 2400 hr, December 31, 2019, unless it is from a trip landed by a vessel that entered port before 0001 hr on August 21, 2019.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the delayed effectiveness because it would be contrary to the public interest and impracticable. Data and other information indicating the *Illex* squid fleet will have landed at least 95 percent of the 2019 DAH quota have only recently become available. Landings data are updated on a weekly basis, and NMFS monitors catch data on a daily basis as catch increases toward the limit. Further, high-volume catch and landings in this fishery increases total catch relative to the quota quickly. The regulations at § 648.24(a)(2) require such action to ensure that *Illex* squid vessels do not exceed the 2019 DAH quota. If implementation of this action is delayed, the quota for the 2019 fishing year may be exceeded, thereby undermining the conservation objectives of the FMP. Also, the public had prior notice and full opportunity to comment on this process when the provisions regarding closures and the 2019 quota levels were put in place.

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

Dated: August 16, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–18029 Filed 8–16–19; 5:05 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180713633–9174–02]

RIN 0648–XY009

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian district (CAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access sector fishery. This action is necessary to prevent exceeding the 2019 total allowable catch (TAC) of Pacific ocean perch in the CAI allocated to vessels participating in the BSAI trawl limited access sector fishery.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 16, 2019, through 2400 hrs, A.l.t., December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2019 TAC of Pacific ocean perch, in the CAI, allocated to vessels participating in the BSAI trawl limited access sector fishery was established as a directed fishing allowance of 743 metric tons by the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the CAI by vessels participating in the BSAI trawl limited access sector fishery. While this closure is effective, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Pacific ocean perch directed fishery in the CAI for vessels participating in the BSAI trawl limited access sector fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 15, 2019.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: August 16, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–18028 Filed 8–16–19; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 162
Wednesday, August 21, 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 ENERGY

10 CFR Parts 429 and 430

[EERE–2014–BT–TP–0034]

RIN 1904–AD46

Energy Conservation Program: Test Procedures for Clothes Dryers

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

ACTION: Notice of public meeting revision and extension of public comment period.

SUMMARY: On July 23, 2019, the U.S. Department of Energy (''DOE'') published in the **Federal Register** a notice of proposed rulemaking (''NOPR'') regarding proposals to amend the test procedures for clothes dryers and to request comment on the proposals and other aspects of clothes dryer testing. This notice also announced a webinar to be held on August 14, 2019, and stated that DOE would hold a public meeting on the proposal if one was requested by August 6, 2019. On July 29, 2019, DOE received a comment requesting a public meeting. On August 12, 2019, DOE published a **Federal Register** notice announcing a public meeting and webinar that will be held on August 28, 2019 and cancelled the previously announced webinar scheduled for August 14, 2019. On August 2, 2019 and August 5, 2019, DOE received subsequent comments requesting to move the webinar and public meeting into September 2019; therefore, DOE is changing the public meeting from August 28, 2019 to September 17, 2019 and extending the public comment period for submitting comments and data on the NOPR by 14 days to October 7, 2019.

DATES: *Meeting:* DOE will hold a public meeting on Tuesday, September 17, 2019, from 9:00 a.m. to 3:00 p.m. The meeting will also be broadcast as a webinar. In addition, the comment period for the NOPR published on July 23, 2019 (84 FR 35484), is extended. DOE will accept comments, data, and information regarding this proposed rulemaking received no later than October 7, 2019.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW, Washington, DC 20585.

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

The docket web page can be found at *https://www.regulations.gov/docket?D=EERE-2014-BT-TP-0034.* The docket web page contains instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT:

Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, or regarding a public meeting, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: On July 23, 2019, the U.S. Department of Energy (''DOE'') published in the **Federal Register** a notice of proposed rulemaking and request for comment regarding proposals to amend the test procedures for clothes dryers. 84 FR 35484. This notice also announced a webinar to be held on August 14, 2019, and stated that DOE would hold a public meeting to discuss the proposals if one was requested by August 6, 2019.

On July 29, 2019, DOE received a comment from the Natural Resources Defense Council, the Northwest Energy Efficiency Alliance, and Pacific Gas and Electric Company requesting that DOE hold an in-person public meeting regarding the proposed amendments to the clothes dryers test procedures.[1] On August 12, 2019, DOE published a **Federal Register** notice announcing a public meeting and webinar that will be held on August 28, 2019 and cancelled the previously announced webinar scheduled for August 14, 2019. (84 FR 39777)

On August 2, 2019 and August 5, 2019, DOE received subsequent comments from Association of Home Appliance Manufacturers (AHAM) requesting to move the webinar and public meeting into September 2019.[2]

This notice announces that DOE will hold a public meeting to discuss the proposed amendments to the clothes dryers test procedures on September 17, 2019. The public meeting will also be available as a webinar. This notice also extends the public comment period for submitting comments and data on the NOPR by 14 days to October 7, 2019.

See section V, ''Public Participation,'' of the NOPR published on July 23, 2019, for additional information on participating in the webinar and submitting comments. *Id.*

A. Attendance at Public Meeting

The time, date, and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. If you plan to attend the public meeting, please notify the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *Appliance_Standards_Public_Meetings@ee.doe.gov.*

Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures which require advance notice prior to attendance at the public meeting. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by

[1] See document number 17 within docket EERE–2014–BT–TP–0034, available on *regulations.gov.*

[2] See document numbers 18 and 19 within docket EERE–2014–BT–TP–0034, available on *regulations.gov.*

contacting Ms. Regina Washington at (202) 586–1214 or by email: *Regina.Washington@ee.doe.gov* so that the necessary procedures can be completed.

DOE requires visitors to have laptops and other devices, such as tablets, checked upon entry into the building. Any person wishing to bring these devices into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing these devices, or allow an extra 45 minutes to check in. Please report to the visitor's desk to have devices checked before proceeding through security.

Due to the REAL ID Act implemented by the Department of Homeland Security (''DHS''), there have been recent changes regarding ID requirements for individuals wishing to enter Federal buildings from specific states and U.S. territories. DHS maintains an updated website identifying the State and territory driver's licenses that currently are acceptable for entry into DOE facilities at *https://www.dhs.gov/real-id-enforcement-brief.* Acceptable alternate forms of Photo-ID include a U.S. Passport or Passport Card; an Enhanced Driver's License or Enhanced ID-Card issued by States and territories identified on the DHS website (Enhanced licenses issued by these states are clearly marked Enhanced or Enhanced Driver's License); a military ID; or other Federal government issued Photo-ID card.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this document. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make a follow-up contact, if needed.

C. Conduct of Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the rulemaking.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this document. In addition, any person may buy a copy of the transcript from the transcribing reporter.

Signed in Washington, DC, on August 13, 2019.

Alexander N. Fitzsimmons,

Acting Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2019–17894 Filed 8–20–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–492]

Schedules of Controlled Substances: Removal of 6β-naltrexol From Control

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration (DEA) proposes to remove (5α,6β)-17-(cyclopropylmethyl)-4,5-epoxymorphinan-3,6,14-triol (6β-naltrexol) and its salts from the schedules of the Controlled Substances Act (CSA). This scheduling action is pursuant to the CSA which requires that such actions be made on the record after opportunity for a hearing through formal rulemaking. 6β-Naltrexol is currently a schedule II controlled substance because it can be derived from opium alkaloids. This action would remove the regulatory controls and administrative, civil, and criminal sanctions applicable to controlled substances, including those specific to schedule II controlled substances, on persons who handle (manufacture, distribute, reverse distribute, dispense, conduct research, import, export, or conduct chemical analysis) or propose to handle 6β-naltrexol.

DATES: Interested persons may file written comments on this proposal in accordance with 21 CFR 1308.43(g). Electronic comments must be submitted, and written comments must be postmarked, on or before September 20, 2019. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

Interested persons, defined at 21 CFR 1300.01 as those ''adversely affected or aggrieved by any rule or proposed rule issuable pursuant to section 201 of the Act (21 U.S.C. 811),'' may file a request for hearing or waiver of participation pursuant to 21 CFR 1308.44 and in accordance with 21 CFR 1316.45, 1316.47, 1316.48, or 1316.49, as applicable. Requests for hearing, notices of appearance, and waivers of an opportunity for a hearing or to participate in a hearing must be received on or before September 20, 2019.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–492'' on all correspondence, including any attachments.

• *Electronic comments:* The DEA encourages that all comments be submitted through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on *Regulations.gov*. If you have received a comment tracking number, your comment has been successfully submitted and there is no need to resubmit the same comment.

• *Paper comments:* Paper comments that duplicate an electronic submission are not necessary and are discouraged. Should you wish to mail a comment *in lieu of* an electronic format, it should be sent via regular or express mail to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODXL, 8701 Morrissette Drive, Springfield, Virginia 22152.

• *Hearing requests:* All requests for hearing and waivers of participation must be sent to: Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Scott A. Brinks, Regulatory Drafting and Policy Support Section, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (202) 598–8106.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received in response to this docket are considered part of the public record. They will, unless reasonable cause is given, be made available by the DEA for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of Information Act (FOIA) applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be made publicly available, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be made publicly available, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment.

Comments containing personal identifying information and confidential business information identified as directed above will generally be made publicly available in redacted form. If a comment has so much confidential business information or personal identifying information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments posted to *http://www.regulations.gov* may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as directed above as confidential.

An electronic copy of this document and supplemental information to this proposed rule are available at *http://www.regulations.gov* for easy reference. The DEA specifically solicits written comments regarding the DEA's economic analysis of the impact of these proposed changes. The DEA requests that commenters provide detailed descriptions in their comments of any expected economic impacts, especially to small entities. Commenters should provide empirical data to illustrate the nature and scope of such impact.

Request for Hearing, Notice of Appearance at or Waiver of Participation in Hearing

Pursuant to 21 U.S.C. 811(a), this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act (APA) (5 U.S.C. 551–559). 21 CFR 1308.41–1308.45, and 21 CFR part 1316 subpart D. In accordance with 21 CFR 1308.44 (a) through (c), requests for hearing, notices of appearance, and waivers of an opportunity for a hearing or to participate in a hearing may be submitted only by interested persons, defined as those ''adversely affected or aggrieved by any rule or proposed rule issuable pursuant to section 201 of the Act (21 U.S.C. 811).'' 21 CFR 1300.01. Such requests or notices must conform to the requirements of 21 CFR 1308.44 (a) or (b), and 1316.47 or 1316.48, as applicable, and include a statement of the interest of the person in the proceeding and the objections or issues, if any, concerning which the person desires to be heard. Any waiver must conform to the requirements of 21 CFR 1308.44(c) and 1316.49, including a written statement regarding the interested person's position on the matters of fact and law involved in any hearing.

Please note that pursuant to 21 U.S.C. 811(a), the purpose and subject matter of a hearing is restricted to ''(A) find[ing] that such drug or other substance has a potential for abuse, and (B) mak[ing] with respect to such drug or other substance the findings prescribed by subsection (b) of section 812 of this title for the schedule in which such drug is to be placed * * *.'' All requests for hearing and waivers of participation must be sent to the DEA using the address information above, on or before the date specified above.

Legal Authority

The CSA provides that proceedings for the issuance, amendment, or repeal of the scheduling of any drug or other substance may be initiated by the Attorney General (1) on his own motion, (2) at the request of the Secretary of the Department of Health and Human Services (HHS),[1] or (3) on the petition of any interested party. 21 U.S.C. 811(a). This action was initiated by two petitions to remove 6β-naltrexol from the list of scheduled controlled substances of the CSA, and is supported by, *inter alia,* a recommendation from the Assistant Secretary of the HHS and an evaluation of all relevant data by the DEA. If finalized, this action would remove the regulatory controls and administrative, civil, and criminal sanctions applicable to controlled substances, including those specific to schedule II controlled substances, on persons who handle or propose to handle 6β-naltrexol.

Background

6β-Naltrexol is the major metabolite of naltrexone. Naltrexone and 6β-naltrexol are reversible opioid receptor antagonists. Opioid receptor antagonists are commonly used in the treatment of

[1] As discussed in a memorandum of understanding entered into by the Food and Drug Administration (FDA) and the National Institute on Drug Abuse (NIDA), the FDA acts as the lead agency within the HHS in carrying out the Secretary's scheduling responsibilities under the CSA, with the concurrence of NIDA. 50 FR 9518, March 8, 1985. The Secretary of the HHS has delegated to the Assistant Secretary for Health of the HHS the authority to make domestic drug scheduling recommendations. 58 FR 35460, July 1, 1993.

opioid addiction and overdose. On December 24, 1974, naloxone, an opioid receptor antagonist that works similarly to naltrexone, was removed from all schedules for control under the CSA. Effective on March 6, 1975, Title 21 of the Code of Federal Regulations was amended to remove naltrexone from all schedules for control under the CSA. The Administrator of the DEA found that both naltrexone and naloxone and their salts have an accepted medical use for treatment in the United States and that they do not have a potential for abuse to justify continued control in any schedule under the CSA. In June 2003 and April 2008, the DEA received two separate citizen petitions to initiate proceedings to amend 21 CFR 1308.12(b)(1) so as to decontrol 6β-naltrexol from schedule II of the CSA. These petitions complied with the requirements of 21 CFR 1308.44(b) and were accepted for filing. Both petitioners argue that 6β-naltrexol has been characterized as an opioid receptor antagonist, a class of drugs with no abuse potential.

Proposed Determination To Decontrol 6β-Naltrexol

Pursuant to 21 U.S.C. 811(b), the DEA gathered the necessary data on 6β-naltrexol and forwarded the data, the sponsors' petitions, and a request for scheduling recommendation on 6β-naltrexol to the Department of Health and Human Services (HHS) on August 11, 2009. On July 21, 2017, the HHS provided to the DEA a scientific and medical evaluation entitled ''Basis For The Recommendation To Remove (5α, 6β)-17-(cyclopropylmethyl)-4,5-epoxymorphinan-3,6,14-triol (6β-naltrexol) And Its Salts From All Schedules Of Control Under The Controlled Substances Act'' and a scheduling recommendation. Following consideration of the eight factors and findings related to the substance's abuse potential, legitimate medical use, and dependence liability, the HHS recommended that 6β-naltrexol and its salts be decontrolled from all schedules of control of the CSA. The National Institute on Drug Abuse (NIDA) concurred with the recommendation.

The CSA requires the DEA to determine whether the HHS's scientific and medical evaluation, scheduling recommendation, and all other relevant data constitute substantial evidence that a substance should be scheduled. 21 U.S.C. 811(b). The DEA reviewed the scientific and medical evaluation and scheduling recommendation provided by the HHS, and all other relevant data, and completed its own eight-factor review document on 6β-naltrexol pursuant to 21 U.S.C. 811(c). Included below is a brief summary of each factor as analyzed by the HHS and DEA, and as considered by the DEA in this proposal to remove 6β-naltrexol from the schedules of the CSA. Please note that both the DEA and HHS analyses are available in their entirety under ''Supporting and Related Material'' of the public docket for this rule at *http://www.regulations.gov* under docket number DEA–492.

1. The Drug's Actual or Relative Potential for Abuse

The first factor that must be considered is the actual or relative potential for abuse of 6β-naltrexol. The term ''abuse'' is not defined in the CSA. However, the legislative history of the CSA suggests the following points in determining whether a particular drug or substance has a potential for abuse:

a. Whether there is evidence that individuals are taking the drug or drugs containing such a substance in amounts sufficient to create a hazard to their health or to the safety of other individuals or to the community.

According to HHS, there are no mentions of abuse of 6β-naltrexol in the National Survey on Drug Use and Health (NSDUH),[2] a survey sponsored by the Substance Abuse and Mental Health Services Administration (SAMHSA). This survey provides national and state-level data on tobacco, alcohol, and drug use, mental health and other health-related issues in the United States. The Monitoring the Future (MTF)[3] survey did not provide any data on 6β-naltrexol.

b. Whether there is significant diversion of the drug or drugs containing such a substance from legitimate drug channels.

According to HHS, 6β-naltrexol is not currently marketed in any country. Availability is limited to research settings, and there is no evidence of diversion from legitimate drug channels. The National Forensic Laboratory Information System (NFLIS) is a DEA database that collects scientifically verified data on analyzed drug samples in State and local forensic laboratories.[4] It also includes data from the System to Retrieve Information from Drug Evidence (STRIDE), which includes data on analyzed samples from DEA laboratories.[5] There are no records of 6β-naltrexol drug cases or seized drug exhibits in NFLIS. Thus, there is no evidence of significant diversion of 6β-naltrexol.

c. Whether individuals are taking the drug or drugs containing such a substance on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer such drugs in the course of his professional practice.

According to HHS, 6β-naltrexol is only available in research laboratories and is not currently marketed in any country. The DEA notes that a review of scientific literature, STRIDE, STARLiMS, NFLIS, NSDUH, and MTF databases revealed no history of abuse of 6β-naltrexol. Thus, there is no evidence that individuals are taking 6β-naltrexol on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer the same.

d. Whether the drug or drugs containing such a substance are new drugs so related in their action to a substance already listed as having a potential for abuse to make it likely that it will have the same potentiality for abuse as such drugs, thus making it reasonable to assume that there may be significant diversions from legitimate channels, significant use contrary to or

[2] The National Survey on Drug Use and Health, formerly known as the National Household Survey on Drug Abuse (NHSDA), is conducted annually by the Department of Health and Human Service's Substance Abuse and Mental Health Services Administration (SAMHSA). It is the primary source of estimates of the prevalence and incidence of nonmedical use of pharmaceutical drugs, illicit drugs, alcohol, and tobacco use in the United States. The survey is based on a nationally representative sample of the civilian, non-institutionalized population 12 years of age and older. The survey excludes homeless people who do not use shelters, active military personnel, and residents of institutional group quarters such as jails and hospitals. The NSDUH provides yearly national and state level estimates of drug abuse, and includes prevalence estimates by lifetime (*i.e.,* ever used), past year and past month abuse or dependence.

[3] Monitoring the Future (MTF) is a national survey conducted by the Institute for Social Research at the University of Michigan under a grant from the National Institute on Drug Abuse (NIDA) that tracks drug use trends among American students in the 8th, 10th, and 12th grades.

[4] The National Forensic Laboratory Information System (NFLIS) represents an important resource in monitoring illicit drug abuse and trafficking, including the diversion of legally manufactured pharmaceuticals into illegal markets. NFLIS is a comprehensive information system that includes data from forensic laboratories that handle approximately 90% of an estimated 1.0 million distinct annual State and local drug analysis cases. NFLIS includes drug chemistry results from completed analyses only. While NFLIS data is not direct evidence of abuse, it can lead to an inference that a drug has been diverted and abused. *See* 76 FR 77330, 77332, Dec. 12, 2011.

[5] The System to Retrieve Information from Drug Evidence database (STRIDE) reports the results of drug evidence analyzed at DEA laboratories nationwide. These drug exhibits (or items) are submitted to the laboratory as drug evidence from seizures and undercover purchases. As of October 1, 2014, STARLiMS is the new system of record for exhibits analyzed by DEA laboratories, replacing STRIDE.

without medical advice, or that they have a substantial capability of creating hazards to the health of the user or to the safety of the community.

According to HHS, actions of 6β-naltrexol are not related to a substance already listed as having a potential for abuse. In humans, 6β-naltrexol is the major metabolite of naltrexone, which was removed from all schedules for control under the CSA on March 6, 1975 (40 FR 10455).

2. Scientific Evidence of the Drug's Pharmacological Effects, If Known

According to HHS, 6β-naltrexol is formed when the 6-keto group of naltrexone goes through a reduction process. It is the major metabolite of naltrexone in humans, monkeys, and guinea pigs, but not in rodents. It is a considerably weaker antagonist than naltrexone and does not affect basal signaling of μ- and δ-opioid receptors in opioid-naïve and opioid-dependent states which suggests that 6β-naltrexol has neutral antagonist properties. Binding affinities (Ki) of 6β-naltrexol were 2.12 nM, 212 nM, and 7.42 nM at μ-opioid receptor, δ-opioid receptor, and κ-opioid receptor, respectively. A study found that the affinity of 6β-naltrexol for the μ-opioid receptor and κ-opioid receptor was 2- to 5-fold higher than that of naloxone and 2-fold lower than naltrexone. 6β-Naltrexol also inhibited the inverse agonist effects of naloxone in pretreated membranes. The study thus concludes that 6β-naltrexol retained neutral antagonist activity. A previous study in animal models indicates that 6β-naltrexol appears to be 1/12th to 1/185th as potent as naltrexone. Though 6β-naltrexol is lower in potency than naltrexone, it contributes to the therapeutic and adverse effects of naltrexone because it accumulates to a greater extent than naltrexone especially in chronic dosing conditions. HHS concludes that this may be attributed to 6β-naltrexol's 10-fold higher systemic exposure as compared to naltrexone. 6β-naltrexol has a longer half-life (12 to 14 hours) than that of naltrexone (4 hours).

Although 6β-naltrexol has weaker opioid receptor antagonistic properties than naltrexone, it contributes significantly to the effects of naltrexone after oral administration. 6β-Naltrexol is metabolized primarily through glucuronidation and renal secretion. 6β-Naltrexol has a lower potency than naltrexone, and its longer duration of action and higher plasma concentrations indicate that 6β-naltrexol will contribute to the therapeutic and adverse effects of naltrexone. The physiochemical properties of 6β-naltrexol suggest that it may have a preferential blockade of peripheral over central opioid receptors following a systemic administration. This selectivity for peripheral opioid receptors may allow for co-formulation with an opioid, to attenuate the peripheral side effects, such as opioid-induced changes in bowel function, and immune functions.

In the *in vitro* assay, the effect of 6β-naltrexol to inhibit morphine-induced reduction in twitch response in electrically stimulated guinea pig ileum was assessed. Results of the study showed that 6β-naltrexol was 4.5-fold more potent than naloxone and 2.8-fold more potent than naltrexone in preventing the morphine-induced reduction of twitch height of stimulated guinea pig ileum. In the *in vivo* analgesic test, naltrexone was 2 times as potent as naloxone and 185 times as potent as 6β-naltrexol in inhibiting morphine-induced antinociception in mice. Thus, 6β-naltrexol is highly potent in the guinea pig ileum *in vitro,* but much less so *in vivo* after an acute dose. The potency of 6β-naltrexol *in vivo* is also time-dependent with a longer duration of action than naloxone and naltrexone. These data are consistent with pharmacokinetic data for 6β-naltrexol with a longer terminal half-life and supports that 6β-naltrexol is likely to contribute to the efficacy of naltrexone in human subjects.

Another study that compared the activity of naltrexone and naloxone relative to 6β-naltrexol in blocking fentanyl-induced analgesia and lethality, and in precipitating withdrawal jumping in mice dependent on fentanyl reported that the potency ratio in antagonizing fentanyl-induced analgesia was 17:4:1 for naltrexone, naloxone, and 6β-naltrexol, respectively. The corresponding ratio to attenuate fentanyl-induced lethality was 13:2:1. In precipitating withdrawal, the corresponding ratio was 1107:415:1. Additionally, 6β-naltrexol pre-treatment resulted in decreased naloxone withdrawal. Thus, 6β-naltrexol produced a lower efficacy antagonist activity by blocking inverse agonist-mediated effects of naloxone. In a chronic mouse model of dependence, 6β-naltrexol was 30 and 100 times less potent than naloxone and naltrexone, respectively. 6β-Naltrexol at 1.0 mg/kg dose did not produce a withdrawal response (*e.g.,* jumping), but at 10 mg/kg dose it elicited withdrawal effect 8 hours after morphine pretreatment. 6β-Naltrexol was equipotent to naloxone in blocking morphine's anti-nociceptive effect.

In a study of developing neonatal abstinence syndrome (NAS) in pregnant mice with opioid dependence, the result found that 6β-naltrexol passed through the placenta and through the blood brain barrier (BBB) in fetal mice. A co-administration of 6β-naltrexol with morphine to postnatal mice (before day 14) inhibited withdrawal behavior at doses 20- to 500-fold lower than those used to inhibit anti-nociception in adult animals. Almost complete inhibition of withdrawal symptoms was observed at the highest dose (1 mg/kg), which correlated to 1/20th that of the morphine dose. These data support that as a neutral antagonist, 6β-naltrexol contributes through suppressing fetal withdrawal symptom.

Another study found that 6β-naltrexol was only 1/85th as potent as naltrexone in producing antagonism effects as oxymorphone-induced loss of righting reflex in rats. Another test in a spinal dog preparation showed that, 6β-naltrexol had only 1/12th to 1/15th the potency of naltrexone in producing withdrawal. 6β-Naltrexol was 1/56th as potent as naltrexone in preventing the loss of righting reflex in rats, and was 1/26th as potent as naltrexone in preventing morphine-induced Straub tail. As a weaker antagonist, 6β-naltrexol still retains moderate activity with a prolonged duration of activity in rats and mice suggesting that 6β-naltrexol may produce a longer narcotic blockade observed in humans after naltrexone administration. In another monkey study evaluating naltrexone and its metabolites of the inverse agonist activity treated with morphine (3.2 mg/day), data showed that naltrexone was 5- and 23-fold more potent than 6αnaltrexol and 6β-naltrexol without morphine pre-treatment, while in monkeys with a morphine injection, naltrexone was 8- and 71-fold more potent than 6αnaltrexol and 6β-naltrexol. The results indicate that naltrexone and 6αnaltrexol and 6β-naltrexol have qualitatively similar effects, and their potencies do not vary significantly with opioid treatment. Another study to compare the potency of naltrexone and 6β-naltrexol in monkeys revealed that naltrexone displayed 2-fold higher affinity and potency than 6β-naltrexol for the mu-opioid receptor (MOR) binding in monkey brain membranes and for MOR agonist-stimulated function, respectively. Naltrexone (0.0032–0.032 mg/kg) and 6β-naltrexol (0.32–3.2 mg/kg) retained the same potency difference in precipitating withdrawal to a similar degree. Furthermore, 6β-naltrexol failed to block naltrexone-precipitated withdrawal in morphine-dependent monkeys. These results indicate that

naltrexone and 6β-naltrexol display similar pharmacological actions with a large in vivo potency difference in monkeys such that 6β-naltrexol may play a minimal role in the therapeutic or antagonist effects of naltrexone in primates.

Clinical Studies

According to HHS, in a study involving 24 moderate-to-heavy drinkers with an oral dose of 50 mg of naltrexone, and following 3 hours of administration, the urinary levels of 6β-naltrexol were 10 times greater than those of naltrexone. A higher urine concentration of 6β-naltrexol correlated to the presence of subjective side effects, such as nausea, headache, and anxiety. The subjective side effects observed in this study are partially attributed to the effects of alcohol in combination with naltrexone. Another study found that 6β-naltrexol (ED_{50} ~3mg) significantly blocked the effect of morphine-induced gastrointestinal slowing, which is consistent with its opioid receptor antagonist pharmacology. It supports that 6β-naltrexol can block some peripheral effects of morphine while not affecting the central nervous system (CNS) analgesic effect induced by morphine. This may be because 6β-naltrexol has a difficulty in crossing the BBB and therefore has low *in vivo* CNS activity.

One clinical study of 6β-naltrexol in affecting abuse and constipation of opioids in four opioid dependent individuals on methadone maintenance therapy found that an intravenous treatment of 6β-naltrexol (0.05 mg–1.0 mg in ascending doses) through 15-minute infusions produced significantly greater Visual Analog Scale (VAS) scores of ''Any Drug Effect'' than placebo, and no significant effect was found in any other VAS measure. There was also a dose-dependent increase in gastrointestinal activity. Agonists of the μ-opioid receptor, such as methadone, are known to decrease gastrointestinal motor activity, leading to constipation. This study determined that 6β-naltrexol blocked the μ-opioid receptor agonist activity of methadone, causing an increase in locomotor activity in the gastrointestinal system. The lack of withdrawal symptoms indicated that, at these doses, 6β-naltrexol did not cross the BBB and had little effect in the CNS, thereby supporting that 6β-naltrexol is a peripherally acting μ-opioid receptor antagonist.

3. The State of Current Scientific Knowledge Regarding the Drug or Other Substance

The molecular formula of 6β-naltrexol is $C_{20}H_{25}NO_4$ and the molecular weight is 343.42 g/mol. 6β-Naltrexol is formed *in vivo* when the 6-keto group of naltrexone goes through a reduction process. A structure affinity analysis indicated that 6β-naltrexol has reduced bonds in the six position of its chemical structure, which may result in its neutral antagonist activity.

According to HHS, naltrexone through the *in vivo* metabolic reduction metabolizes into two active metabolites, 6α-naltrexol and 6β-naltrexol. The metabolite, 6α-naltrexol, was found in only trace amounts in two (monkey and guinea pig) of the seven species tested. However, 6β-naltrexol was detected in the urine of all of the species tested, including humans. HHS states that 6α-naltrexol is not present as a metabolite in humans and is of little concern. Plasma concentration-time curve fit into a two compartment model with absorption showing first-order kinetics. According to another study, 6β-hydroxy epimers have little or no antinociceptive activity, while 6α-hydroxy epimers showed significant antinociceptive activity similar to the report of nalorphine and pentazocine. This study showed that 6β-naltrexol lacks analgesic activity suggesting that it does not have agonist or partial agonist properties. As stated by HHS, single and multiple administrations of 6β-naltrexol do not change its plasma kinetics. After one intramuscular injection of 6β-naltrexol (0.2 mg/kg), the time-curve of plasma concentration fits a two-compartment model with first-order absorption and it remained consistent after multiple intramuscular injections for 6β-naltrexol for 7 days.

According to HHS, naltrexone is converted to its active metabolite, 6β-naltrexol through a stereospecific reduction by dihydrodiol dehydrogenase enzymes (DD1, 2, and 4). Because of first-pass metabolism, concentrations of 6β-naltrexol are much higher than its parent molecule following oral dosing. However, when 6β-naltrexol is administered intramuscularly, hepatic biotransformation is avoided, and the arca under the curve (AUC) for 6β-naltrexol is only 2-fold higher than that of naltrexone. In contrast, following a single and multiple oral dosing of naltrexone (50 mg), 6β-naltrexol exposure was over 20-fold greater than that of the parent drug, naltrexone. In another cited study in patients with mild or moderate hepatic impairment, following a single dose of long acting naltrexone (190 mg), plasma concentrations of 6β-naltrexol were 2-fold greater than corresponding naltrexone concentrations. Thus mild or moderate hepatic impairment affect the patient's exposure to either 6β-naltrexol or naltrexone.

4. Its History and Current Pattern of Abuse

According to HHS, based on chemical and pharmacological similarities between 6β-naltrexol and naltrexone, a μ-opioid receptor antagonist that was removed from control under the CSA, it is unlikely that 6β-naltrexol would be abused. In addition, reports from Monitoring the Future, Treatment Episode Data Set, the National Survey on Drug Use and Health, poison control centers, the Drug Abuse Warning Network, NFLIS, STRIDE, and STARLiMS had no mentions of use or abuse of 6β-naltrexol.

5. The Scope, Duration, and Significance of Abuse

As mentioned in Factor 4, a comprehensive review and research on available data performed by both HHS and DEA revealed no reports of abuse of 6β-naltrexol.

6. What, If Any, Risk There Is to the Public Health

According to both HHS and DEA's data review and as stated in Factors 4 and 5, there is no sufficient data to report any abuse of 6βnaltrexol or show the scope, duration, and significance of abuse of 6β-naltrexol. None of the available sources including Monitoring the Future, Treatment Episode Data Set, the National Survey on Drug Use and Health, poison control centers, the Drug Abuse Warning Network, NFLIS, and STRIDE capture data that examine the use or abuse of 6β-naltrexol.

7. Its Psychic or Physiological Dependence Liability

According to HHS, in a morphine dependent state, naloxone and naltrexone act as inverse agonists by suppressing basal μ-opioid receptor signaling thereby contributing to the presence of withdrawal in an opioid dependent state. 6β-Naltrexol exhibits neutral antagonist properties and results in a less severe withdrawal state. According to HHS, 6β-naltrexol and naloxone are equipotent in blocking acute morphine antinociception. In contrast, 6β-naltrexol was much less active than naloxone in eliciting withdrawal, both in acute and chronic morphine-dependence models. Yet, given at equipotent doses to naltrexone

and naloxone, 6β-naltrexol afforded a similar time course of rapid reversal of acute morphine-stimulated locomotion. Therefore, 6β-naltrexol does reach the receptor sites but fails to cause substantial withdrawal; consistent with the hypothesis that suppression of basal μ-opioid receptor signaling plays a significant role.

The HHS review stated that 6β-naltrexol has been shown to produce minimal withdrawal jumping as compared to naltrexone. A dose of 0.2 mg/kg of naltrexone and 1.0 mg/kg 6β-naltrexol are equipotent in antagonizing anti-nociceptive effects of morphine 10 to 20 minutes after administration. The 1 mg/kg dose of 6β-naltrexol did not elicit withdrawal jumping in the 72-hour time period following morphine administration, whereas the 10 mg/kg dose of naltrexone caused a withdrawal effect after 8 hours of morphine pretreatment. Another study assessing the relative potency of two opioid receptor antagonists (naltrexone and naloxone) and a neutral antagonist (6β-naltrexol) in blocking fentanylinduced analgesia and toxicity, and in precipitating withdrawal revealed that the order of potency in antagonizing analgesia and in precipitating withdrawal jumping was: Naltrexone > naloxone > 6β-naltrexol. Pretreatment with 6β-naltrexol reduced naloxone-precipitated withdrawal and supports that 6β-naltrexol acts as an antagonist.

Another HHS-cited study found that both 6β-naltrexol (10 mg/kg) and naloxone (10 mg/kg) were equipotent and 4.5- and 10-fold less potent than naltrexone (l.0 mg/kg). 6β-Naltrexol, unlike naloxone and naltrexone, at high doses produced minimal withdrawal at in an acute dependence Institute of Cancer Research (ICR) mice model. In this assay, naloxone and naltrexone produced withdrawal jumping at doses that blocked the acute effects of morphine, whereas 6β-naltrexol at 10 mg/kg (the dose that blocks the acute of effects of morphine) did not precipitate withdrawal jumping. In the chronic dependence model, 6β-naltrexol was 77-fold and 30-fold less potent than naltrexone and naloxone in producing withdrawal.

The ability of 6β-naltrexol and naltrexone to produce withdrawal in morphine-dependent and morphine-naive mice was compared. This HHS-cited study showed that naltrexone had a 10-to 100-fold greater potency than that of 6β-naltrexol. Another study compared the effects of naltrexone and 6β-naltrexol on precipitated withdrawal in morphine-dependent mice and reported that the low doses of 6β-naltrexol antagonized naltrexone precipitated withdrawal, while high doses of 6β-naltrexol were additive. This reduction in withdrawal symptoms by low doses of 6β-naltrexol is believed to be due to its neutral antagonist properties which could attenuate inverse agonist effects of naltrexone. These studies mentioned above show that 6β-naltrexol produces significantly reduced incidence of precipitated withdrawal in opioid-dependent animals compared to its parent compound, naltrexone, as well as naloxone. It may be the result of limited abilities of 6β-naltrexol in crossing the blood-brain barrier. Furthermore, there are no published reports assessing the abuse liability of 6β-naltrexol.

8. Whether the Substance Is an Immediate Precursor of a Substance Already Controlled Under the CSA

6β-Naltrexol is not considered an immediate precursor of any controlled substance.

Conclusion

Based on the consideration of the scientific and medical evaluation and accompanying recommendation of the HHS, and based on the DEA's consideration of its own eight-factor analysis, the DEA finds that these facts and all relevant data demonstrate that 6β-naltrexol does not possess abuse or dependence potential. The data from *in vitro, in vivo animal studies,* and clinical evidence indicate that 6β-naltrexol is a μ-opioid receptor antagonist and lacks abuse potential. It should be understood that the lack of currently accepted medical use in treatment in the United States is inconsequential where, as here, the substance in question is determined to have insufficient abuse potential and dependence liability to warrant control in any schedule. HHS indicated that 6β-naltrexol has no currently accepted medical use in treatment in the United States. There are no investigational new drugs and new drug applications for 6β-naltrexol. 6β-naltrexol showed no physical or psychological dependence in both non-clinical and clinical studies. Accordingly, the DEA finds that 6β-naltrexol does not meet the requirements for inclusion in any schedule, and should be removed from control under the CSA.

Regulatory Analyses

Executive Orders 12866, 13563, and 13771, Regulatory Planning and Review, Improving Regulation and Regulatory Review, and Reducing Regulation and Controlling Regulatory Costs

In accordance with 21 U.S.C. 811(a), this scheduling action is subject to formal rulemaking procedures done ''on the record after opportunity for a hearing,'' which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order 12866 and the principles reaffirmed in Executive Order 13563.

This final rule is not an Executive Order 13771 regulatory action pursuant to Executive Order 12866 and OMB guidance.[5]

Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of Executive Order 13132. The rule does not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of Executive Order 13175. This rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

[5] Office of Mgmt.& Budget, Exec. Office of The President, Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 Titled ''Reducing Regulation and Controlling Regulatory Costs'' (Feb. 2, 2017).

Regulatory Flexibility Act

The Acting Administrator, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA), has reviewed this proposed rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. The purpose of this rule is to remove 6β-naltrexol from the list of schedules of the CSA. This action will remove regulatory controls and administrative, civil, and criminal sanctions applicable to controlled substances for handlers and proposed handlers of 6β-naltrexol. Accordingly, it has the potential for some economic impact in the form of cost savings.

If finalized, the proposed rule will affect all persons who would handle, or propose to handle, 6β-naltrexol. 6β-Naltrexol is the major metabolite of naltrexone and is not currently available or marketed in any country. Due to the wide variety of unidentifiable and unquantifiable variables that potentially could influence the distribution and dispensing rates, if any, of 6β-naltrexol, the DEA is unable to determine the number of entities and small entities which might handle 6β-naltrexol. In some instances where a controlled pharmaceutical drug is removed from the schedules of the CSA, the DEA is able to quantify the estimated number of affected entities and small entities because the handling of the drug is expected to be limited to DEA registrants even after removal from the schedules. In such instances, the DEA's knowledge of its registrant population forms the basis for estimating the number of affected entities and small entities. However, the DEA does not have a basis to estimate whether 6β-naltrexol is expected to be handled by persons who hold DEA registrations, by persons who are not currently registered with the DEA to handle controlled substances, or both. Therefore, the DEA is unable to estimate the number of entities and small entities who plan to handle 6β-naltrexol.

Although the DEA does not have a reliable basis to estimate the number of affected entities and quantify the economic impact of this final rule, a qualitative analysis indicates that this rule is likely to result in some cost savings. As noted above, the DEA is specifically soliciting comments on the economic impact of this proposed rule. The DEA will revise this section if warranted after consideration of any comments received. Any person planning to handle 6β-naltrexol will realize cost savings in the form of saved DEA registration fees, and the elimination of physical security, recordkeeping, and reporting requirements.

Because of these factors, DEA projects that this rule will not result in a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

On the basis of information contained in the ''Regulatory Flexibility Act'' section above, the DEA has determined and certifies pursuant to the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.,* that this action would not result in any federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted for inflation) in any one year * * *.'' Therefore, neither a Small Government Agency Plan nor any other action is required under provisions of UMRA.

Paperwork Reduction Act

This action does not impose a new collection of information requirement under the Paperwork Reduction Act, 44 U.S.C. 3501–3521. This action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1308 is proposed to be amended to read as follows:

PART 1308— SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. In § 1308.12, revise the introductory text paragraph (b)(1) to read as follows:

§ 1308.12 Schedule II.

* * * * *

(b) * * *

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, naldemedine, nalmefene, naloxegol, naloxone, 6β-naltrexol and naltrexone, and their respective salts, but including the following:

* * * * *

Dated: August 6, 2019.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2019–17630 Filed 8–20–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5 and 200

[Docket No. FR–6160–N–01]

Notice of Demonstration To Assess the National Standards for the Physical Inspection of Real Estate and Associated Protocols

AGENCY: Office of the Assistant Secretary for Housing; Office of the Assistant Secretary for Public and Indian Housing, U.S. Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: The shift to the National Standards for the Physical Inspection of Real Estate (NSPIRE) will further one of HUD's highest priority strategic outcomes—resident health and safety. HUD is looking at the implementation of NSPIRE as an opportunity to reduce regulatory burden through alignment and consolidation compared to either maintaining or increasing the number of standards and protocols to evaluate HUD-assisted housing across multiple programs. During this demonstration, HUD will solicit volunteers to test the NSPIRE standards and protocols as the means for assessing the physical conditions of HUD-assisted and -insured housing. The demonstration, which will include approximately 4,500 properties, will be implemented on a rolling, nationwide basis and will assess all aspects of the physical inspection line of business of the Real Estate Assessment Center—the collection, processing, and evaluation of physical inspection data and information, including a new scoring model. As the first step in the implementation of NSPIRE, HUD is soliciting comment on this proposed, voluntary demonstration. HUD will consider the comments and incorporate them into the demonstration. Subjecting the NSPIRE model to a multistage demonstration will serve as an opportunity to refine processes and ensure all mechanisms are in place to facilitate the transition to a nationwide implementation. This demonstration will also serve as the precursor to any required rulemaking.

DATES: *Comment Due Date:* October 21, 2019.

ADDRESSES: HUD invites interested persons to submit comments to the Office of the General Counsel, Regulations Division, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500. Communications should refer to the above docket number and title and should contain the information specified in the ''Request for Comments'' section. There are two methods for submitting public comments.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500. Due to security measures at all Federal agencies, however, submission of comments by mail often results in delayed delivery. To ensure timely receipt, HUD recommends that comments be mailed at least 2 weeks in advance of the public comment deadline.

2. Electronic Submission of Comments. Comments may also be submitted electronically through the Federal eRulemaking Portal at *https://www.regulations.gov/.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the website can be viewed by other commenters and interested members of the public. Commenters should follow instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted using one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

No Facsimile Comments. Facsimile (fax) comments are not acceptable.

Public Inspection of Comments. All comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at HUD Headquarters, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055. This is not a toll-free number. Copies of all comments submitted are available for inspection and downloading at *https://www.regulations.gov/.*

FOR FURTHER INFORMATION CONTACT: Daniel R. Williams, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410–4000, telephone number 202–475–8873 (this is not a toll-free number). Persons with hearing or speech impairments may contact the numbers above via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Structure of the Notice

The following five sections discuss the background through the solicitation of comments. Section II provides background information on HUD inspections and their applicability to HUD's oversight responsibility related to ensuring safe, habitable conditions within HUD housing. For the purposes of this notice, ''HUD housing'' is defined as housing assisted under the HUD programs listed in 24 CFR 200.853(a); housing with mortgages insured or held by HUD, or housing that is receiving assistance from HUD, under the programs listed in 24 CFR 200.853(b); and Public Housing (housing receiving assistance under the U.S. Housing Act of 1937, other than under section 8 of the Act). This does not apply to units assisted under the Housing Choice Voucher (HCV) program, including the Project-Based Voucher Program under the purview of the Office of Public and Indian Housing.[1] Once the NSPIRE standards have been validated through this demonstration, they will be tested with HCV properties under the existing demonstration authority for that program (See FR–5928–N–02, ''Notice of Continuation of Demonstration to Test Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted Housing,'' 84 FR 24416). In section III, HUD explains the elements that will be assessed during the voluntary demonstration, which are: (1) The improved inspection model and demonstration protocols; (2) data standardization and information exchange of inspections and related information; (3) reduced costs of administrative activities; and (4) oversight and performance improvement. Also, in section III, HUD discusses which properties will be subject to inspections as part of the demonstration. In section IV, HUD describes the process it will use to assess the results of the demonstration. In section V, HUD outlines the policy deviations required for the demonstration. Finally, in section VI, HUD solicits public comment generally and on several questions of specific interest.

II. Background

HUD currently uses an inspection model established in 1998, relying on Uniform Physical Condition Standards (UPCS)[2] and managed under the Department's Real Estate Assessment Center (REAC). Since then, the housing portfolios HUD inspects have undergone major transformations. A housing portfolio once dominated by Government-owned properties has become largely populated by private entities. HUD, Congress, the public, and HUD's growing list of customers demand products and services that provide accurate and reliable evaluations of housing conditions, while reducing regulatory burden. HUD has found that some property owners have become more interested in meeting minimal compliance thresholds than incorporating best practices that relate to property maintenance. To address these developments, HUD proactively initiated a wholesale reexamination of its physical inspection process and began to lay the foundation of the NSPIRE model that supports two of three goals in the Department's overarching strategic plan.[3] The NSPIRE model will support HUD's objectives to:

- ''Rethink American Communities: . . . Protect the health of residents by addressing lead-based paint and other health and safety hazards in housing.''
- ''Reimagine the Way HUD Works: . . . Rethink how we deliver services directly to our customers to increase consistency and accountability.''

To help achieve these goals, the NSPIRE model will:

- For the first time, incorporate comprehensive, annual self-inspections by property management staff, the methods and results of which will be integral parts of HUD's real estate inspection process. By making regular, comprehensive self-inspections a part of HUD's physical assessment regimen, property managers will be more engaged in the process and more vested in the outcomes.

[1] Once deficiency criteria that make up NSPIRE are completed, such criteria will be included in the UPCS-Voucher demonstration.

[2] 24 CFR part 5, subpart G.

[3] U.S. Department of Housing and Urban Development Strategic Plan 2018–2022.

- Enhance accuracy through:
  - Better identification of substandard properties.
  - Increased objectivity and defensibility of inspections.
  - Reduced complexity of inspections and increased time in units.
- Place greater weight on health and safety (H&S) deficiencies than on function and appearance.
- Implement inspections that better reflect the true physical conditions of properties.
- Ensure owners adopt sound, year-round maintenance practices.

To achieve these outcomes, NSPIRE will aspire to align all inspection standards, while adopting flexible protocols to accommodate the unique circumstances of each program and housing type.

Recognizing the impact of these changes, HUD began to analyze the way inspections are conducted and to better understand areas in which its standards and processes needed to evolve. This analysis showed that HUD's current process for inspecting and assessing housing assets has not fundamentally changed since it was developed in 1998. Aspects of the UPCS model, such as problems in units carrying a low scoring weight, having standards with intentionally broad language, relying on resource-intensive manual processes to determine the quality of the results, and assuming that the individual inspector would not be a determining factor in inspection outcomes, are misaligned with HUD's priorities and the state of the housing inspection industry. Detailed documentation about how inspections are performed today can be found on the REAC website at *https://www.hud.gov/program_offices/public_indian_housing/reac/products/prodpass.*

More specifically, as HUD has developed the concept of NSPIRE, the review of the existing program has shown that standards for the assessment of existing housing need to be well-aligned to the livability and the residential use of the structures and that having too many indicators results in a highly complex task, which increases the chance for error. Similarly, processes that were designed for a different generation of technology capabilities can benefit from current advances in that field, such as machine learning, process automation, and automated data exchanges that bring consistency and transparency to processes and results. Additionally, a review of the items and deficiencies within the UPCS standards has shown that some rely too heavily on individual judgment, especially those oriented around the appearance of items that are otherwise functional.

From this analysis, HUD has started to develop, document, and propose standards and protocols for a new inspection model called NSPIRE. This demonstration seeks to target a diverse, representative group of stakeholders, including REAC, other HUD offices, public housing agencies (PHAs), and owners and agents (OAs), the last two of which are referred to, collectively, as POAs. After the public comment period has expired and HUD has considered the comments, HUD will subject the NSPIRE model to a multistage demonstration for the purpose of ensuring that all mechanisms are in place to support the transition to the NSPIRE model after all required rulemaking.

Demonstration participation is limited to volunteers; no POAs will be required to participate. This demonstration does not include properties under the HCV program as HUD has a separate demonstration program underway that covers that program. As NSPIRE is intended to be a single inspection standard for all of HUD, however, once the NSPIRE standards have been validated during the demonstration that is the subject of this notice, they will be migrated to the Uniform Physical Condition Standards for Vouchers (UPCS–V) demonstration for further testing with HCV properties. Feedback and lessons learned will be shared across the demonstrations to inform any subsequent rulemaking.

III. The NSPIRE Demonstration

A. Overview

Start here In executing the authorities [4] and in fulfillment of the oversight responsibilities provided to the Secretary, HUD is developing improved standards, protocols, and processes as part of NSPIRE. HUD will make drafts of the standards incrementally available on the department's website, as well as the final set of standards applicable to the demonstration. The NSPIRE Model is designed to better identify those POAs who are not adhering to minimum compliance standards [5] by:

- Establishing more objective, better-defined deficiency definitions which will be validated by a third-party contractor;
- Requiring properties to complete and submit their annual self-inspection results electronically;
- Incorporating less complex inspection protocols using indicators aligned to quality;
- Reducing the number of inspectable areas at properties to simplify the process and reduce administrative errors related to deficiency misclassification by regrouping the inspectable items into three categories from five [6]—note that this only changes the grouping of inspectable items, it does not change which items are being inspected;
- Deliberately grouping deficiencies into one of three categories;
- Better identifying all H&S deficiencies; and
- Adopting a new scoring model that places the most emphasis on the areas considered the most important—the residents' homes.

The demonstration will use objective condition standards that include a list of H&S items which must be addressed, revised Information Technology (IT) processes, and new oversight approaches. The specific H&S deficiency criteria are still in development and will be released on HUD's website as they become available. Demonstration participants will be notified by email and Listserv in advance when HUD plans to change criteria and again by the same method of notification after any changes are posted to the website. Moreover, this demonstration is the first step in implementing an NSPIRE Model that seeks to better identify H&S hazards in housing, more accurately assess the physical condition of HUD housing, improve inspection service delivery, encourage more active engagement by POAs in the physical assessment process, and enhance HUD's overall oversight and risk management capabilities.

The NSPIRE demonstration will test, and refine as necessary, processes comprised of the standards, regulations, business processes, risk models, IT systems, and support services necessary to meet the goals and objectives described above. Specifically, the NSPIRE Model is designed to improve objectivity, defensibility, and accuracy in order to achieve a more reliable assessment of housing conditions for those living in HUD housing. The scope of the inspection, the procedural guidelines, and the individual deficiencies have been modified to remove subjectivity and ambiguity and to emphasize those areas that present the highest risk of harm to those living in HUD housing. The fact that NSPIRE has three inspectable areas does not

[4] Including but not limited to those contained in 42 U.S.C. 3535(r) and 1437d(f)(3).

[5] Codified at 24 CFR 5.703.

[6] 24 CFR 902.3.

imply a reduction in what items may be cited or the physical locations to be inspected, but is intended to simplify the field protocols used by the inspector to achieve an increase in consistency. Accordingly, as a different way to aggregate inspection data, this does not imply a reduction in the quality of the inspection.

B. The NSPIRE Model and Demonstration Protocols

Under this voluntary demonstration, HUD will inspect, for up to two years, approximately 4,500 properties from a pool of volunteers who are willing to adopt the NSPIRE Model to assess the physical condition of HUD housing. To that end, HUD's NSPIRE Model has three major components: (1) Three Types of Inspections, (2) Three Categories of Deficiencies, and (3) Three Inspectable Areas. The Three Types of Inspections include POA self-inspections; those conducted by contractors and/or federal inspectors; and those conducted solely by federal inspectors. The Three Categories of Deficiencies are Health and Safety; Function and Operability; and Condition and Appearance, with each category ideally resulting in emergency work orders, routine work orders, and other maintenance respectively. The Three Inspectable Areas will be Inside, Outside, and Unit. ''Inside'' refers to all common areas and building systems (*e.g.,* HVAC) located inside a building. ''Outside'' refers to the building site, the building envelope, and any building systems located outside of the building or unit. ''Unit'' refers to the interior of an individual residential unit. The transition to these three major components will decrease inspection complexity, simplify the scoring model, and increase consistency in the way the standards are interpreted, and protocols are applied, during an inspection. Elements of each of the three components will be deployed simultaneously to refine the mechanics of administration during this demonstration; however, each type of inspection (POAs, Contract Inspectors, Federal Inspectors) will begin the demonstration in an incremental fashion.

As part of the NSPIRE implementation process, HUD intends to issue a proposed rule in late 2019 that will amend and align overarching policies related to the frequency of inspections, the method of appealing results, and the actors responsible for conducting the inspection. After having been validated through the demonstration and considering any public comments from the proposed rule, HUD will also publish separate notices in the **Federal Register** open for public comment which contain the detailed elements of the NSPIRE inspection itself to include the standards, sampling and scoring protocols.

For the demonstration, the following phases apply:

- Phase I—HUD will begin an iterative approach to receiving and processing participating POA annual inspection results and other data (*e.g.,* certificates, property profiles, work orders, and local code violations which occurred during the annual reporting period) to develop a reasonable assurance of property conditions at the time of the POAs' self-inspections. Capabilities within Phase I will include:
  - A system (POA-owned or HUD-provided) that POAs can use successfully to:
    - Inspect their properties, record the results, create work orders, and submit results to HUD; and
    - Stream property profiles, certificates, and work orders directly to HUD.
  - A HUD system that can successfully:
    - Receive and store POA self-inspections and related information;
    - Process and provide analysis of data provided through self-inspections; and
    - Update inspection profiles based on POA provided data and information.
- Phase II—HUD will begin iteratively deploying functionality to reach Phase II objectives; this will be achieved when HUD can better and more accurately determine when an owner is not providing acceptable housing. For the purpose of this demonstration only, contract and federal inspectors will assess properties using the Critical to Quality (CTQ) standards (further explained below) and protocols developed as part of the NSPIRE Model during Phase II, which will be incrementally posted on the NSPIRE website as they are developed. Each deficiency will be posted online in a manner that allows for targeted stakeholder feedback for that specific deficiency instead of requiring a comprehensive review of all the standards.

Additionally, HUD will create a demonstration scoring model which will be used to assess demonstration results. Similar to the publication of the NSPIRE deficiencies, HUD will publish the proposed weighting factors as a supplement to the item and deficiency descriptions on the website. Among other considerations, weighting factors are based on the importance of the item to the built environment, its potential impact on a resident if defective, and the extent to which any damage reflects on the ability of management to maintain a property. Capabilities within Phase II will include:

- A system of more objective standards and simpler protocols that will enable a trained inspector to better detect, identify, and record deficiencies and submit those results to HUD. These ''objective standards'' will be in the form of CTQs. CTQs will be a well-defined subset of the entire set of NSPIRE Standards that have a high correlation to overall quality and are calibrated to provide strong assurance that a property is not in compliance with HUD's minimum property standards. Simply put, when a deficiency is noted against a CTQ or a number of CTQs, there will be a high correlation to substandard conditions within a property. This direct correlation to quality allows for inspections built around CTQs to evaluate fewer standards but remain highly effective in determining substandard conditions. This capability should provide a higher level of confidence in evaluating property conditions than the POAs' self-inspections described in Phase I. For this phase of the demonstration, HUD may use contract inspectors, government employees, or both to inspect properties according to a revised set of deficiency definitions in lieu of those found in the current Dictionary of Deficiency Definitions (see 24 CFR 902.3).[7]
- A system of protocols and additional indicators, compared to those used by contract inspectors, that will enable trained federal employee inspectors to better detect, identify, and record evidence about the extent of substandard conditions and submit those results to HUD. These additional factors will be developed later in the demonstration based on the feedback federal inspectors have provided as they assist with the development of NSPIRE. Generally, these indicators are those that require more time, higher skills, or more equipment to identify such that they would not be practical for a contractor to perform on every inspection. This capability would provide the highest level of confidence in evaluating a property's condition compared to POA or contracted inspections with the results being used

[7] *Public Housing Assessment System (PHAS): Physical Condition Scoring Notice and Revised Dictionary of Deficiency Definitions; Notice;* **Federal Register**, Volume 77, Number 154, Part II, Department of Housing and Urban Development, August 9, 2012.

to support enforcement actions or sanctions.

○ A HUD analytic system capable of processing the inspection results, including the employment of a new scoring model, to provide a more accurate and defensible determination of those POAs who are not providing acceptable housing. For the purposes of the demonstration, a new scoring model will be used in lieu of the current Physical Condition Scoring Notice.[8] Nothing in this demonstration notice should be construed to mean any rights and obligations under 42 U.S.C. 1437d(j)(1)(K)(I) and 1437d(j)(2) are being waived, suspended, or superseded. HUD is undertaking this demonstration in accordance with 42 U.S.C. 1437d(j)(1)(K)(I) to ensure agencies are not penalized for circumstances beyond their control. All rights under 42 U.S.C. 1437d(j)(2) and as provided in 24 CFR 902.64, 902.66, 902.68 and 902.69, which deal with technical reviews and rights to petition and appeal troubled performer designation continue to apply.

Prior to the demonstration, HUD will publish a minimum, standardized list of exigent health and safety (EH&S) items to be included in the CTQ inspection that POAs participating in the demonstration must correct, remedy, or act to abate within 24 hours of receipt of notification of such deficiencies from HUD to include submitting evidence of repair, correction, or abatement (*e.g.,* closed work order and photo) to HUD through NSPIRE systems. At this time, HUD expects this list to be similar to the exigent health and safety items in UPCS and the list of published life-threatening conditions published as part of the UPCS–V demonstration. If at the time of the inspection, EH&S and H&S deficiencies are observed, the inspector will provide a list of such deficiencies to the POA that must be corrected and closed with HUD within established timeframes. As part of the demonstration, HUD will work with POAs to establish a process for validating repair of H&S deficiencies that do not require repair within 24 hours but must be corrected with evidence of the repair being submitted through NSPIRE systems. This collaborative effort will include determining reasonable times for repair for H&S deficiencies. Also, HUD will explore options to better address the pervasiveness of deficiencies throughout a property while retaining statistical samples within its protocols.

As part of the demonstration, HUD will inspect properties that have been selected through a voluntary application and selection process with the goal of ensuring the consistency, accuracy, and objectivity of the new indicators. In addition to general feedback, POAs will be provided the opportunity to participate in formal focus groups to review results and provide feedback on the indicators. HUD will inspect participating properties at least once during the demonstration using the NSPIRE standards. During the demonstration, HUD will explore multiple sampling formulas to determine the optimal sampling rates for both units and buildings. HUD will also explore the feasibility of implementing the new standards and protocols and identify refinements that are needed to fully implement the new model nationwide.

The demonstration will continue for at least two years and may be extended by subsequent **Federal Register** notice so HUD has sufficient information to evaluate the success of the new standards and protocols and assurance that the NSPIRE Model is achieving consistent results.

C. Data Standardization and Information Exchange of Inspections and Related Information

For participating POAs, this part of the demonstration will test the transition to automated systems/processes through which POAs will submit inspection results, work orders, certificates, and property profiles. POAs will be permitted to use their own software to perform their inspections; however, HUD will provide software to those POAs who request it. This software will be mobile-based so the POA will need an Android or iOS device. For POAs with their own IT systems, including POA-produced inspection software, HUD will work with participating agencies to establish the JavaScript Object Notation (JSON) or equivalent data standards for transferring physical inspection information between the POA and HUD systems. All IT configuration requirements will be made available for review on HUD's NSPIRE website. HUD will require POAs participating in this part to document and submit all inspections electronically to HUD. HUD anticipates that it will then review, analyze, and where appropriate, transform the inspection data into value-added information, such as relative risk reports, for electronic transmission back to the POAs for their use.

POAs participating in this part of the demonstration who choose to use their own software will be required to have and maintain the IT resources and support necessary to interface with HUD's systems using industry standard file transfer protocols such as Simple Object Access Protocol (SOAP) and Representational State Transfer (REST) standards and complying with all security requirements. Some data exchange may be via transfer of flat files (*e.g.,* spreadsheets), especially during the early portions of the demonstration.

D. Oversight and Performance Improvement

In this part of the demonstration, HUD will explore whether and how POAs are consistently identifying maintenance needs; remedying such needs appropriately and in a timely manner; and accurately reporting unit-based inspection outcomes to HUD. As part of the demonstration, HUD will analyze POAs' abilities to effectively evaluate units as decent, safe, and sanitary. Further, HUD will test the capability of NSPIRE to identify PHAs and properties that are at risk of falling into non-compliance before the next regularly scheduled inspection.

E. Participants

HUD plans to select POAs from all regions from within a nationwide pool of applicants with properties in HUD's Region III receiving preference as the initial cohort. Properties within other regions will be added on a regional, rolling basis throughout the demonstration period. Solicitation and application information will be made available through HUD's ''NSPIRE'' website at: *https://www.hud.gov/program_offices/public_indian_housing/reac/nspire.*

HUD is seeking participation from 4,500 properties across all regions; however, HUD will seek to increase this number if more data and/or information are required. Further, HUD may request POAs participating in any part of the demonstration to participate in focus groups, conference calls, and training sessions on policies and procedures. If required, HUD may make training available to participating POA inspectors, administrators, and quality control staff on the new inspection protocol, including how to use the inspection software. POAs will be responsible for scheduling, assigning inspectors, and conducting their self-inspections. POAs may incrementally submit their annual inspection results or submit the results all at once;

[8] *Public Housing Assessment System (PHAS): Physical Condition Scoring Notice and Revised Dictionary of Deficiency Definitions; Notice;* **Federal Register**, Volume 77, Number 154, Part II, Department of Housing and Urban Development, August 9, 2012.

however, POAs must meet the standard of 100 percent unit inspections annually.

Participating POAs will generally not be subject to both an NSPIRE and a Uniform Physical Condition Standards (UPCS) inspection. If during the NSPIRE demonstration, however, HUD believes substandard conditions exist, the Department, at its discretion, may order and execute a UPCS inspection to confirm substandard conditions and consequently apply any available remedies, sanctions, or other actions as determined by the results. The triggers for a UPCS inspection for a property accepted into the NSPIRE demonstration may include but are not limited to: The identification by HUD, through the NSPIRE inspection or other means, of significant, serious conditions at a property that call into question its prior UPCS scores or its current ability to provide safe, habitable housing to residents; a property not timely correcting healthy and safety issues; or other administrative information available to HUD that would give the Department reason to believe the property is unsafe or financially at risk.

Properties subject to an existing HUD Compliance, Disposition, and Enforcement or Corrective Action Plan will not be included in the demonstration. Any property with a current score of 70 or below but not currently under an enforcement action will be considered on a case-by-case basis but may be subject to both an NSPIRE and UPCS inspection.

F. Scoring

During the demonstration, HUD will develop and test a new scoring model that prioritizes H&S defects over function and appearance to achieve HUD's objectives of better identification of substandard properties and protection of residents. The NSPIRE scoring model to be tested in the demonstration will vary from the current Public Housing Assessment System scoring model.[9] Since the scoring model will be under development, any NSPIRE inspection scores HUD issues during the demonstration will be advisory and therefore, will only be used to refine the demonstration. If a POA participating in the demonstration has an administrative requirement for a UPCS inspection score, HUD may grant a POA's request for a UPCS inspection. HUD reminds properties that while NSPIRE scores will remain advisory during the demonstration, as today, a pattern of serious and substantial conditions that indicate a wide-spread failure to provide acceptable basic housing could subject the property to a UPCS inspection and any available remedies, sanctions, or other actions as determined by the results.

IV. Assessing the Demonstration

The demonstration will provide HUD with data on the NSPIRE Model, including its ability to improve HUD's oversight and risk management capabilities through a reliable, repeatable inspection process that better identifies health and safety risks to residents, before implementing such a program nationwide. The demonstration is anticipated to begin 60 days following the date of publication of this notice, with POAs being added on a rolling basis. Throughout the demonstration, HUD will assess its success and determine how to best implement the new model on a permanent basis throughout the country. In evaluating the demonstration, HUD will assess whether the use of the NSPIRE inspection protocol produces (1) more consistent and accurate results, (2) data standardization and a reliable and less-burdensome method for information exchange, and (3) better indications of substandard properties. Factors HUD may consider during its assessment include but are not limited to:

- Definition of Success
  - The new model provides a high probability (reasonable assurance) of detection of a property that is not meeting minimum condition standards.
- Consistency
  - Did interrater reliability among inspectors improve?
  - Were standards applied uniformly to the same inspectable item at multiple locations?
- Accuracy
  - Did cited deficiencies align to the inspector's overall professional judgment of the property/unit? (For example, a quality scale of 1–5 with ''1'' being worst and ''5'' being best.)
  - How did the NSPIRE result compare to previous inspection results?
  - Did all citable deficiencies have a rationale and an authoritative reference to describe potential hazards?
  - Were the rationales valid and did they accurately describe potential harm?
- Objectivity
  - From a linguistic standpoint, have the standards been written to remove as much subjective language as possible? Do they provide unequivocal ways to measure or prove the deficiency exists?
  - When presented to a focus group, is there a uniform understanding of the language among members?
  - In the field, has the need for an inspector to apply personal judgment, interpretation, or opinion been reduced or, if appropriate, even eliminated?
- Defensibility (Validity)
  - Do the standards focus on items that have the most impact on residents (H&S, function—less so for condition)?
  - Is there agreement on the rationales (potential harm) for most of the deficiencies?
  - Are the standards up-to-date? Do they align to expectations of housing quality and advances in building science and technology (*e.g.,* carbon monoxide, mold, lead, Americans with Disabilities Act, disaster resilience)?

V. Policy Deviations

For the purpose of the demonstration only, HUD will invoke the following policy deviations:

- For the purposes of meeting various program requirements, HUD will extend the inspection periodicity for demonstration properties based on their most recent inspection score in HUD's Physical Assessment Subsystem (PASS) for two years rather than on the periodicity outlined in 24 CFR 200.855, 200.857 and 902.13. All other statutory and regulatory requirements still apply. In other words, HUD is generally waiving the regulatory requirement to undergo a UPCS inspection for the duration of the demonstration for participating properties. However, as noted elsewhere, the Department, at its discretion, may order and execute a UPCS inspection (or equivalent) to confirm substandard conditions and consequently apply any available remedies, sanctions, or other actions as determined by the results, particularly in the event of the demonstration extending beyond a two-year period.
- Inspectable Areas: HUD will use an inspection protocol with only 3 inspectable areas (unit, outside, inside) rather than the 5 areas contained in 24 CFR 902.3.
- EH&S and H&S Deficiencies Repair: POAs will close out all EH&S and H&S deficiencies electronically. Further, in addition to EH&S and H&S deficiencies outlined in the current Dictionary of Deficiency Definitions,[10] HUD will

[9] *Public Housing Assessment System (PHAS): Physical Condition Scoring Notice and Revised Dictionary of Deficiency Definitions; Notice;* **Federal Register**, Volume 77, Number 154, Part II, Department of Housing and Urban Development, August 9, 2012.

[10] *Public Housing Assessment System (PHAS): Physical Condition Scoring Notice and Revised Dictionary of Deficiency Definitions; Notice;* **Federal Register**, Volume 77, Number 154, Part II,

Continued

inspect for the presence and function of carbon monoxide detectors. This constitutes an affirmative requirement for the installation of carbon monoxide detectors for properties/units that contain a fuel-burning appliance, fuel-burning fireplace, or are in buildings with attached private garages with an opening connected to the dwelling unit or sleeping unit.

• For the purposes of meeting various program requirements, HUD will carry forward for demonstration properties the most recent inspection score in HUD's Physical Assessment Subsystem (PASS).

VI. Solicitation of Public Comment

In accordance with section 470 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 3542), HUD is seeking comment on the demonstration. Section 470 provides that HUD may not begin a demonstration program not expressly authorized by statute until a description of the demonstration program is published in the **Federal Register** and a 60-day period expires following the date of publication, during which time HUD solicits public comment and considers the comments submitted. HUD has established a public comment period of 60 days. The 60-day public comment period allows HUD the opportunity to consider those comments and be in a position to commence implementation of the demonstration following the conclusion of the public comment period. While HUD solicits comment on all aspects of the demonstration, HUD specifically solicits comment on the following:

1. Are there specific H&S deficiencies that should be added to the current list of EH&S or H&S deficiencies?

2. Is the new model's focus on health, safety, and function while limiting the inspection of some condition and appearance deficiencies appropriate and acceptable?

3. Are there other property characteristics HUD should consider in its inspection and scoring protocols?

4. What inspection incentives should HUD consider providing to high-performing properties and what criteria should be included to determine that status?

5. Are there aspects of the new model that would be a higher administrative burden than the current model?

6. Are there are any low-value aspects of the UPCS model that HUD should not carry forward into NSPIRE?

HUD requests that POAs interested in participating in the demonstration follow the application guidance available on HUD's ''NSPIRE'' website: *https://www.hud.gov/program_offices/public_indian_housing/reac/nspire.*

Dated: August 13, 2019.

Dominique G. Blom,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 2019–17910 Filed 8–20–19; 8:45 am]

BILLING CODE 4210–67–P

Department of Housing and Urban Development, August 9, 2012.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–121508–18]

RIN 1545–BO97

Multiple Employer Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a notice of proposed rulemaking.

SUMMARY: This document contains a correction to a notice of proposed rulemaking (REG–121508–18) that was published in the **Federal Register** on July 3, 2019. The proposed regulations relate to the tax qualification of plans maintained by more than one employer.

DATES: Written or electronic comments and requests for a public hearing are still being accepted and must be received by October 1, 2019.

ADDRESSES: Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–121508–18) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment received to its public docket, whether submitted electronically or in hard copy. Send hard copy submissions to: CC:PA:LPD:PR (REG–121508–18), 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–121508–18), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Pamela Kinard at (202) 317–6000 or Jamie Dvoretzky at (202) 317–4102; concerning submission of comments or to request a public hearing, email or call Regina Johnson at *fdms.database@irscounsel.treas.gov* or (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The proposed regulations that are the subject of this correction are under section 413 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG–121508–18) contains errors which may prove to be misleading and need to be clarified.

Correction of Publication

Accordingly, the notice of proposed rulemaking (REG–121508–18) that was the subject of FR Doc. 2019–14123, published at 84 FR 31777 (July 3, 2019), is corrected to read as follows:

■ 1. On page 31781, second column, the third line from the top of the second full paragraph, the language ''that, if a 413(c)'' is corrected to read ''that, if a section 413(c)''.

■ 2. On page 31781, second column, the eleventh line from the bottom of the second full paragraph, the language ''will be conditioned on the 413(c) plan'' is corrected to read ''will be conditioned on the section 413(c) plan''.

■ 3. On page 31783, first column, the last line of the second full paragraph, the language, ''small employers to adopt these plans.'' is corrected to read ''small employers adopting these plans.''.

■ 4. On page 31784, first column, the last line of the first full paragraph, the language ''employees and employee participants.'' is corrected to read ''employers and employee participants.''.

■ 5. On page 31784, third column, the eleventh line from the bottom of the first full paragraph, the language ''included both administrative and'' is corrected to read ''includes both administrative and''.

■ 6. On page 31785, first column, beginning on the fifth line from the bottom of the page, the language ''to attach auditor's reports'' is corrected to read ''to attach auditors' reports''.

■ 7. On page 31788, third column, the eighth line from the top of the first full paragraph, the language ''employer and to the Department of Labor.'' is corrected to read ''employer (and their beneficiaries) and to the Department of Labor.''.

§ 1.413–2 [Corrected]

■ 8. On page 31794, the second column, the sixth line of paragraph (g)(7)(i)(A),

the language, ''(g)(7)(iii) of this section.'' is corrected to read ''(g)(7)(iii) of this section;''.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) .

[FR Doc. 2019–17849 Filed 8–20–19; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 19–126, 10–90; FCC 19–77]

Rural Digital Opportunity Fund, Connect America Fund

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes to establish the Rural Digital Opportunity Fund and seeks comment on its overall approach in doing so.

DATES: Comments are due on or before September 20, 2019 and reply comments are due on or before October 21, 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 document, you should advise the contact listed in the following as soon as possible.

ADDRESSES: Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. The Commission directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to use a table of contents, regardless of the length of their submission. The Commission also strongly encourages parties to track the organization set forth in the Notice of Proposed Rulemaking in order to facilitate its internal review process.

People With Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

FOR FURTHER INFORMATION CONTACT: Alexander Minard, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket Nos. 19–126, 10–90; FCC 19–77, adopted on August 1, 2019 and released on August 2, 2019. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW, Washington, DC 20554 or at the following internet address: *https://www.fcc.gov/document/fcc-proposes-204-billion-rural-digital-opportunity-fund-0.*

I. Introduction

1. Broadband access is critical to economic opportunity, job creation, education and civic engagement. That is why closing the digital divide is the Commission's top priority. For communities throughout our nation to thrive and prosper, their residents must have the option to obtain high-speed internet access.

2. Last year, the Commission took a major step forward in expanding broadband access to many parts of rural America. As a result of the Commission's successful Connect America Fund (CAF) Phase II auction, the Commission has begun providing $1.488 billion in universal service support over ten years to build high-speed broadband service to over 700,000 households and small businesses in 45 states, with 99.75% of locations receiving at least 25/3 Mbps service and more than half receiving at least 100/20 Mbps service.

3. But more work remains to be done. For example, more than 10 million households and small businesses in price cap areas still lack access to critical broadband services that offer speeds of at least 25 megabits per second (Mbps) downstream and 3 Mbps upstream in unserved census blocks, including more than 7 million in rural areas. In this document, the Commission proposes to build on the success of the CAF Phase II auction by establishing the Rural Digital Opportunity Fund, which will commit at least $20.4 billion over the next decade to support high-speed broadband networks in rural America. Because the CAF Phase II auction secured higher quality services for consumers at a lower cost to the Universal Service Fund (Fund), the Commission proposes to conduct a multi-round, reverse, descending clock auction that favors faster services with lower latency and encourages intermodal competition. And in light of the need to bring service both to consumers in wholly unserved areas as well as those living in partially served areas, the Commission proposes to assign funding in two phases: Phase I will target those areas that current data confirm are wholly unserved, and Phase II will target those areas that are partially served as well as any areas not won in the first phase. By relying on a two-phase process, as the Commission did with the Connect America Fund, the Commission can move expeditiously to commence an auction in 2020 while

also ensuring that other areas are not left behind by holding a second auction.

4. The framework the Commission proposes in this document represents its single biggest step yet to close the rural digital divide and will connect millions more rural homes and small businesses to high-speed broadband networks.

II. Discussion

5. Closing the digital divide and bringing robust, affordable high-speed broadband to all Americans is the Commission's top priority. By improving access to modern communications services, the Commission can help provide individuals living in rural America with the same opportunities as their urban counterparts. The Rural Digital Opportunity Fund the Commission proposes is a critical next step in its high-cost program and ongoing effort to close the digital divide. By committing at least $20.4 billion over the next ten years, the Commission will bring broadband service at minimum speeds of 25/3 Mbps to millions of Americans living in the areas that need it most—including those living on Tribal lands. And the Commission's two-phase approach will ensure that completely unserved areas are prioritized, so that support can begin to flow quickly while it works to improve the data needed to most efficiently target support over the longer term. At the same time, by awarding support through a competitive bidding mechanism and targeting investment to areas where there is currently no private sector business case to deploy broadband without assistance, the Commission will ensure that its limited universal service support is awarded in an efficient and cost-effective manner, without overbuilding to areas that already have service. Finally, the proposals the Commission adopts in this document includes measures to require accountability, so the Commission can ensure that its public investments are used wisely to deliver intended results.

6. The Commission seeks comment on its overall approach in establishing a Rural Digital Opportunity Fund. The Commission proposes that its adoption of a Rural Digital Opportunity Fund framework will be guided by the following goals: (1) Ensuring that high-speed broadband is made available to all Americans quickly, and at an affordable price; (2) reducing waste and inefficiency in the high-cost program and promoting the use of incentive-based mechanisms to award support; (3) requiring accountability to ensure that public investments are used wisely to deliver intended results; and (4) minimizing the contribution burden. Does the framework the Commission proposes strike the right balance in helping to achieve those proposed objectives? Are there any other goals that should guide this process? How can the Commission measure progress against these proposed goals? In commenting on the detailed proposals that are in this document, parties are invited to discuss how the proposals (or any alternatives) can best be focused to achieve the Commission's proposed goals. Moreover, the Fund is a federal-state partnership. Are there ways the Rural Digital Opportunity Fund can facilitate that partnership?

7. The approach the Commission takes in this document leverage its experience with the CAF program, and the CAF Phase II auction in particular. But it also acknowledges that market realities have changed since the CAF framework was first established in 2011. Consumers' demand for faster speeds has grown dramatically—and the market has largely been able to deliver. Speeds of 25/3 Mbps are widely available, and 25/3 Mbps is the Commission's current benchmark for evaluating whether a fixed service is advanced-telecommunications capable. Thus, the item proposes a 25/3 Mbps service availability threshold as the basis for establishing eligible areas. Demand for greater speeds will continue to rise. The framework the Commission proposes in this document therefore takes a flexible approach that prioritizes faster, gigabit speeds. The Commission's proposals also acknowledge that, despite its expectation that broadband would be deployed to many areas without high-cost support, some of these areas remain unserved. The NPRM proposes including these areas in the Rural Digital Opportunity Fund auction. In light of these dynamic marketplace changes, the Commission believes that a new support mechanism is better able to meet its objectives than continuing with the existing CAF framework. The Commission seeks comment on this conclusion.

8. The Commission proposes adopting a term of support of 10 years for the Rural Digital Opportunity Fund. For the CAF Phase II auction, the Commission acknowledged that ''some entities may be unwilling to make necessary long-term investments to build robust future-proof networks in areas that are uneconomic to serve absent continued support beyond a five-year term'' and that ''providing support for a period of ten years may stimulate greater interest'' in the auction. The Commission believes that the 10-year term of support was partially responsible for the robust participation that occurred in the CAF Phase II auction and expect that the same principles regarding encouraging long-term investments and auction participation will also apply to the Rural Digital Opportunity Fund. Thus, the Commission proposes to adopt the same support term here. The Commission seeks comment on this proposal.

9. The Commission proposes a budget of at least $20.4 billion for the Rural Digital Opportunity Fund. The budget is premised on the CAM estimated cost of deploying a high-speed broadband network to all locations in wholly unserved price cap census blocks that exceed the existing high-cost threshold of $52.50 per-location per-month, and with that cost capped at $198.60. These census blocks are considered wholly unserved because no provider is offering both voice service as well as 25/3 Mbps terrestrial fixed broadband service. The Wireline Competition Bureau (Bureau) staff estimate that there are 3.9 million locations in these census blocks. The Commission seeks comment on this budget and this analysis.

10. Of this budget, the Commission proposes to make available at least $16 billion for Phase I of the Rural Digital Opportunity Fund, and to make the remaining $4.4 billion from the total budget, as well as any unawarded funds from Phase I, available for Phase II. Three considerations guide the Commission. First, $16 billion reflects the sum of the total amount of CAF Phase II model-based support currently received by price cap carriers ($1.5 billion per year) and the support amount the Commission once envisioned for the Remote Areas Fund (at least $100 million per year). Second, the budget balances the Commission's goals of ensuring greater broadband deployment in rural America and efficient use of the Fund. The Commission proposes a budget that will lead to more robust inter-area competition in the auction, which will lead to service being provided at a lower cost in the areas awarded support. In the CAF Phase II auction, much of the bidding was driven by the fact that the total budget ($2 billion) was significantly less than the aggregate reserve prices of all areas in the auction ($6 billion). The inter-area competition, as well as the intra-area competition, ultimately drove down the support required to provide service from a model-estimated $5 billion to only $1.488 billion. The Commission seeks to have a similarly efficient outcome for Phase I of the Rural Digital Opportunity Fund and hence proposes to have an aggregate reserve price that well exceeds

the auction budget by expanding the eligible census blocks beyond those used in calculation of the budget, modifying the reserve prices from those used in the budget calculation, and adjusting the budget from $20.4 billion to $16 billion. Third, the fact that any areas unawarded in the Phase I auction will roll over into the Phase II auction militates in favor of ensuring there is adequate inter-area competition in Phase I—the Commission's two-phase plan for the Rural Digital Opportunity Fund means it can ensure an efficient auction while furthering its commitment to universal service. The Commission seeks comment on this proposal, and on alternatives for how to appropriately size the Phase I budget.

11. Finally, the Commission recognizes that achieving its universal service objectives is an ongoing process. As technologies and service levels evolve, fulfilling the Commission's objective of providing access in high-cost areas to services that are reasonably comparable to those available in urban areas means continually assessing the need to support services that compare to the ever-improving standard of advanced services in urban areas. Will the methodology the Commission proposes for the Rural Digital Opportunity Fund Phase I budget result in a budget that will cost-effectively achieve coverage to additional locations consistent with the public service obligations the Commission proposes for the Rural Digital Opportunity Fund? Should the Commission reassess the adequacy of the total budget after the Phase I auction?

12. Given the success of the CAF Phase II auction, the Commission proposes to use a substantially similar reverse auction mechanism to distribute support to providers that commit to offer voice and broadband services to fixed locations. Specifically, the Commission proposes to use a multi-round, descending clock auction to identify the providers that will be eligible to receive support and to establish the amount of support that each bidder will be eligible to receive using procedures substantially similar to those used in the CAF Phase II auction. The Commission reiterates its preference for a multi-round auction because multiple rounds enable bidders ''to make adjustments in their bidding strategies to facilitate a viable aggregation of geographic areas in which to construct networks and enable competition to drive down support amounts.'' The Commission proposes that the Rural Digital Opportunity Fund descending clock auction will consist of sequential bidding rounds according to an announced schedule providing the start time and closing time of each bidding round. And the Commission proposes to rely on its existing general rules regarding competitive bidding for universal service support, with specific procedures to be developed through its standard Public Notice process.

13. The Commission proposes that bids for different areas at specified performance tier and latency levels will be compared to each other based on area reserve prices, and performance tier and latency weights. Likewise, the Commission proposes to use weights to account for the different characteristics of service offerings that bidders propose to offer when ranking bids. The Commission proposes that bids for different service tiers will be considered simultaneously, so bidders that propose to meet one set of performance standards will be directly competing against bidders that propose to meet other performance standards. As the Commission did in the CAF Phase II auction, it proposes calculating the implied annual support amount at a bid percentage by adjusting an area-specific reserve price for the bid percentage and the weights for the performance tier and latency combination of the bid, with implied support not exceeding the reserve price.

14. The Commission proposes to include all Phase I eligible areas nationwide in one auction, so that bidders compete for support across all areas at the same time. And the Commission seeks comment on whether census block groups containing one or more eligible census blocks is an appropriate minimum geographic unit for bidding for the Rural Digital Opportunity Fund. Given that the Rural Digital Opportunity Fund auctions will be much larger than the CAF Phase II auction, would a larger minimum geographic unit, like census tracts or counties, be more manageable? Are there other or more efficient ways to group census blocks for purposes of the auction?

15. The Commission seeks comment on all these proposals. The Commission also seeks comment on whether there are any rule changes that it should consider for the Rural Digital Opportunity Fund auction that would lead to greater efficiency or better outcomes for the Fund and rural consumers.

16. *Public Interest Obligations.* Given the success of the CAF Phase II auction in obtaining commitments from winning bidders for the deployment of robust service from a variety of service providers, the Commission proposes to adopt similar technology-neutral standards for services supported by the Rural Digital Opportunity Fund. Specifically, the Commission proposes to permit bids in the Baseline, Above-Baseline, and Gigabit performance tiers with the same speed and usage allowance requirements as the CAF Phase II auction and to place low latency or high latency bids meeting the same latency requirements as the CAF Phase II auction high and low latency bidders. Specifically, Baseline performance means 25/3 Mbps speeds with a 150 gigabytes (GB) monthly usage allowance or a monthly usage allowance that reflects the average usage of a majority of fixed broadband customers, whichever is higher, Above-Baseline performance means 100/20 Mbps speeds with 2 terabytes (TB) of monthly usage, and Gigabit performance means 1 Gbps/500 Mbps speeds with a 2 TB monthly usage allowance. In turn, low latency means 95% or more of all peak period measurements of network round trip latency are at or below 100 milliseconds, and high-latency means 95% or more of all peak period measurements of network round trip latency are at or below 750 milliseconds and a demonstration of a score of four or higher using the Mean Opinion Score with respect to voice performance. Authorized support recipients would have the flexibility to use any fixed broadband technology to meet the required performance obligations and service milestones associated with their winning bids. Like all high-cost eligible telecommunications carriers (ETC), Rural Digital Opportunity Fund support recipients would be required to offer standalone voice service and offer voice and broadband services at rates that are reasonably comparable to rates offered in urban areas. The Commission seeks comment on these proposals. The Commission also seeks comment on whether it should tie the capacity requirements of all tiers to the average usage of a majority of fixed broadband customers, should it increase above the minimums the Commission establishes here.

17. The Commission proposes not to include a Minimum performance tier, which required 10/1 Mbps broadband in the CAF Phase II auction. The Commission has since recognized that ''access to 25/3 Mbps broadband service is not a luxury for urban areas, but important to [all] Americans where they live.'' The Commission seeks comment on this proposal.

18. As in the CAF Phase II auction, the Commission proposes using weights to reflect its preference for higher speeds, higher usage allowances, and low latency. There the Commission

adopted weights of 65 for the Minimum performance tier, 45 for the Baseline performance tier, 15 for the Above Baseline performance tier, and 0 for the Gigabit performance tier, as well as a weight of 25 for high latency bids and 0 for low latency bids. Accordingly, the spread between the best and least performing tiers was 90 points. With the Commission's proposed elimination of the Minimum performance tier, it can maintain that same 90-point spread between the best and least performing tiers in the Rural Digital Opportunity Fund auction by adjusting the weights for each tier as proposed in the following. To encourage the deployment of higher speed services, and in recognition that terrestrial fixed networks may serve as a backbone for 5G deployments, these proposed weights favor higher-than Baseline speeds and low-latency services. The Commission seeks comment on this proposal. Alternatively, should the Commission increase the 90-point spread between the best and least performing tiers to something higher—*e.g.,* 95% or more?

01–P

Proposed Performance Tiers, Latency, and Weights

Performance Tier	Speed	Monthly Usage Allowance	Weight
Baseline	≥ 25/3 Mbps	≥ 150 GB or U.S. median, whichever is higher	50
Above Baseline	≥ 100/20 Mbps	≥ 2 TB or U.S. median, whichever is higher	25
Gigabit	≥ 1 Gbps/500 Mbps	≥ 2 TB or U.S. median, whichever is higher	0

Latency	Requirement	Weight
Low Latency	≤ 100 ms	0
High Latency	≤ 750 ms & MOS ≥ 4	40

19. To ensure that Rural Digital Opportunity Fund support recipients meet the relevant speed, usage allowance, and latency requirements, the Commission proposes subjecting them to the same framework for measuring speed and latency performance and the accompanying compliance framework as are applicable to all other recipients of high-cost support required to serve fixed locations. The adopted framework generally provides high-cost support recipients flexibility in choosing solutions to conduct the required testing.

20. The Commission seeks comment on these proposals and on whether any alternative deployment obligations, performance requirements, weights, or testing methodologies should be adopted for recipients of Rural Digital Opportunity Fund support. Commenters proposing alternatives should explain how their proposal will balance the objectives of maximizing the Commission's limited budget and guarding against widening the digital divide by ensuring that rural Americans do not fall further behind those living in urban areas.

21. *Service Milestones.* The Commission also proposes to adopt the same service milestones for the Rural Digital Opportunity Fund that it adopted for the CAF Phase II auction. Specifically, the Commission proposes that support recipients complete construction and commercially offer

voice and broadband service to 40% of the requisite number of locations in a state by the end of the third year of funding authorization, and an additional 20% in subsequent years, with 100% by the sixth year. As an alternative, should the Commission require support recipients to build out more quickly earlier in their support terms by offering voice and broadband to 50% of the requisite number of locations in a state by the end of the third year of funding authorization? A support recipient would be deemed to be commercially offering voice and/or broadband service to a location if it provides service to the location or could provide it within 10 business days upon request. All support recipients would also have to advertise the availability of their services through their service areas. Compliance would be determined on a state-level basis so that a support recipient would be in compliance with a service milestone if it offers service meeting the relevant performance requirements to the required number of locations across all of the awarded areas included in its winning bids in a state.

22. The Commission also gave CAF Phase II auction support recipients some flexibility in their service obligations to address unforeseeable challenges to meeting those obligations. The Commission proposes to adopt the same flexibility with an accompanying reduction in support that it adopted for the CAF Phase II auction in recognition that facts on the ground may necessitate some flexibility regarding the final service milestone. Specifically, support recipients that have offered service to at least 95%, but less than 100%, of the number of funded locations at the end of the support term will be required to refund support based on the number of funded locations left unserved in that state. The Commission seeks comment on these proposals.

23. The Commission recognizes that there may be some disparity between the number of locations specified by the Connect America Cost Model (CAM) and the ''facts on the ground.'' For the offer of model-based support, the Commission directed the Bureau to address situations where a price cap carrier brings to the Bureau's attention any known disparity. The Commission notes that no price cap carrier receiving CAF Phase II model-based support has asked the Bureau to modify its number of required locations in a state. For the CAF Phase II auction, the Commission will permit support recipients to bring to its attention disparities between the number of locations estimated by the CAM and the number of locations actually on the ground in the eligible census blocks within their winning bid areas in a state. If a support recipient could sufficiently demonstrate that it is unable to identify enough actual locations on the ground across all of the census blocks for which it won support in a state, its deployment obligation and support will be reduced on a pro rata basis. The Commission proposes to follow this same course here and directs the Bureau to establish a process for such adjustments. As an alternative, should the Commission use a different source to address location disparities? Likewise, if the Digital Opportunity Data Collection is adopted, should different rules apply for Phase I and Phase II of the proposed auction?

24. The Commission also seeks comment on whether there are additional measures it could adopt that would help ensure that Rural Digital Opportunity Fund support recipients will meet their third-year service milestones, and further seeks comment on what steps the Commission should take if it appears support recipients will not be able to meet their service milestones.

25. *Reporting Requirements.* To ensure that support recipients are meeting their deployment obligations, the Commission proposes to adopt the same reporting requirements for the Rural Opportunity Digital Fund that the Commission adopted for the CAF Phase II auction. Specifically, the Commission proposes requiring Rural Digital Opportunity Fund support recipients to annually file the same location and technology data in the High Cost Universal Broadband (HUBB) portal and to make the same certifications when they have met their service milestones, and the Commission would encourage them to file such data on a rolling basis. The Commission also proposes requiring Rural Digital Opportunity Fund support recipients to file the same information in their annual FCC Form 481s that it requires of the CAF Phase II auction support recipients. Specifically, in addition to the certifications and information required of all high-cost ETCs in the FCC Form 481, Rural Digital Opportunity Fund support recipients would be required to certify each year after they have met their final service milestone that the network they operated in the prior year meets the Commission's performance requirements, and support recipients would be required to identify the number, names, and addresses of community anchor institutions to which they newly began providing access to broadband service in the preceding calendar year as well as identify the total amount of support that they used for capital expenditures in the previous calendar year. Moreover, support recipients would need to certify that they have available funds for all project costs that will exceed the amount of support they will receive in the next calendar year.

26. Additionally, Rural Digital Opportunity Fund support recipients would be subject to the annual section 54.314 certifications, the same record retention and audit requirements, and the same support reductions for untimely filings as all other high-cost ETCs. In addition, support recipients that are designated by the Commission would need to self-certify.

27. The Commission seeks comment on these proposals and whether it needs to make any adjustments to this reporting framework for Rural Digital Opportunity Fund support recipients. To the extent commenters propose that the Commission adopts different public interest obligations or service milestones or make other changes to relevant proposals, they should also address whether the Commission needs to make any adjustments to its reporting framework to account for the proposed changes.

28. To minimize the administrative burden on the Commission, the Universal Service Administrative Company (USAC), and Rural Digital Opportunity Fund support recipients, the Commission also seeks comment on how it can align service milestones, service milestone certifications, and location reporting deadlines for all Rural Digital Opportunity Fund support recipients, even though the long-form applicants may be authorized to receive support on different dates. For example, to minimize administrative burdens on the Commission and USAC and to simplify reporting for support recipients, should the Commission align the service milestones and reporting deadlines for the Rural Digital Opportunity Fund with those for other high-cost programs? Specifically, regardless of when a Rural Digital Opportunity Fund recipient is authorized to receive support, should each service milestone occur on a date certain, such as June 30 or December 31? Should support recipients be required to certify that they have met the applicable service milestone and to submit a list of locations where they offer service within two months of such a deadline? Are there any adjustments the Commission should make to better align the support reductions applicable to late filers with the filing deadlines?

29. *Non-Compliance Measures.* The Commission also proposes to apply the same non-compliance measures that are

applicable to all high-cost ETCs, the framework for support reductions that is applicable to high-cost ETCs that are required to meet defined service milestones, and the process the Commission adopted for drawing on letters of credit for the CAF Phase II auction. Specifically, the Commission proposes to rely on the following non-compliance tiers:

NON-COMPLIANCE FRAMEWORK

Compliance gap	Non-compliance measure
Tier 1: 5% to less than 15% required number of locations.	Quarterly reporting.
Tier 2: 15% to less than 25% required number of locations.	Quarterly reporting + withhold 15% of monthly support.
Tier 3: 25% to less than 50% required number of locations.	Quarterly reporting + withhold 25% of monthly support.
Tier 4: 50% or more required number of locations.	Quarterly reporting + withhold 50% of monthly support for six months; after six months withhold 100% of monthly support and recover percentage of support equal to compliance gap plus 10% of support disbursed to date.

30. A support recipient would have the opportunity to move tiers as it comes into compliance and will receive any support that has been withheld if it moves from one of the higher tiers to Tier 1 status during the build-out period. If a support recipient misses the final service milestone, it would have 12 months from the date of the final service milestone deadline to come into full compliance. If it does not report that it has come into full compliance, USAC would recover an amount of support that is equal to 1.89 times the average amount of support per location received in the state for that ETC over the support term for the relevant number of locations, plus 10% of the support recipient's total relevant high-cost support over the support term for that state. The same support reduction would apply if USAC later determines in the course of a compliance review that a support recipient does not have sufficient evidence to demonstrate that it is offering service to all of the locations required by the final milestone.

31. As in the CAF Phase II auction, USAC would be authorized to draw on the letter of credit to recover all of the support that has been disbursed in the event that a support recipient does not meet the relevant service milestones, does not come into compliance during the cure period, and does not repay the Commission the support associated with the non-compliance gap within a certain amount of time. If a support recipient is in Tier 4 status during the build-out period or has missed the final service milestone, and USAC has initiated support recovery as described in this document, the support recipient would have six months to pay back the support that USAC seeks to recover. If the support recipient does not repay USAC by the deadline, the Bureau would issue a letter to that effect and USAC would draw on the letter of credit to recover all of the support that has been disbursed. If a support recipient has closed its letter of credit and it is later determined that the a support recipient does not have sufficient evidence to demonstrate that it is offering service to the total number of required locations, that support recipient would be subject to additional non-compliance measures if it does not repay the Commission after six months. And like other high-cost ETCs, support recipients would be subject to other sanctions for non-compliance with the terms and conditions of high-cost funding, including but not limited to the Commission's existing enforcement procedures and penalties, reductions in support amounts, potential revocation of ETC designations, and suspension or debarment.

32. The Commission seeks comment on these proposals. To the extent that commenters recommend any changes to the proposed service milestones or other rules, they should also comment on whether their proposals would require any changes to these non-compliance measures. Commenters should also explain how their proposals encourage support recipients to comply with the Commission's rules and accomplish the Commission's oversight responsibilities, including protecting the integrity of the Fund.

33. *Additional Performance Targets.* The Commission also seeks comment on whether it should adopt additional performance targets to provide better incentives for Rural Digital Opportunity Fund support recipients to sign up customers in the eligible areas. Specifically, the Commission seeks comment on how to ensure that support recipients have sufficient incentives for support recipients to pursue customers in the eligible areas. For example, spectrum-based bidders may have capacity constraints on their systems deterring them from continuing to pursue new subscribers should an increase in capacity (but not coverage, which is already mandated by the deployment milestones) require additional capital expenditures. Since Rural Digital Opportunity Fund support may require certain providers to offer much higher data caps than they do to non-Rural Digital Opportunity Fund subscribers and price the services similarly, such providers may have an incentive to limit Rural Digital Opportunity Fund subscribers to sell their capacity to more profitable non-Rural Digital Opportunity Fund subscribers. Spectrum-based providers that do not have a network sufficient to serve most locations in a geographic area would also have an incentive to limit subscription if expanding capacity would be less profitable than limiting subscription and collecting Rural Digital Opportunity Fund subsidies based purely on deployment. Even wireline bidders may lack the proper incentives to serve additional customers in some areas, given that it may not be profitable without a per-subscriber payment to run wires from the street to the customer location and install customer premises equipment. The Commission seeks comment on whether these theoretical concerns are likely to bear out in reality and what to do to address them.

34. The Commission seeks comment on a proposal to also adopt subscribership milestones for Rural Digital Opportunity Fund support recipients. For example, such a proposal could set milestones at 70% (the subscribership level assumed by the CAM) of the yearly deployment benchmarks. Hence the first subscribership benchmark could be 28% in year three, and increase 14% each year through year six, where it could remain at 70% through the end of

the term of support. Would a subscribership rate that is lower than 70% be more appropriate to account for the unique challenges of serving rural areas? If so, what subscribership rate would better reflect such challenges? Rural Digital Opportunity Fund support recipients would have the flexibility to offer a variety of broadband service offerings as long as they offer at least one standalone voice plan and one service plan that provides broadband at the relevant performance tier and latency requirements at rates that are reasonably comparable to rates offered in urban areas. Would it be appropriate to credit subscribers to any of the broadband services that are eligible for Rural Digital Opportunity Fund support in calculating adoption rates? To account for subscriber churn that may occur during the support term, should the adoption rate be represented as a percentage of the total potential subscriber months of the locations deployed? How should the Commission and USAC account for the fact that some support recipients may meet their service milestones more quickly than the six-year build-out schedule, and the fact that some support recipients may take advantage of the flexibility to serve only 95% of the required number of locations? The Commission seeks comment on addressing this by using the minimum required deployed locations rather than actual locations deployed in the calculation of adoption rates.

35. Under this proposal, the Commission would condition a portion of the recipient's support on meeting the subscribership milestones. Specifically, the Commission would withhold an amount of support equal to however many percentage points the recipient missed its subscribership milestone by. For example, if a recipient only had 27% subscribership in year three, only 1% (28%–27%) of support would be withheld. In contrast, if a recipient only had 17% subscribership in year six, then 53% (70%–27%) would be withheld. Notably, a recipient would receive its full annual support amount in monthly payments for the first two years of initial buildout. Such an approach could be structured by providing a monthly minimum guaranteed level of funding and an additional quarterly per-subscriber payment. The Commission seeks comment on this proposal.

36. Commenters proposing that the Commission adopt such performance targets or similar measures should describe specifically how their proposals could be implemented within the Rural Digital Opportunity Fund framework to minimize the potential administrative burdens on the Commission, USAC, and service providers. For example, what type of reporting obligations should the Commission impose and what types of information should it collect to verify that a consumer is subscribing to a service as claimed? How could the Commission minimize the amount of personally identifiable information that is collected by support recipients to demonstrate that a consumer is subscribing to a service? Moreover, what measures could the Commission and USAC take to verify quickly but sufficiently a recipient's claimed subscription rate so as not to delay the disbursement of the support that is dependent on subscription rates? When should the support that is dependent on a subscription target be disbursed during the ten-year support term if an applicant's subscription rate and its build-out compliance will not be reported and verified until after the relevant support year has ended? What non-compliance measures should be taken if it is determined that an applicant has overreported its subscription rate? How should the requirement for a letter of credit be structured to provide adequate protection for the support that is guaranteed to be disbursed and the support that is dependent on meeting the subscription rate? What other safeguards should the Commission put in place?

37. Alternatively, do other aspects of the Rural Digital Opportunity Fund framework that the Commission has proposed address these concerns? For example, would the requirement that a recipient be prepared to provide service meeting the relevant public interest obligations within 10 business days of request in order to count a location as served, as well as the requirement that an ETC advertise the availability of its services throughout its service area provide adequate incentives for Rural Digital Opportunity Fund support recipients to pursue customers? Would additional performance targets deter service provider participation in the auction? Would bidders that participate in the auction increase their bids to compensate for such uncertainty? Would the further complexity added to the auction by such an approach make it difficult for bidders, particularly small bidders with limited resources, to determine how much support to bid for? Are there particular challenges associated with marketing and encouraging broadband adoption in rural areas that the Commission should consider in evaluating a subscription benchmark? The Commission seeks comment on these issues and any other issues related to adopting additional performance targets or similar measures for Rural Digital Opportunity Fund support recipients and providing incentives for support recipients to meet their obligations and sign-up customers.

38. The Commission proposes to target Rural Digital Opportunity Fund support to areas that lack access to both fixed voice and 25/3 Mbps broadband services in two stages. For Phase I, the Commission proposes to target census blocks that are wholly unserved with broadband at speeds of 25/3 Mbps. For Phase II, the Commission proposes to target census blocks that it later determines are only partially served through the Digital Opportunity Data Collection, as well as census blocks unawarded in the Phase I auction. Because the Commission will have an additional opportunity to seek comment on how best to target Phase II support as it gathers more granular data on where broadband has been actually deployed, the Commission focuses here on the areas eligible for Phase I of the auction. The Commission seeks comment on this proposal.

39. The Commission proposes to make several areas initially eligible for Phase I of the Rural Digital Opportunity Fund auction. *First,* the Commission proposes to include the census blocks for which price cap carriers currently receive CAF Phase II model-based support. *Second,* the Commission proposes to include any census blocks that were eligible for, but did not receive, winning bids in the CAF Phase II auction. *Third,* the Commission proposes to include any census blocks where a CAF Phase II auction winning bidder has defaulted. *Fourth,* the Commission proposes to include the census blocks excluded from the offers of model-based support and the CAF Phase II auction because they were served with voice and broadband of at least 10/1 Mbps. *Fifth,* the Commission proposes to include census blocks served by both price cap carriers and rate-of-return carriers to the extent that census block is in the price cap carrier's territory. The Commission proposes to use the most recent study area boundary data filed by the rate-of-return carriers to identify their service areas and determine the portion of each census block that is outside this service area. *Sixth,* the Commission proposes to include any census blocks that are currently unserved outside of price cap carriers where there is no certified high-cost ETC providing service, such as the Hawaiian Homelands, and any other

populated areas unserved by either a rate-of-return or price cap carrier. *Seventh,* the Commission proposes to include any census blocks identified by rate-of-return carriers as ones where they do not expect to extend broadband (as the Commission did with the CAF Phase II auction). The Commission seeks comment on these proposals.

40. Are there any other areas that the Commission should include in the initial list of eligible areas? For example, the Commission decided to assign support by auction to areas in legacy rate-of-return areas that are almost entirely overlapped by an unsubsidized competitor in the *December 2018 Rate-of-Return Reform Order,* 84 FR 4711, February 19, 2019. The Commission seeks comment on whether it should include these areas in the Rural Digital Opportunity Fund Phase I auction.

41. For all census blocks on the initial list of eligible areas, the Commission proposes to exclude those census blocks where a terrestrial provider offers voice and 25/3 Mbps broadband service. The Commission proposes to use the most recent publicly available FCC Form 477 data to identify these areas. The Commission also proposes to exclude census blocks where a winning bidder in the CAF Phase II auction is obligated to deploy broadband service. The Commission proposes to conduct a challenge process for the Rural Digital Opportunity Fund Phase I auction consistent with the process Commission conducted for the CAF Phase II auction, in which the Bureau released a preliminary list and map of initially eligible census blocks based on the most recent publicly available FCC Form 477 data. Because there is an inevitable lag between the reported deployment as of a certain date and when the data are publicly released, parties would be given an opportunity to identify areas that have subsequently become served. For example, the most recent publicly available FCC Form 477 was released on June 2, 2019, and reports deployment as of December 31, 2017. Similar to the CAF Phase II auction, it is likely that more recent FCC Form 477 data will be available prior to the Rural Digital Opportunity Fund auction. The final list of eligible areas would be based on the most recent publicly available FCC Form 477 data, but this would give the Bureau an opportunity to compare the preliminary list of eligible areas with the final list to identify any obvious reporting errors. The Commission seeks comment on this proposal.

42. The Commission notes one caveat in its approach: The Commission proposes to treat price cap carriers differently from other providers in the areas where they have received model-based support because it already has more granular service availability data available from such carriers. Specifically, such carriers are required to report geocoded served locations to USAC through the HUBB portal. Although price cap carriers receiving model-based support were only required to offer broadband of at least 10/1 Mbps, some may have deployed higher speeds in their supported areas. The Commission proposes to include in the Rural Digital Opportunity Fund Phase I auction census blocks in which the price cap carrier receiving model-based support is the only terrestrial provider reporting the deployment of 25/3 Mbps broadband service in that block, but has not deployed such service to all locations in the block. Locations reported as served by 25/3 Mbps service in the HUBB portal would be considered served for purposes of the Rural Digital Opportunity Fund, and the reserve price and deployment obligations associated with the census block would be adjusted accordingly. The Commission proposes to establish a filing deadline for reporting 25/3 Mbps service in price cap areas that would be equivalent to what other providers report in their FCC Form 477 filings. The Commission seeks comment on this proposal. Specifically, the Commission seeks comment on whether the use of HUBB portal data here, coupled with its broader FCC Form 477 reporting, would better determine the areas and locations that are actually unserved.

43. As in the CAF Phase II auction, the Commission proposes to include both high-cost (*i.e.,* those where the CAM estimates the cost per location to exceed $52.50 per month) and extremely-high cost locations (*i.e.,* those where the CAM estimates the cost per location to equal or exceed $198.60 per month) in the Rural Digital Opportunity Fund auction. CAF Phase II support was targeted to ''census blocks where the cost of service is likely to be higher than can be supported through reasonable end-user rates alone'' through the use of a cost benchmark that reflected the expected amount of revenue that could reasonably be recovered from end users. Given that these areas are interspersed with lower-cost locations and with areas served by unsubsidized competitors, the Commission expects that potential bidders are best able to identify the areas where they could deploy broadband-capable networks to the unserved areas in price cap territories. Moreover, the Commission notes that most of the areas that did not receive winning bids in the CAF Phase II auction are in areas the CAM identified as high-cost, and not extremely high-cost. Therefore, the Commission finds that it would be inefficient to conduct a separate Remote Areas Fund auction for so few locations.

44. In turn, the Commission proposes to include at least some census blocks where the CAM suggests the costs of deployment are below the high-cost threshold but deployment has nonetheless not yet occurred. Broadband deployment data indicate that there are 6.3 million locations with costs below the $52.50 per month benchmark that still lack high-speed broadband (including 3.4 million locations that lack even 10/1 Mbps broadband), suggesting that potential end-user revenue alone has not incentivized deployment despite the model's predictions. The Commission proposes to include at least two subsets of such census blocks in rural areas in the Rural Digital Opportunity Fund.

45. *First,* consistent with the approach the Commission established for Tribal areas for carriers that elected model-based rate-of-return support, it proposes to implement a Tribal Broadband Factor for the Rural Digital Opportunity Fund that accounts for the unique challenges of deploying broadband to rural Tribal communities. The Commission therefore proposes to include in the auction census blocks on Tribal lands meeting a $39.38 per month benchmark, which reflects a 25% decrease compared to the $52.50 funding benchmark for locations in non-Tribal census blocks.

46. *Second,* the Commission seeks comment on including other wholly unserved census blocks with estimated costs below the $52.50 benchmark. One way to do so would be to include all such census blocks that are not part of an urbanized area (with a population equal to or greater than 50,000) or an urban cluster. Another way would be to include all wholly-unserved census blocks with a particular cost benchmark below $52.50, such as $45 or $40. What approach would better serve the Commission's goal of bringing high-speed broadband service to those without such service in rural America? The Commission seeks comment on how best to ensure that rural census blocks that are wholly unserved by high-speed broadband are appropriately included in the Rural Digital Opportunity Fund.

47. For Phase I of the Rural Digital Opportunity Fund auction, the Commission proposes to use the CAM to determine the reserve prices and number of locations for each area eligible for support in the auction. The

CAM uses a combination of commercial data and census data to determine the number of residential and small business locations within each census block. Specifically, the model incorporated an address-based data set of households and business building locations and census housing unit estimates to adjust the residential locations upward or downward to match the census data. The Commission used these data to determine the deployment obligations in a state for CAF Phase II model-based support as well as the number of locations and reserve prices for the CAF Phase II auction. Consistent with this approach, the Commission proposes to rely on the CAM for the Rural Digital Opportunity Fund Phase I auction.

48. Pursuant to the Commission's general competitive bidding rules and consistent with the CAF Phase II auction procedures, it has the discretion to establish reserve prices, *i.e.,* maximum acceptable per-unit bid amounts. For the Rural Digital Opportunity Fund, an area-specific reserve price should reflect the maximum price the Commission is willing to provide in support to the area. The Commission seeks to set area-specific reserve prices that are high enough to promote participation and competition in the auction, but not so high as to violate its commitment to fiscal responsibility. As in the CAF Phase II auction, because the sum of the reserve prices for all eligible areas in the auction exceeds the budget, bidders will have to compete across areas for the limited budget. This competition serves the Commission's universal service goals and the public interest because the support amounts that result are more cost-effective than the model-based reserve prices.

49. Consistent with the CAF Phase II auction, the Commission proposes using the CAM to establish the area-specific reserve prices based on the annual cost per location, less a benchmark to account for end-user revenue, for high-cost and extremely high-cost areas. Additionally, as the Commission proposes to include census blocks that are split between a price cap carrier and rate-of-return carrier in Phase I of the auction, it proposes to use the CAM to set the reserve price for the eligible price cap portion of the respective block. Similar to the CAF Phase II auction, the Commission proposes to set a per-location per-month cap for the reserve prices of census blocks with average costs that exceed the extremely high-cost threshold. Specifically, the Commission proposes to set a reserve price equal to the difference between the high-cost threshold of $52.50 ($39.98 in Tribal areas) and the CAM-estimated cost of deployment, up to a $200 cap ($212.52 in Tribal areas). This proposal differs from the Commission's setting of reserve prices in the CAF Phase II auction in two respects. First, it accounts for the lower likely end-user revenues in Tribal areas (in the CAF Phase II auction, all areas had the same high-cost funding threshold). Second, it raises the cap from $146.10 to $200 (in the CAF Phase II auction, all areas were capped at the difference between the high-cost funding threshold and the extremely high-cost threshold of $198.60). Both of these changes are consistent with the Commission's recent decision to adjust model-based support for its second A–CAM offering to rate-of-return carriers. The Commission seeks comment on these proposals.

50. To the extent the Commission includes rural census blocks with estimated costs below the $52.50 high-cost funding threshold, it seeks comment on a methodology for using the CAM to establish reserve prices. If the Commission decides to lower the high-cost threshold outside of Tribal lands, it would propose to set reserve prices based on the new, lower threshold, such as $40 or $45. This approach would allocate an amount of support to incentivize providers to include these unserved blocks in their bids, and ultimately deploy to these areas. Likewise, this approach would have the practical effect of making only census blocks that are above the new funding threshold eligible for the auction.

51. In the alternative, if the Commission includes such census blocks based on whether they qualify as rural under a population metric, it would propose to use a uniform reserve price—*e.g.,* $5 or $10 per-location per-month—for all such wholly unserved census blocks. If the Commission were to adopt such an approach, it seeks comment on adding the same flat per-location amount to the reserve price of all areas so that areas with reserve prices above, but close to, the support threshold of $52.50 would have a minimum reserve price of at least the flat amount. What would be an appropriate uniform per-location reserve price for such areas? Should the Commission consider other means of establishing reserve prices and, if so, what values are appropriate?

52. The Commission seeks comment on its proposals for setting reserve prices and on alternatives. Commenters that propose an alternative methodology for determining the reserve price for each eligible area should explain how their methodology recognizes the variation in cost to serve different locations and how their methodology provides the Commission with the ability to establish reserve prices that reflect a maximum allowable amount of support for specific eligible areas nationwide while preserving its commitment to fiscal responsibility.

53. The Commission seeks comment on prioritizing support to certain eligible areas where broadband is significantly lacking. Specifically, the Commission seeks comment on prioritizing areas that entirely lack 10/1 Mbps or better fixed service, either at the census block or census block group level. As a way to prioritize support, the Commission seeks comment on setting a reserve price for such areas that is higher than that based strictly on the model. If the Commission were to do adopt such approach, it seeks comment on how much the reserve price should be increased. Would a 10% increase give bidders a sufficiently greater incentive to bid for support for those areas? How should the Commission consider the tradeoff between awarding more support to prioritized areas and awarding support to fewer areas overall? Should the Commission consider using targeted bidding credits instead? Should the Commission also prioritize areas entirely lacking 4G LTE mobile wireless broadband? The Commission seeks comment on other approaches that it could consider and request that parties discuss how each mechanism could best address its goal of spurring broadband deployment to areas that entirely lack broadband service, as well as the complexity of each option for bidders and how simple each would be to implement and administer as leverage the bidding system the Commission initially developed for the CAF Phase II auction.

54. The Commission expects to publish in conjunction with the final eligible areas list the reserve price for each eligible area. The Commission seeks comment on this proposal.

55. The Commission seeks comment on including a Tribal bidding credit to incentivize parties in the Rural Digital Opportunity Fund auction to bid on and serve Tribal census blocks. The Commission has previously used Tribal bidding credits in the context of spectrum auctions, as well as in the Rural Broadband Experiments. Is a Tribal bidding credit an appropriate approach for incentivizing parties to serve Tribal lands? The Commission's goal for the Rural Digital Opportunity Fund is to increase deployment to rural, low-density Tribal areas that disproportionally lack access to

adequate broadband services. The Commission seeks comment on implementing a Tribal bidding credit specifically for these rural, less dense Tribal areas.

56. In the event the Commission adopts a Tribal bidding credit for rural Tribal areas, it seeks comment on the appropriate credit to incentivize carriers to bid on and serve these areas. The Commission adopted a 25% bidding credit for the Rural Broadband Experiments and has implemented bidding credits ranging from 15% to 35% in the context of spectrum auctions. What would be an appropriate Tribal bidding credit for carriers committing to serve Tribal census blocks? How much of an increase would incentivize carriers to commit to serve rural Tribal areas? Would a 25% bidding credit for rural Tribal areas be appropriate or would a different amount be appropriate?

57. The Commission seeks comment on other proposals to ensure Tribal areas receive bids for support in the Rural Digital Opportunity Fund, especially those rural Tribal areas that are in the most need of increased deployment. The Commission encourages parties to be mindful of the Commission's competing goals of promoting deployment to Tribal lands and ensuring that scarce universal service funds are used efficiently and appropriately. The Commission asks commenters to fully consider and discuss the mechanics and implementation of any proposed approach, including how it would operate within the Commission's overall universal service budget and how, or if, it should leverage any of the Commission's existing programs or infrastructure. With this information, the Commission will be able to properly consider how to allocate most efficiently the universal service budget to bring high-speed broadband service to Indian country.

58. In this section, the Commission describes and seeks comment on the information it proposes to collect from each Rural Digital Opportunity Fund auction applicant in its short-form and long-form applications, considering lessons it learned from the CAF Phase II auction. The Commission proposes to adopt generally the same two-step application process that it adopted for the CAF Phase II auction, which the Commission found an appropriate but not burdensome screen to ensure participation by qualified applicants while protecting the Fund, the integrity of the auction, and rural consumers.

59. For the CAF Phase II auction, the Commission used a two-stage application process, consisting of a short-form and long-form process. The Commission required a pre-auction short-form application to establish eligibility to participate in the auction, relying primarily on disclosures as to identity and ownership, as well as on applicant certifications. The short-form application was reviewed as part of the Commission's initial screening process to determine the applicant's eligibility to bid for support. The short-form application helped promote an effective, efficient, and fair auction, facilitating Commission staff's evaluation of whether a potential bidder was qualified to participate in the CAF Phase II auction. Applicants whose short-form applications were deemed incomplete were given a limited opportunity to cure defects and to resubmit correct applications. Only minor modifications to an applicant's short-form application were permitted after the deadline.

60. The Commission then performed a more extensive, post-auction review of the winning bidders' qualifications based on the required long-form application, which was an in-depth presentation of the applicants' eligibility and qualifications to receive high-cost universal service support. For the CAF Phase II auction, all winning bidders were required to provide detailed information showing that they are legally, technically and financially qualified to receive support.

61. The Commission proposes that all applicants for the Rural Digital Opportunity Fund auction provide basic information in their short-form applications that will enable it to review and assess whether the applicant is eligible to participate in the auction, before an applicant commits time and resources to participating in the auction. The Commission also seeks more detailed comment in the following on whether to require less information at the short-form stage from existing providers that have been offering a voice and/or broadband service for a certain period of time as demonstrated by the applicants' FCC Form 477. The Commission also proposes to apply the same post-auction long-form application process adopted for the CAF Phase II auction. Accordingly, winning bidders applying for Rural Digital Opportunity Fund support would be required to provide the same showing in their long-form applications that they are legally, technically and financially qualified to receive support as required of applicants for CAF Phase II auction support.

62. The Commission proposes that its existing universal service competitive bidding rules should apply so that applicants will be required to provide information that will establish their identity, including disclosing parties with ownership interests and any agreements the applicants may have relating to the support to be sought through the Rural Digital Opportunity Fund auction competitive bidding process.

63. *Ownership.* The Commission proposes that its existing universal service competitive bidding rules should apply to the Rural Digital Opportunity Fund auction so that applicants will be required to provide information about ownership and agreements to establish their identity. The Commission's rules require each applicant to disclose in its short-form application information concerning its real parties in interest and its ownership, and to identify all real parties in interest to any agreements relating to the participation of the applicant in the competitive bidding. The Commission proposes requiring an applicant to also provide in its short-form application a brief description of any such agreements, including any joint bidding arrangements. Commission staff used such information to identify and resolve impermissible state overlaps prior to the CAF Phase II auction. The Commission further proposes to require every applicant to certify in its short-form application that it has not entered into any explicit or implicit agreements, arrangements, or understandings of any kind related to the support to be sought through the Rural Digital Opportunity Fund auction, other than those disclosed in the short-form application. The Commission seeks comment on this process and whether its proposals efficiently and effectively promote straightforward bidding and safeguard the integrity of the auction.

64. *Technical and Financial Qualifications Certification.* The Commission's CAF Phase II auction rules required an applicant for CAF Phase II auction support to certify that it is technically and financially capable of meeting the CAF Phase II auction public interest obligations in each area for which it seeks support. Likewise, the Commission proposes also requiring Rural Digital Opportunity Fund applicants to certify that they are technically and financially capable of meeting the applicable public interest obligations using the standards and certification criteria proposed in the following.

65. *Type of Technologies.* Next, consistent with the CAF Phase II auction, the Commission proposes that all applicants indicate the performance tier and latency for the bids that they

plan to make and describe the technology or technologies that will be used to provide service for each bid. Moreover, the Commission proposes that applicants submit with their short-form applications any information or documentation to establish their eligibility for any bidding weights or preferences that it ultimately adopts. Consistent with the CAF Phase II auction, the Commission also proposes allowing an applicant to use different technologies within a state and use hybrid networks to meet its public interest obligations.

66. *Access to Spectrum.* If a Rural Digital Opportunity Fund applicant intends to use spectrum to offer voice and broadband services, the Commission proposes, consistent with the CAF Phase II auction, that the applicant indicate the spectrum band(s) and total amount of uplink and downlink bandwidth (in megahertz) that it has access to for the last mile for each performance tier and latency combination it selected in each state. The Commission also proposes that an applicant must disclose whether it currently holds licenses for or leases spectrum. The Commission proposes the applicant must demonstrate it has the proper authorizations, if applicable, and access to operate on the spectrum it intends to use, and that the spectrum resources will be sufficient to cover peak network usage and meet the minimum performance requirements to serve all of the fixed locations in eligible areas, and the applicant must certify that it will retain its access to the spectrum for at least 10 years from the date of the funding authorization.

67. *Operational History and Submission of Financial Documents.* Consistent with the CAF Phase II auction, the Commission proposes establishing two pathways for an applicant to demonstrate its operational experience and financial qualifications to participate in the Rural Digital Opportunity Fund auction. With the first pathway, an applicant would certify, if applicable, in its short-form application that it (or its parent company if it is a wholly-owned subsidiary) has provided voice, broadband, and/or electric distribution or transmission services for at least two years prior to the short-form application filing deadline. If the applicant certifies that it (or its parent company) has been providing voice and/or broadband service for at least two years, the Commission proposes requiring it to demonstrate that it has filed FCC Form 477s as required during the relevant time period. If an applicant certifies that it (or its parent company) has been providing only electric distribution or transmission services for at least two years, the Commission proposes requiring it to submit qualified operating or financial reports that it or its parent company (if it is a wholly-owned subsidiary) filed with the relevant financial institution to demonstrate its two years of operational history along with a certification that the submission is a true and accurate copy of the forms that were submitted to the relevant financial institution. The Commission expects that this information would provide it with sufficient assurance before the auction that an entity has demonstrated that it has the ability to build and maintain a network.

68. As with the CAF Phase II auction, the Commission proposes that applicants that meet the foregoing requirements and that are audited in the ordinary course of business must also submit their (or their parent company's) financial statements from the prior fiscal year. These would include the balance sheets, income statements, and cash flow statements, that were audited by an independent certified public accountant, along with the audit opinion. If an applicant (or its parent company) is not audited in the ordinary course of business and the applicant does not submit its audited financial statements with the short-form application, the Commission proposes requiring the applicant to certify that it will submit audited financial statements during the long-form application process and requiring such applicants to submit unaudited financial statements from the prior fiscal year with their short-form application. The Commission also proposes that applicants that make such a certification and fail to submit the audited financial statements as required would be subject to the same base forfeiture of $50,000 that it adopted for the CAF Phase II auction. As with the CAF Phase II auction, the Commission expects that the additional cost of obtaining audited financial statements is outweighed by the importance of being able to assess the financial health of Rural Digital Opportunity Fund auction support recipients. The Commission notes the vast majority of CAF Phase II auction support recipients were able to obtain audited financial statements by the required deadlines.

69. If an applicant does not have at least two years of operational experience, consistent with the CAF Phase II auction, the Commission proposes requiring such applicants to submit with their short-form application their (or their parent company's) financial statements that were audited by an independent certified public accountant from the three prior fiscal years, including the balance sheets, income statement, and cash flow statements, along with a qualified opinion letter. Such applicants would also be required to submit a letter of interest from a bank meeting the Commission's eligibility requirements stating that the bank would provide a letter of credit to the applicant if the applicant becomes a winning bidder and is awarded support of a certain dollar magnitude.

70. As with the CAF Phase II auction, the Commission recognizes that if it were to adopt these two pathways, the Commission would potentially be precluding from participating in the auction interested bidders that have not been in operation long enough to meet these requirements or that are unable to meet these requirements for other reasons. However, these concerns are outweighed by the Commission's duties as the steward of universal service support. Commenters proposing alternative eligibility requirements should explain how their proposals would similarly further the Commission's responsibility to implement safeguards to ensure the public's funds are being provided to ETCs that have the requisite operational and financial qualifications and to protect consumers in rural and high-cost areas against being stranded without a service provider in the event a winning bidder or long-form applicant defaults.

71. *Due diligence certification.* Consistent with the procedures adopted for the CAF Phase II auction, the Commission proposes requiring an applicant to certify that it has performed due diligence concerning its potential participation in the Rural Digital Opportunity Fund auction so the applicant understands its obligations in this regard. Specifically, the Commission proposes that each applicant make the following certification in its short-form application under penalty of perjury:

> The applicant acknowledges that it has sole responsibility for investigating and evaluating all technical and marketplace factors that may have a bearing on the level of Rural Digital Opportunity Fund support it submits as a bid, and that if the applicant wins support, it will be able to build and operate facilities in accordance with the Rural Digital Opportunity Fund obligations and the Commission's rules generally.

72. This proposed certification will help ensure that each applicant acknowledges and accepts responsibility for its bids and any forfeitures imposed in the event of

default, and that the applicant will not attempt to place responsibility for the consequences of its bidding activity on either the Commission or third parties. The Commission seeks comment on this proposal.

73. *Changes to Short-Form Application.* Building on lessons learned from the CAF Phase II auction, the Commission seeks comment on whether to require less technical and financial information at the short-form stage from applicants that are existing providers. The Commission proposes to define an existing provider as an entity that has been offering a voice and/or broadband service for a certain period of time as demonstrated by its FCC Form 477 data. If the Commission were to adopt this approach, how long should an applicant be required to demonstrate that it has been filing FCC Form 477 data and would thus be considered an existing provider? Should a provider be required to demonstrate that it has submitted FCC Form 477 data that demonstrates it has offered both voice and broadband services for a certain period of time, or is it sufficient if the provider has offered only broadband services? Likewise, the Commission seeks comment on requiring less information at the short-form stage from applicants that qualified to participate in the CAF Phase II auction. Similarly, are there any eligibility restrictions that should be placed on CAF Phase II auction winning bidders that defaulted on their winning bids? Should the Commission require such defaulters to submit additional information? Should the Commission prohibit them from participating at all?

74. The Commission seeks to balance the burdens on applicants of completing a short-form application with the Commission's statutory obligation to protect the Fund, the integrity of the auction, and rural consumers. Commenters should consider what information the Commission can credibly rely on to evaluate an applicant's likeliness to perform without defaulting or to meet service milestones or service quality metrics. What presumptions can the Commission make from information that it already collects? To the extent commenters propose that the Commission adopt fewer obligations for certain applicants than it has proposed here, they should also address whether the Commission needs to make any adjustments to its application process in general to account for the proposed changes, and why the requirement is unnecessary for the Commission to determine whether an applicant is qualified to bid.

75. After the Rural Digital Opportunity Fund auction concludes, the Commission proposes that each winning bidder submit a long-form application, which Commission staff will review to determine whether the winning bidder meets the eligibility requirements for receiving Rural Digital Opportunity Fund support and has the financial and technical qualifications to meet the obligations associated with such support. Consistent with the CAF Phase II auction, in its long-form application, each Rural Digital Opportunity Fund winning bidder would be required to submit information about its qualifications, funding, and the network it intends to use to meet its obligations. In addition, prior to being authorized to receive Rural Digital Opportunity Fund support, each winning bidder would demonstrate that it has been designated as an ETC in the area(s) for which it is a winning bidder and obtain a letter of credit from a bank meeting the Commission's eligibility requirements. Similar to the CAF Phase II auction, the Commission proposes to adopt the rules in Appendix A that apply to the long-form application. The Commission seeks comment on these proposals and on whether any changes should be made to the long-form application process for the Rural Digital Opportunity Fund.

76. If a winning bidder is not authorized to receive Rural Digital Opportunity Fund support (*e.g.,* the bidder fails to file or prosecute its long-form application or its long-form application is dismissed or denied), the Commission proposes the winning bidder would be in default and subject to the same forfeitures as CAF Phase II auction long-form applicants.

77. The Commission proposes to adopt here the same letter of credit rules it adopted for the CAF Phase II auction. For the CAF Phase II auction, the Commission adopted a requirement that all long-form applicants obtain a letter of credit, explaining that letters of credit ''are an effective means for accomplishing [the Commission's] role as stewards of the public's funds'' because they ''permit the Commission to immediately reclaim support'' from support recipients that are not meeting their CAF Phase II auction obligations. Before a CAF Phase II auction support recipient could receive its next year's support and each year's support thereafter, it had to modify, renew, or obtain a new letter of credit to ensure that it is valued at a minimum at the total amount of support that has already been disbursed plus the amount of support that is going to be provided in the next year, subject to certain reductions when the support recipient has substantially met its service milestones. If a CAF Phase II auction support recipient does not meet its service milestones or take advantage of the opportunities to cure or pay back the relevant support, the Commission will draw on the letter of credit. A CAF Phase II auction support recipient must only maintain an open letter of credit until the recipient has certified it has met the final service milestone and the certification has been verified.

78. The Commission proposes that a Rural Digital Opportunity Fund long-form applicant obtain an irrevocable stand-by letter of credit that must be issued in substantially the same form as set forth in the Commission's *Phase II Auction Order,* 81 FR 44414, July 7, 2016, model letter of credit and that a long-form applicant submit a bankruptcy opinion letter from outside legal counsel. The Commission would also require that the letter of credit be issued by a bank that meets the same CAF Phase II auction bank eligibility requirements. Before they can receive their next year's support, Rural Digital Opportunity Fund support recipients would also be required to modify, renew, or obtain a new letter of credit to ensure that it is valued at a minimum of the total amount of money that has already been disbursed plus the amount of money that is going to be provided in the next year.

79. The Commission proposes adopting the same phase-down schedule that was used in the CAF Phase II auction, allowing the value of the letter of credit to decrease over time as a support recipient satisfies its minimum coverage and service requirements. For the CAF Phase II auction, once the auction recipient has met its 60% service milestone, its letter of credit may be valued at 90% of the total support amount already disbursed plus the amount that will be disbursed in the coming year. Once the auction recipient has met its 80% service milestone, its letter of credit may be valued at 60% of the total support amount already disbursed plus the amount that will be disbursed in the coming year. The Commission also proposes that the letter of credit remain in place until USAC and the Commission verify that a Rural Digital Opportunity Fund recipient has met its minimum coverage and service requirements at the end of the six-year milestone. The Commission seeks comment on these proposals and on whether any adjustments should be made to the CAF Phase II auction letter of credit rules for the Rural Digital Opportunity Fund.

80. The Commission also seeks comment on whether it should make any changes to streamline the Commission and USAC's review and administration of letters of credit. For example, the CAF Phase II auction rules currently permit a long-form applicant to submit multiple letters of credit that cover all the bids in a state. Should Rural Digital Opportunity Fund support recipients be required to submit one letter of credit that covers all the bids in a state to reduce the number of letters of credit that USAC and the Commission must review and track throughout the build-out period? The Commission seeks comment on these issues and on whether any other adjustments are appropriate, including adjustments to timing or the process for submitting letters of credit to USAC for review.

81. The Commission seeks comment on adopting the same letter of credit waiver opportunity for Tribal Nations or Tribally-owned and -controlled winning bidders. Specifically, should the Commission permit any Tribal Nation or Tribally-owned and -controlled long-form applicant that is unable to obtain a letter of credit to file a petition for waiver of the letter of credit requirement using the same standard the Commission adopted for the CAF Phase II auction? What alternative could the Commission use to secure the federal funding going to these support recipients in the event of non-performance or default? The Commission notes that a number of Tribally-owned and -controlled winning bidders were able to obtain letters of credit for the CAF Phase II auction.

82. Finally, the CAF Phase II auction provides a basis for lessons learned that can inform the letter of credit requirements in the Rural Digital Opportunity Fund. The Commission observed in the CAF Phase II auction process that companies with existing lending relationships often use letters of credit in the normal course of operating their businesses and, generally, are able to maintain multiple forms of financing for varying purposes. On the other hand, the Commission also found that winning bidders complained of the high cost of obtaining and maintaining a letter of credit, such that it would ''consume too much of the limited capital available to . . . [and] leave [in]sufficient funds for . . . [CAF Phase II auction] construction.'' The Commission therefore seeks comment on whether it should decline to require a letter of credit for the Rural Digital Opportunity Fund. Are there viable, less costly alternatives that still minimize risk to public funds?

83. The Commission proposes to adopt the same ETC designation procedures for the Rural Digital Opportunity Fund that the Commission adopted for the CAF Phase II auction. Only ETCs designated pursuant to section 214(e) of the Communications Act of 1934, as amended (the Act) are eligible to receive support from the high-cost program. For the CAF Phase II auction, the Commission did not require that service providers become ETCs to apply to participate and then bid in the auction. However, all long-form applicants were required to obtain an ETC designation that covers all of the areas where they won support prior to being authorized to receive support. Similarly, the Commission proposes that service providers that want to apply to bid in the Rural Digital Opportunity Fund auction would not be required to be ETCs, but that long-form applicants would be required, within 180 days of the release of the public notice announcing winning bidders, to obtain an ETC designation from the relevant state commission, or this Commission if the state commission lacks jurisdiction, that covers the areas where they won support.

84. As in the CAF Phase II auction, the Commission expects that allowing service providers that are not ETCs (such as electric utilities) to apply to bid in the auction will encourage participation from service providers that may be hesitant to invest resources in applying for an ETC designation without knowing if they would be likely to win Rural Digital Opportunity Fund support. The Commission also proposes that the Bureau waive the deadline where long-form applicants demonstrate good faith efforts to obtain their ETC designations, but the proceeding is not complete by the deadline. Good faith would be presumed if the long-form applicant filed its ETC application with the relevant authority within 30 days of the release of the public notice announcing winning bidders.

85. The Commission also proposes to forbear from the statutory requirement that the ETC service area of a Rural Digital Opportunity Fund participant conform to the service area of the rural telephone company serving the same area. As in the CAF Phase II auction, the Commission will be maximizing the use of Rural Digital Opportunity Fund support by making it available for only one provider per geographic area. Moreover, the Commission expects that the incumbent rural telephone company's service area will no longer be relevant because the incumbent service provider may be replaced by another Rural Digital Opportunity Fund recipient in portions of its service area.

86. The Commission seeks comment on these proposals and on whether any changes should be made to the ETC designation procedures for the Rural Digital Opportunity Fund.

87. In this section, the Commission seeks comment on two transitions that may occur as a result of the Rural Digital Opportunity Fund. First, the Commission examines how to transition incumbent price cap carriers from legacy high-cost support in areas where Rural Digital Opportunity Fund support is awarded. Second, the Commission examines how to transition price cap carriers from CAF Phase II model-based support in areas where Rural Digital Opportunity Fund support is awarded.

88. To begin the process of transitioning legacy high-cost support to the CAF, the Commission implemented CAF Phase I by freezing support for price cap carriers under then-existing high-cost support mechanisms (legacy support) and decided that this frozen support would transition to CAF Phase II support upon completion of the CAF Phase II auction. To implement this transition, the Commission adopted a methodology for disaggregating the frozen support in states where price cap carriers declined model-based support and allocated a portion of each incumbent price cap carrier's existing frozen support to each CAF Phase II auction-eligible census block in the declined state based on the relative costs of providing service across all auction-eligible census blocks within the same state. Incumbent price cap carriers were given the option of declining this support on state-by-state basis.

89. In areas where an incumbent price cap carrier receiving disaggregated legacy support is the long-form applicant that is authorized to receive CAF Phase II auction support, the incumbent price cap carrier will cease receiving disaggregated legacy support the first day of the month after the price cap carrier is authorized to receive CAF Phase II auction support in that area. Similarly, in areas won in the CAF Phase II auction by a carrier other than the incumbent price cap carrier, the incumbent price cap carrier will cease receiving disaggregated legacy support the first day of the month after the long-form applicant is authorized to receive CAF Phase II auction support in that area. In areas where the incumbent price cap carrier receives disaggregated legacy support and there was no authorized long-form applicant, the incumbent price cap carrier will continue to receive such support until the Commission

takes further action. Finally, in all census blocks determined to be ineligible for the CAF Phase II auction, price cap carriers that declined CAF Phase II model-based support ceased receiving legacy support starting the first day of the month following the first authorization of CAF Phase II auction support nationwide.

90. The Commission proposes to adopt a similar transition period for the Rural Digital Opportunity Fund for incumbent price cap carriers that are receiving disaggregated legacy support. The Commission proposes that an incumbent price cap carrier currently receiving disaggregated legacy support will no longer receive such support in any census block that is deemed ineligible for the Rural Digital Opportunity Fund. This approach is consistent with the Commission's decision to stop providing legacy support in areas deemed ineligible for the CAF Phase II auction because by excluding those areas from the auction, the Commission had already determined not to offer ongoing high-cost support for those areas. For the Rural Digital Opportunity Fund, the Commission proposes ceasing such support in the first day of the month after the final Rural Digital Opportunity Fund eligible areas list is released. Although the Commission waited until the first CAF Phase II auction recipient was authorized to stop providing legacy support in areas deemed ineligible for the CAF Phase II auction, the Commission had not yet adopted a methodology for transitioning from legacy support to CAF Phase II auction support when the Bureau released the final CAF Phase II auction eligible areas list and there is no reason to continue paying a carrier through the Rural Digital Opportunity Fund auction if the Commission has already determined an area is ineligible for support.

91. In areas where an incumbent price cap carrier is receiving disaggregated legacy support and it becomes the authorized Rural Digital Opportunity Fund recipient, the Commission proposes that the incumbent price cap carrier will cease receiving disaggregated legacy support the first day of the month after the price cap carrier is authorized to receive Rural Digital Opportunity Fund support. Similarly, in areas where an incumbent price cap carrier is receiving disaggregated legacy support and another long-form applicant is authorized to receive Rural Digital Opportunity Fund support, the Commission proposes that the incumbent price cap carrier will cease receiving disaggregated legacy support the first day of the month after that long-form applicant is authorized to receive Rural Digital Opportunity Fund support. Finally, if no long-form applicant is authorized to receive Rural Digital Opportunity Fund support in an area, the Commission proposes that the incumbent price cap carrier receiving disaggregated support in that area would continue to receive such support until further Commission action.

92. The Commission seeks comment on these proposals and on whether any adjustments should be made for the transition from disaggregated legacy support to Rural Digital Opportunity Fund support.

93. In the *December 2014 Connect America Order,* 80 FR 4446, January 17, 2015, the Commission adopted a transition period for price cap carriers that accepted CAF Phase II model-based support. If a price cap carrier was a winning bidder in the subsequent auction, it would commence receiving the auction support in 2021, after the model-based support term ended at the end of 2020. If the price cap carrier did not win in the auction or chose not to bid, it would have the option of electing one additional year of support, with CAF Phase II model-based support continuing in calendar 2021.

94. Given that a Rural Digital Opportunity Fund auction is unlikely to conclude before model-based support for price cap carriers is expected to end, the Commission seeks comment on whether to revisit the transition period from CAF Phase II model-based support to Rural Digital Opportunity Fund support. As a threshold matter, the Commission seeks comment on which price cap carriers should be eligible for the optional seventh year of support. The optional support year was only to be made available to price cap carriers that did not bid or did not win support in the subsequent auction. But by the end of 2020, the Commission may not know which price cap carriers fall in these categories. Should all price cap carriers have the option to elect an additional year of support or should the option only be available to a subset of price cap carriers? If the option should only be available to a subset of price cap carriers, what criteria should the Commission use to determine which price cap carriers should have the option of electing one more year of support?

95. The Commission emphasized the ''limited scope and duration'' of the CAF Phase II offer of model-based support. Price cap carriers had no expectation of receiving ongoing support beyond the additional optional year in these areas once the CAF Phase II support term had ended because the Commission expected that it would have conducted the subsequent auction before the support term had ended. Price cap carriers were provided the option of receiving six years of support, with an optional seventh year, in exchange for fulfilling specific service obligations which each price cap carrier had the opportunity to evaluate and accept or decline. Price cap carriers were also on notice that other service providers could win support to serve these areas in the subsequent auction so that ongoing support would not be made available once the optional year had ended. Because price cap carriers accepted CAF Phase II model-based support without an expectation of sustained ongoing support, the Commission does not believe it is necessary to provide any transitional support to price cap carriers beyond the optional seventh year of support. The Commission seeks comment on this view.

96. Given the potential time period between the end of the CAF Phase II model-based support term and the authorization of Rural Digital Opportunity Fund support recipients, how should the Commission adjust the offer of an optional seventh year of support? Should it be available to all price cap carriers until the completion of the Rural Digital Opportunity Fund Phase I auction? Should it be available only until a specific time (*e.g.,* June 30, 2021) with the remaining six months available only to price cap carriers that are not support recipients in the Phase I auction? Is a full year of support in 2021 appropriate or should the Commission reduce the support to some lesser amount? Are there any additional obligations that are in the public interest that price cap carriers should also be subject to as a condition of receiving the extra year of 2021 support?

97. The Commission also seeks comment on whether there are any other issues that it should address in the context of this proceeding that will facilitate the transition from CAF Phase II model-based support to Rural Digital Opportunity Fund support and will ensure that consumers retain access to voice and broadband services that are reasonably comparable to those offered in urban areas.

III. Procedural Matters

A. Paperwork Reduction Act Analysis

98. This document contains proposed new information collection requirements. The Commission as part of its continuing effort to reduce paperwork burdens, invites the general

public and OMB to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

99. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities from the policies and rules proposed in the NPRM. The Commission requests written public comment on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments for the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

100. Broadband access is critical to economic opportunity, job creation, education and civic engagement. That is why closing the digital divide is the Commission's top priority. For communities throughout our nation to thrive and prosper, their residents must have the option to obtain high-speed internet access.

101. Last year, the Commission took a major step forward in expanding broadband access to many parts of rural America. As a result of the Commission's successful CAF Phase II auction, the Commission has begun providing $1.488 billion in universal service support over ten years to build high-speed broadband service to over 700,000 households and small businesses in 45 states, with 99.75% of locations receiving at least 25/3 Mbps service and more than half receiving at least 100/20 Mbps service.

102. But more work remains to be done. For example, more than 10 million households and small businesses in price cap areas still lack access to critical broadband services that offer speeds of at least 25 megabits per second (Mbps) downstream and 3 Mbps upstream in unserved census blocks, including more than 7 million in rural areas. In this document, the Commission proposes to build on the success of the CAF Phase II auction by establishing the Rural Digital Opportunity Fund, which will commit at least $20.4 billion over the next decade to support high-speed broadband networks in rural America. Because the CAF Phase II auction secured higher quality services for consumers at a lower cost to the Fund, the Commission proposes to conduct a multi-round, reverse, descending clock auction that favors faster services with lower latency and encourages intermodal competition. And in light of the need to bring service both to consumers in wholly unserved areas as well as those living in partially served areas, the Commission proposes to assign funding in two phases: Phase I will target those areas that current data confirms are wholly unserved, and Phase II will target those areas that are partially served as well as any areas not won in the first phase. By relying on a two-phase process, as the Commission did with the Connect America Fund, it can move expeditiously to commence an auction in 2020 while also ensuring that other areas are not left behind by holding a second auction.

103. The framework the Commission proposes in this document represents its single biggest step yet to close the rural digital divide and will connect millions more rural homes and small businesses to high-speed broadband networks.

104. The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 254, 303(r), and 403, and sections 1.1 and 1.412 of the Commission's rules, 47 CFR 1.1 and 1.412.

105. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rule revisions, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

106. The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three comprehensive small entity size standards that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.

107. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of August 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

108. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicate that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37, 132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category show that the majority of these governments have populations of less than 50,000. Based on this data the Commission estimates that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

109. The small entities that may be affected are Wireline and Wireless Providers, Broadband internet Access Service Providers, Satellite Telecommunications, Electric Power Generators, Transmitters, and Distributors, and All Other Telecommunications.

110. In the NPRM the Commission begins the process of seeking comment on rules that will apply in the Rural Digital Opportunity Fund auction. The Commission proposes establishing three technology-neutral tiers of bids available for bidding with varying broadband speed and usage allowances, and for each tier propose differentiating

between bids that would offer either lower or higher latency. Like all high-cost ETCs, the Commission proposes that Rural Digital Opportunity Fund support recipients would be required to offer standalone voice service and offer voice and broadband services meeting the relevant performance requirements at rates that are reasonably comparable to rates offered in urban areas. The Commission also proposes that Rural Digital Opportunity Fund support recipients will be subject to the same uniform framework for measuring speed and latency performance along with the accompanying compliance framework as all other recipients of high-cost support required to serve fixed locations.

111. The Commission also proposes adopting a 10-year support term for Rural Digital Opportunity Fund support recipients along with interim service milestones by which support recipients must offer the required voice and broadband service to a required number of locations. The Commission seeks comment on whether it should adopt additional performance requirements to provide incentive for Rural Digital Opportunity Fund support recipients to pursue customers in eligible areas.

112. For entities that are interested in participating in the Rural Digital Opportunity Fund, the Commission proposes adopting a two-step application process and seek comment on whether any adjustments should be made or if the application process should be streamlined for certain entities. The Commission proposes requiring applicants to submit a pre-auction short-form application that includes information regarding their ownership, technical and financial qualifications, the technologies they intend to use and the types of bids they intend to place, their operational history, and an acknowledgement of their responsibility to conduct due diligence. Commission staff will review the applications to determine if applicants are qualified to bid in the auction.

113. The Commission also proposes requiring winning bidders to submit a long-form application in which they will submit information about their qualifications, funding, and the networks they intend to use to meet their obligations. During the long-form application period, the Commission also proposes requiring long-form applicants to obtain an ETC designation from the state or the Commission as relevant that covers the eligible areas in their winning bids. Prior to being authorized to receive support, the Commission proposes requiring long-form applicants to obtain an irrevocable stand-by letter of credit that meets its requirements from an eligible bank along with a bankruptcy opinion letter. The letter of credit would cover the support that has been disbursed and that will be disbursed in the coming year, subject to modest adjustments as support recipients substantially build out their networks, until the Commission and USAC verify that the applicant has met its service milestones. The Commission seeks comment on whether the Commission should use alternative measures to protect disbursed funds. Commission staff will review the applications and submitted documentation to determine whether long-form applicants are qualified to be authorized to receive support. The Commission proposes subjecting winning bidders or long-form applicants that default during the long-form application process to forfeiture.

114. To monitor the use of Rural Digital Opportunity Fund support to ensure that it is being used for its intended purposes, the Commission proposes to require support recipients to file location and technology data on an annual basis in the online HUBB portal and to make certifications when they have met their service milestones. The Commission also proposes requiring applicants to file certain information in their annual FCC Form 481 reports including information regarding the community anchor institutions they serve, the support they used for capital expenditures, and certifications regarding meeting the Commission's performance obligations and available funds. Support recipients would also be subject to the annual section 54.314 certifications, the same record retention and audit requirements, and the same support reductions for untimely filings as other high-cost ETCs. The Commission seeks comment on whether any adjustments should be made to this reporting framework.

115. For support recipients that do not meet their Rural Digital Opportunity Fund obligations, the Commission proposes subjecting such support recipients to the framework for support reductions that is applicable to all high-cost ETCs that are required to meet defined service milestones and to the process the Commission adopted for drawing on letters of credit for the Connect America Fund (CAF) Phase II auction. The Commission seeks comment on alternatives to this proposal.

116. The Commission also seeks comment on substantive proposals to address the impediments to broadband deployment that have resulted in a Tribal digital divide.

117. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The Commission expects to consider all of these factors when it has received substantive comment from the public and potentially affected entities.

118. The Commission seeks comment on a number of issues to ensure that small entities have the opportunity to participate in the Rural Digital Opportunity Fund auction. For example, the Commission proposes to adopt different performance standards for bidders to maximize the types of entities that can participate in the Rural Digital Opportunity Fund auction.

119. Based on lessons learned from the CAF Phase II auction, the Commission also seeks comment on a two-step application process that will allow entities interested in bidding to submit a short-form application to be qualified in the auction that it found to be an appropriate but not burdensome screen to ensure participation by qualified providers, including small entities. Only if an applicant becomes a winning bidder would it be required to submit a long-form application which requires a more fulsome review of an applicant's qualifications to be authorized to receive support. Like the CAF Phase II auction, the Commission proposes providing two pathways for eligibility for the auction—both (1) for entities that have at least two years' experience providing a voice, broadband, and/or electric transmission or distribution service, and (2) for entities that have at least three years of audited financials and can obtain an acceptable letter of interest from an eligible bank. The Commission expects that by proposing to adopt two pathways for eligibility and to permit experienced entities that do not audit their financial statements in the ordinary course of business to wait to submit audited financials until after they are announced as winning bidders, more small entities will be able to participate in the auction. The

Commission also seeks comment on whether it should take measures to collect less information during the application process from certain experienced entities or entities that qualified for the CAF Phase II auction, which may also include small entities.

120. The Commission also proposes permitting all long-form applicants, including small entities, to obtain their ETC designations after becoming winning bidders so that they do not have to go through the ETC designation process prior to finding out if they won support through the auction. Recognizing that some CAF Phase II auction participants, including small entities, have expressed concerns about the costs of obtaining and maintaining a letter of credit, the Commission also seeks comment on whether there are viable, less costly alternatives that still minimize risk to public funds.

121. The Commission invites comment from all parties, including small entities and participants in the CAF Phase II auction, on adopting for the Rural Digital Opportunity Fund generally the same service milestones, reporting obligations, and non-compliance measures that it adopted for CAF Phase II. The Commission seeks to learn from the experience of small entities so that it can balance its responsibility to monitor the use of universal service funds with minimizing administrative burdens on Rural Digital Opportunity Fund participants.

122. Additionally, the Commission seeks comment on potential measures for incentivizing carriers, including small entities, to bid on and serve Tribal lands. These measures include implementing a Tribal Broadband Factor that accounts for the unique challenges of deploying broadband to rural Tribal communities and a Tribal bidding credit.

123. More generally, the Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the NPRM and this IRFA, in reaching its final conclusions and taking action in this proceeding. The proposals and questions laid out in the NPRM were designed to ensure the Commission has a complete understanding of the benefits and potential burdens associated with the different actions and methods.

124. *Ex Parte Presentations—Permit-But-Disclose.* The proceeding this NPRM initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies).

125. In light of the Commission's trust relationship with Tribal Nations and its commitment to engage in government-to-government consultation with them, it finds the public interest requires a limited modification of the *ex parte* rules in this proceeding. Tribal Nations, like other interested parties, should file comments, reply comments, and *ex parte* presentations in the record to put facts and arguments before the Commission in a manner such that they may be relied upon in the decision-making process consistent with the requirements of the Administrative Procedure Act. However, at the option of the Tribe, *ex parte* presentations made during consultations by elected and appointed leaders and duly appointed representatives of federally recognized Indian Tribes and Alaska Native Villages to Commission decision makers shall be exempt from disclosure in permit-but-disclose proceedings and exempt from the prohibitions during the Sunshine Agenda period. To be clear, while the Commission recognizes consultation is critically important, it emphasizes that it will rely in its decision-making only on those presentations that are placed in the public record for this proceeding.

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

I. Ordering Clauses

127. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 254, 303(r), and 403, and sections 1.1 and 1.412 of the Commission's rules, 47 CFR 1.1 and 1.412, this Notice of Proposed Rulemaking *is adopted,* effective thirty (30) days after publication of the text or summary thereof in the **Federal Register**.

128. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 254, 303(r), and 403, and sections 1.1 and 1.412 of the Commission's rules, 47 CFR 1.1 and 1.412, *notice is hereby given* of the proposals and tentative conclusions described in this Notice of Proposed Rulemaking.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 54 to read as follows:

PART 54—UNIVERSAL SERVICE

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

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

■ 2. Amend § 54.313 by revising paragraph (e) introductory text, paragraph (e)(2) introductory text, and paragraph (e)(2)(iii) to read as follows:

§ 54.313 Annual reporting requirements for high-cost recipients.

* * * * *

(e) In addition to the information and certifications in paragraph (a) of this section, the following requirements

apply to Connect America Phase II and Rural Digital Opportunity Fund recipients:

* * * * *

(2) Any recipient of Connect America Phase II or Rural Digital Opportunity Fund support awarded through a competitive bidding process shall provide:

* * * * *

(iii) Starting the first July 1st after meeting the final service milestone in § 54.310(c) or § 54.802(c) of this chapter until the July 1st after the Connect America Phase II recipient's or Rural Digital Opportunity Fund recipient's support term has ended, a certification that the Connect America Phase II–funded network that the Connect America Phase II auction recipient operated in the prior year meets the relevant performance requirements in § 54.309 of this chapter, or that the network that the Rural Digital Opportunity Fund recipient operated in the prior year meets the relevant performance requirements for the Rural Digital Opportunity Fund.

* * * * *

■ 3. Amend § 54.316 by revising paragraphs (a)(4) and (b)(5) to read as follows:

§ 54.316 Broadband deployment reporting and certification requirements for high-cost recipients.

(a) * * *

(4) Recipients subject to the requirements of § 54.310(c) or § 54.802(c) shall report the number of locations for each state and locational information, including geocodes, where they are offering service at the requisite speeds. Recipients of Connect America Phase II auction support and Rural Digital Opportunity Fund support shall also report the technology they use to serve those locations.

* * * * *

(b) * * *

(5) Recipients of Rural Digital Opportunity Fund support shall provide: By the last business day of the second calendar month following each service milestone specified by the Commission, a certification that by the end of the prior support year, it was offering broadband meeting the requisite public interest obligations to the required percentage of its supported locations in each state.

* * * * *

■ 4. Revise subpart J, consisting of §§ 54.801 through 54.806, to read as follows:

Subpart J—Rural Digital Opportunity Fund

§ 54.801 Use of competitive bidding for Rural Digital Opportunity Fund.

The Commission will use competitive bidding, as provided in part 1, subpart AA of this chapter, to determine the recipients of Rural Digital Opportunity Fund support and the amount of support that they may receive for specific geographic areas, subject to applicable post-auction procedures.

§ 54.802 Rural Digital Opportunity Fund geographic areas, deployment obligations, and support disbursements.

(a) *Geographic areas eligible for support.* Rural Digital Opportunity Fund support may be made available for census blocks or other areas identified as eligible by public notice.

(b) *Term of support.* Rural Digital Opportunity Fund support shall be provided for ten years.

(c) *Deployment obligation.* (1) Recipients of Rural Digital Opportunity Fund support must complete deployment to 40 percent of supported locations by the end of the third year, to 60 percent of supported locations by the end of the fourth year, to 80 percent of supported locations by the end of the fifth year, and to 100 percent of supported locations by the end of the sixth year. Compliance shall be determined based on the total number of supported locations in a state.

(2) Recipients of Rural Digital Opportunity Fund support may elect to deploy to 95 percent of the number of supported locations in a given state with a corresponding reduction in support computed based on the average support per location in the state times 1.89.

(d) Disbursement of Rural Digital Opportunity Fund funding. An eligible telecommunications carrier will be advised by public notice when it is authorized to receive support. The public notice will detail how disbursements will be made.

§ 54.803 Rural Digital Opportunity Fund provider eligibility.

(a) Any eligible telecommunications carrier is eligible to receive Rural Digital Opportunity Fund support in eligible areas.

(b) An entity may obtain eligible telecommunications carrier designation after public notice of winning bidders in the Rural Digital Opportunity Fund auction.

(c) To the extent any entity seeks eligible telecommunications carrier designation prior to public notice of winning bidders for Rural Digital Opportunity Fund support, its designation as an eligible telecommunications carrier may be conditioned subject to receipt of Rural Digital Opportunity Fund support.

§ 54.804 Rural Digital Opportunity Fund application process.

(a) In addition to providing information specified in § 1.21001(b) of this chapter and any other information required by the Commission, any applicant to participate in competitive bidding for Rural Digital Opportunity Fund support shall:

(1) Provide ownership information as set forth in § 1.2112(a) of this chapter;

(2) Certify that the applicant is financially and technically qualified to meet the public interest obligations established for Rural Digital Opportunity Fund support;

(3) Disclose its status as an eligible telecommunications carrier to the extent applicable and certify that it acknowledges that it must be designated as an eligible telecommunications carrier for the area in which it will receive support prior to being authorized to receive support;

(4) Describe the technology or technologies that will be used to provide service for each bid;

(5) Submit any information required to establish eligibility for any bidding weights adopted by the Commission in an order or public notice;

(6) To the extent that an applicant plans to use spectrum to offer its voice and broadband services, demonstrate it has the proper authorizations, if applicable, and access to operate on the spectrum it intends to use, and that the spectrum resources will be sufficient to cover peak network usage and deliver the minimum performance requirements to serve all of the fixed locations in eligible areas, and certify that it will retain its access to the spectrum for the term of support;

(7) Submit operational and financial information.

(i) If applicable, the applicant should submit a certification that it has provided a voice, broadband, and/or electric transmission or distribution service for at least two years or that it is a wholly-owned subsidiary of such an entity, and specifying the number of years the applicant or its parent company has been operating, and submit the financial statements from the prior fiscal year that are audited by a certified public accountant. If the applicant is not audited in the ordinary course of business, in lieu of submitting audited financial statements it must submit unaudited financial statements from the prior fiscal year and certify that it will provide financial statements from the prior fiscal year that are audited by

a certified independent public accountant by a specified deadline during the long-form application review process.

(A) If the applicant has provided a voice and/or broadband service it must certify that it has filed FCC Form 477s as required during this time period.

(B) If the applicant has operated only an electric transmission or distribution service, it must submit qualified operating or financial reports that it has filed with the relevant financial institution for the relevant time period along with a certification that the submission is a true and accurate copy of the reports that were provided to the relevant financial institution.

(ii) If an applicant cannot meet the requirements in paragraph (a)(7)(i) of this section, in the alternative it must submit the audited financial statements from the three most recent fiscal years and a letter of interest from a bank meeting the qualifications set forth in paragraph (c)(2) of this section, that the bank would provide a letter of credit as described in paragraph (c) of this section to the bidder if the bidder were selected for bids of a certain dollar magnitude.

(8) Certify that the applicant has performed due diligence concerning its potential participation in the Rural Digital Opportunity Fund.

(b) Application by winning bidders for Rural Digital Opportunity Fund support—

(1) *Deadline.* As provided by public notice, winning bidders for Rural Digital Opportunity Fund support or their assignees shall file an application for Rural Digital Opportunity Fund support no later than the number of business days specified after the public notice identifying them as winning bidders.

(2) *Application contents.* An application for Rural Digital Opportunity Fund support must contain:

(i) Identification of the party seeking the support, including ownership information as set forth in § 1.2112(a) of this chapter;

(ii) Certification that the applicant is financially and technically qualified to meet the public interest obligations for Rural Digital Opportunity Fund support in each area for which it seeks support;

(iii) Certification that the applicant will meet the relevant public interest obligations, including the requirement that it will offer service at rates that are equal or lower to the Commission's reasonable comparability benchmarks for fixed wireline services offered in urban areas;

(iv) A description of the technology and system design the applicant intends to use to deliver voice and broadband service, including a network diagram which must be certified by a professional engineer. The professional engineer must certify that the network is capable of delivering, to at least 95 percent of the required number of locations in each relevant state, voice and broadband service that meets the requisite performance requirements for Rural Digital Opportunity Fund support;

(v) Certification that the applicant will have available funds for all project costs that exceed the amount of support to be received from the Rural Digital Opportunity Fund for the first two years of its support term and that the applicant will comply with all program requirements, including service milestones;

(vi) A description of how the required construction will be funded, including financial projections that demonstrate the applicant can cover the necessary debt service payments over the life of the loan, if any;

(vii) Certification that the party submitting the application is authorized to do so on behalf of the applicant; and

(viii) Such additional information as the Commission may require.

(3) No later than the number of days provided by public notice, the long-form applicant shall submit a letter from a bank meeting the eligibility requirements outlined in paragraph (c) of this section committing to issue an irrevocable stand-by letter of credit, in the required form, to the long-form applicant. The letter shall at a minimum provide the dollar amount of the letter of credit and the issuing bank's agreement to follow the terms and conditions of the Commission's model letter of credit.

(4) No later than the number of days provided by public notice, if a long-form applicant or a related entity did not submit audited financial statements in the relevant short-form application as required, the long-form applicant must submit the financial statements from the prior fiscal year that are audited by a certified independent public accountant.

(5) No later than 180 days after the public notice identifying it as a winning bidder, the long-form applicant shall certify that it is an eligible telecommunications carrier in any area for which it seeks support and submit the relevant documentation supporting that certification.

(6) *Application processing.* (i) No application will be considered unless it has been submitted in an acceptable form during the period specified by public notice. No applications submitted or demonstrations made at any other time shall be accepted or considered.

(ii) Any application that, as of the submission deadline, either does not identify the applicant seeking support as specified in the public notice announcing application procedures or does not include required certifications shall be denied.

(iii) An applicant may be afforded an opportunity to make minor modifications to amend its application or correct defects noted by the applicant, the Commission, the Administrator, or other parties. Minor modifications include correcting typographical errors in the application and supplying non-material information that was inadvertently omitted or was not available at the time the application was submitted.

(iv) Applications to which major modifications are made after the deadline for submitting applications shall be denied. Major modifications include, but are not limited to, any changes in the ownership of the applicant that constitute an assignment or change of control, or the identity of the applicant, or the certifications required in the application.

(v) After receipt and review of the applications, a public notice shall identify each long-form applicant that may be authorized to receive Rural Digital Opportunity Fund support after the long-form applicant submits a letter of credit and an accompanying opinion letter as described in paragraph (c) of this section, in a form acceptable to the Commission. Each such long-form applicant shall submit a letter of credit and accompanying opinion letter as required by paragraph (c) of this section, in a form acceptable to the Commission no later than the number of business days provided by public notice.

(vi) After receipt of all necessary information, a public notice will identify each long-form applicant that is authorized to receive Rural Digital Opportunity Fund support.

(c) *Letter of credit.* Before being authorized to receive Rural Digital Opportunity Fund support, a winning bidder shall obtain an irrevocable standby letter of credit which shall be acceptable in all respects to the Commission.

(1) *Value.* Each recipient authorized to receive Rural Digital Opportunity Fund support shall maintain the standby letter of credit or multiple standby letters of credit in an amount equal to at a minimum the amount of Rural Digital Opportunity Fund support that has been disbursed and that will be disbursed in the coming year, until the Universal Service Administrative

Company has verified that the recipient met the final service milestone as described in § 54.802(c).

(i) Once the recipient has met its 60 percent service milestone, it may obtain a new letter of credit or renew its existing letter of credit so that it is valued at a minimum at 90 percent of the total support amount already disbursed plus the amount that will be disbursed in the coming year.

(ii) Once the recipient has met its 80 percent service milestone, it may obtain a new letter of credit or renew its existing letter of credit so that it is valued at a minimum at 60 percent of the total support that has been disbursed plus the amount that will be disbursed in the coming year.

(2) The bank issuing the letter of credit shall be acceptable to the Commission. A bank that is acceptable to the Commission is:

(i) Any United States bank

(A) That is insured by the Federal Deposit Insurance Corporation, and

(B) That has a bank safety rating issued by Weiss of B− or better; or

(ii) CoBank, so long as it maintains assets that place it among the 100 largest United States Banks, determined on basis of total assets as of the calendar year immediately preceding the issuance of the letter of credit and it has a long-term unsecured credit rating issued by Standard & Poor's of BBB− or better (or an equivalent rating from another nationally recognized credit rating agency); or

(iii) The National Rural Utilities Cooperative Finance Corporation, so long as it maintains assets that place it among the 100 largest United States Banks, determined on basis of total assets as of the calendar year immediately preceding the issuance of the letter of credit and it has a long-term unsecured credit rating issued by Standard & Poor's of BBB− or better (or an equivalent rating from another nationally recognized credit rating agency); or

(iv) Any non–United States bank:

(A) That is among the 100 largest non–U.S. banks in the world, determined on the basis of total assets as of the end of the calendar year immediately preceding the issuance of the letter of credit (determined on a U.S. dollar equivalent basis as of such date);

(B) Has a branch office in the District of Columbia or such other branch office agreed to by the Commission;

(C) Has a long-term unsecured credit rating issued by a widely-recognized credit rating agency that is equivalent to a BBB− or better rating by Standard & Poor's; and

(D) Issues the letter of credit payable in United States dollars.

(3) A long-form applicant for Rural Digital Opportunity Fund support shall provide with its letter of credit an opinion letter from its legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that in a proceeding under Title 11 of the United States Code, 11 U.S.C. 101 *et seq.* (the ''Bankruptcy Code''), the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the winning bidder's bankruptcy estate under section 541 of the Bankruptcy Code.

(4) Authorization to receive Rural Digital Opportunity Fund support is conditioned upon full and timely performance of all of the requirements set forth in this section, and any additional terms and conditions upon which the support was granted.

(i) Failure by a Rural Digital Opportunity Fund support recipient to meet its service milestones as required by § 54.802 will trigger reporting obligations and the withholding of support as described in § 54.320(d). Failure to come into full compliance within 12 months will trigger a recovery action by the Universal Service Administrative Company. If the Rural Digital Opportunity Fund recipient does not repay the requisite amount of support within six months, the Universal Service Administrative Company will be entitled to draw the entire amount of the letter of credit and may disqualify the Rural Digital Opportunity Fund support recipient from the receipt of Rural Digital Opportunity Fund support or additional universal service support.

(ii) The default will be evidenced by a letter issued by the Chief of the Wireline Competition Bureau, or its respective designees, which letter, attached to a standby letter of credit draw certificate, shall be sufficient for a draw on the standby letter of credit for the entire amount of the standby letter of credit.

§ 54.805 Rural Digital Opportunity Fund public interest obligations.

(a) Recipients of Rural Digital Opportunity Fund support are required to offer broadband service with latency suitable for real-time applications, including Voice over internet Protocol, and usage capacity that is reasonably comparable to comparable offerings in urban areas, at rates that are reasonably comparable to rates for comparable offerings in urban areas. For purposes of determining reasonable comparable usage capacity, recipients are presumed to meet this requirement if they meet or exceed the usage level announced by public notice issued by the Wireline Competition Bureau. For purposes of determining reasonable comparability of rates, recipients are presumed to meet this requirement if they offer rates at or below the applicable benchmark to be announced annually by public notice issued by the Wireline Competition Bureau, or no more than the non-promotional prices charged for a comparable fixed wireline service in urban areas in the state or U.S. Territory where the eligible telecommunications carrier receives support.

(b) Recipients of Rural Digital Opportunity Fund support are required to offer broadband service meeting the performance standards for the relevant performance tier.

(1) Winning bidders meeting the baseline performance tier standards are required to offer broadband service at actual speeds of at least 25 Mbps downstream and 3 Mbps upstream and offer a minimum usage allowance of 150 GB per month, or that reflects the average usage of a majority of fixed broadband customers, using Measuring Broadband America data or a similar data source, whichever is higher, and announced annually by public notice issued by the Wireline Competition Bureau over the 10-year term.

(2) Winning bidders meeting the above-baseline performance tier standards are required to offer broadband service at actual speeds of at least 100 Mbps downstream and 20 Mbps upstream and offer at least 2 terabytes of monthly usage.

(3) Winning bidders meeting the Gigabit performance tier standards are required to offer broadband service at actual speeds of at least 1 Gigabit per second downstream and 500 Mbps upstream and offer at least 2 terabytes of monthly usage.

(4) For each of the tiers in paragraphs (b)(1) through (3) of this section, bidders are required to meet one of two latency performance levels:

(i) Low latency bidders will be required to meet 95 percent or more of all peak period measurements of network round trip latency at or below 100 milliseconds; and

(ii) High latency bidders will be required to meet 95 percent or more of all peak period measurements of network round trip latency at or below 750 ms and, with respect to voice performance, demonstrate a score of four or higher using the Mean Opinion Score (MOS).

(c) Recipients of Rural Digital Opportunity Fund support are required to bid on category one

telecommunications and internet access services in response to a posted FCC Form 470 seeking broadband service that meets the connectivity targets for the schools and libraries universal service support program for eligible schools and libraries (as described in § 54.501) located within any area in a census block where the carrier is receiving Rural Digital Opportunity Fund support. Such bids must be at rates reasonably comparable to rates charged to eligible schools and libraries in urban areas for comparable offerings.

§ 54.806 Rural Digital Opportunity Fund reporting obligations, compliance, and recordkeeping.

(a) Recipients of Rural Digital Opportunity Fund support shall be subject to the reporting obligations set forth in §§ 54.313, 54.314, and 54.316.

(b) Recipients of Rural Digital Opportunity Fund support shall be subject to the compliance measures, recordkeeping requirements, and audit requirements set forth in § 54.320.

[FR Doc. 2019–17783 Filed 8–20–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2019–0074]

RIN 2127–AL87

Federal Motor Vehicle Safety Standards; Technical Corrections and Clarifications Related to Tires and Rims

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes amendments to Federal Motor Vehicle Standard (FMVSS) No. 109 in response to a petition from the Tire and Rim Association to clarify the applicability of the FMVSSs to certain types of tires intended for use on trailers. Based on a review of prior amendments to FMVSS Nos. 109 and 119, NHTSA concludes that it inadvertently made these tires subject to both FMVSS Nos. 109 and 119, when it was the agency's intent to make them subject only to FMVSS No. 119. This document also proposes nonsubstantive technical corrections to tire and rim regulations.

DATES: Submit comments on or before September 20, 2019.

ADDRESSES: You may submit comments electronically to the docket identified in the heading of this document by visiting the following website:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Alternatively, you can file comments using the following methods:

- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Regardless of how you submit your comments, you should mention the docket number identified in the heading of this document.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

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.* In order 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.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: David Jasinski, Office of the Chief Counsel, by telephone at (202) 366–2992, and by fax at (202) 366–3820. You may send mail to this official at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Tire & Rim Association Petition and Background

On June 26, 2003, the agency published a final rule amending several Federal Motor Vehicle Safety Standards (FMVSSs) related to tires and rims.[1] That rulemaking was completed as part of a comprehensive upgrade of existing safety standards and the establishment of new safety standards to improve tire safety, as required by the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act of 2000. That final rule included extensive revisions to the tire standards and to the rim and labeling requirements for motor vehicles.

The June 2003 final rule established a new FMVSS No. 139 to provide upgraded requirements for tires for passenger cars and light trucks. In addition, the final rule changed the applicability of FMVSS No. 109 and FMVSS No. 119. Previously, FMVSS No. 109 applied solely to tires for passenger cars and FMVSS No. 119 applied to tires for all other vehicles. The June 2003 final rule made FMVSS No. 109 applicable to bias-ply tires and tires for use on light vehicles (those with a GVWR of 10,000 lb. or lower) and made FMVSS No. 119 applicable to tires used on motorcycles and heavy vehicles (those with a GVWR of over 10,000 lb.) The requirements set forth in the June 2003 final rule were set to become effective on June 1, 2007.

NHTSA received petitions for reconsideration of the June 2003 final rule from eight petitioners addressing 18 different issues. In a January 6, 2006 final rule, NHTSA responded to these petitions.[2] Pertinent to this rulemaking, we received petitions to amend the applicability section of FMVSS No. 119 to indicate that it applies to Special Trailer (ST), Farm Implement (FI), and tires with rim diameter code of 12 and below (hereinafter collectively referred to as ''specialty tires''). In the June 2003 final rule, NHTSA had excluded specialty tires from FMVSS No. 139 and indicated they would remain subject to FMVSS No. 109 and FMVSS No. 119. However, the petitioners indicated that specialty tires have been and should remain subject only to FMVSS No. 119 because they are not used on passenger cars.

In response to the petitions, NHTSA amended the application sections of FMVSS Nos. 109, 119, and 139 in order

[1] 68 FR 38116.

[2] 71 FR 877.

to clarify that specialty tires are subject to the requirements of FMVSS No. 119. The January 2006 final rule also delayed the effective date for these requirements to September 1, 2007.

NHTSA received a petition for reconsideration of the January 2006 final rule and issued a final rule on August 28, 2007 to respond to this petition.[3] Although NHTSA denied the petition, it made a number of technical corrections. Although the change was not discussed in the preamble, NHTSA amended the ''Application'' section of FMVSS No. 109 to add specialty tires. NHTSA made no changes to the applicability of FMVSS No. 119. Thus, as a result, both FMVSS No. 109 and FMVSS No. 119 applied to specialty tires.

In June 2013, TRA submitted a petition for rulemaking requesting that NHTSA clarify specialty tires are subject to the requirements of FMVSS No. 119 and not those in FMVSS No. 109.[4] Specifically, TRA requested three actions:

1. Remove from the title and main test of FMVSS No. 109 all references to specialty tires.

2. Add to the title of FMVSS No. 119 a reference to ''specialty tires.''

3. Add appropriate values to Table III of FMVSS No. 119 to account for specialty tires in load ranges A through E.

TRA reasoned that NHTSA had already agreed to the substance of this petition when it determined in the January 2006 final rule that it would clarify that specialty tires were subject to the requirements of FMVSS No. 119. However, TRA stated, in August 2007, NHTSA reinserted specialty tires into FMVSS No. 109 without explanation while still keeping them subject to FMVSS No. 119. TRA believes that this change was inadvertent.

TRA stated that the inclusion of specialty tires in FMVSS No. 109 sets up impossible test conditions. FMVSS No. 109 specifies tire strength requirements that are tested using a plunger test. The test conditions are based on the maximum inflation pressure of the tire. However, the inflation pressure values specified in FMVSS No. 109 do not cover all of the maximum inflation pressures for specialty tires that are subject to the standard. In contrast, FMVSS No. 119 previously specified test conditions according to load range designations. This covers all variations of specialty tires.

[3] 72 FR 49207.

[4] See Docket No. NHTSA–2013–0004.

II. NHTSA's Response to the Petition

NHTSA is granting TRA's petition for rulemaking. NHTSA acknowledges that, in the January 2006 final rule, NHTSA stated its intent for specialty tires to be subject to FMVSS No. 119, but inadvertently made specialty tires subject to FMVSS No. 109 in addition to FMVSS No. 119 in August 2007. Further, NHTSA acknowledges that FMVSS No. 109 does not specify test conditions for specialty tires with maximum inflation pressures not specified in FMVSS No. 109. Without specified test pressures, NHTSA cannot test specialty tires for compliance with FMVSS No. 109. While this issue could be remedied by adding new test pressures to FMVSS No. 109, we believe that making these tires subject to FMVSS No. 119 is preferable because it specifies test conditions based on load range designations. This allows the tire industry flexibility to change maximum tire inflation pressures for specialty tires without first requesting regulatory changes from NHTSA.

As for the specific relief requested by TRA, NHTSA is proposing an amendment to FMVSS No. 109 to remove references to specialty tires from the title and the ''Application'' section. Second, NHTSA is proposing to add a reference to specialty tires to the title of FMVSS No. 119. In addition, though not suggested by TRA, NHTSA is proposing an amendment to the ''Scope'' section of FMVSS No. 119 to include a reference to specialty tires to provide added clarity regarding the applicability of FMVSS No. 119 to specialty tires. Specialty tires are already listed in the ''Application'' section of FMVSS No. 119.

As for the suggested amendments to Table III, the endurance test schedule, in FMVSS No. 119, in a September 29, 2010 Notice of Proposed Rulemaking (NPRM), NHTSA proposed amendments similar to those suggested by TRA.[5] The September 2010 NPRM proposed upgrades to FMVSS No. 119. In addition, it proposed technical corrections to Table III of FMVSS No. 119 to include items that have been inadvertently omitted from the table over the course of years of amendments to the standard, including in the June 2003 final rule. The NPRM proposed correcting the omission of load range C, D, M, and N for speed-restricted service tires, load range A through E and M from the list of ''All other'' tires, and missing footnotes. TRA's suggested changes included correcting the omission of load range C and D for speed restricted service tires, load range A through E from the list of ''All other'' tires, and the missing footnotes. TRA's suggested changes do not include the omission of load range M and N tires for speed restricted service or the omission of load range M for all other tires.[6]

[5] 75 FR 60036.

In response to the September 2010 NPRM, NHTSA received no adverse comments to the inclusion of load range M and N tires in the tables for speed restricted service or load range M for all other tires. Consequently, NHTSA is including the technical corrections to Table III proposed in the September 2010 NPRM in this proposal, which are inclusive of the changes to Table III suggested by TRA.

NHTSA is also proposing a corresponding change to FMVSS No. 110. In a March 13, 2013 NPRM, NHTSA proposed an amendment to FMVSS No. 110 to clarify that specialty tires could be equipped on new light trailers (those with GVWR of 10,000 pounds or less). In the proposed regulatory text, NHTSA stated it would allow light trailers to be equipped with specialty tires meeting the requirements of FMVSS No. 109. TRA, though generally supportive of the proposal, submitted a comment suggesting that specialty tires on light trailers should be required to meet FMVSS No. 119 rather than FMVSS No. 109. The rationale for this comment mirrored TRA's rationale in its petition for rulemaking.

In a November 9, 2016 final rule, NHTSA clarified that new light trailers could be equipped with specialty tires.[7] In addressing TRA's comment, NHTSA determined that the matter of how specialty tires could comply with FMVSS No. 109 was outside the scope of that rulemaking. NHTSA noted the pendency of this petition for rulemaking and stated that the matter raised by TRA would be addressed in NHTSA's response to TRA's petition. As an interim solution until NHTSA could respond to the petition, NHTSA determined it was sufficient to refer to both FMVSS No. 109 and FMVSS No. 119 as the standards which apply to specialty tires.

Having proposed that specialty tires should be subject to the requirements of FMVSS No. 119 and not FMVSS No. 109, this proposal also removes the reference to FMVSS No. 109 as a standard under which specialty tires could be certified.

[6] This technical correction is separate from the issue raised in the September 2010 NPRM whether load range M tires should be subject to upgraded test requirements.

[7] 81 FR 78724.

III. Other Technical Corrections

A. Date of Manufacture of Tires Subject to FMVSS No. 109

In addition to the inclusion of specialty tires in the ''Application'' section of FMVSS No. 109, we have noted another inadvertent error in that section. When adopting FMVSS No. 139, NHTSA made all tires for vehicle manufactured *after* 1975 subject to FMVSS No. 139 and left all tires for vehicles manufactured *before* 1975 subject to FMVSS No. 109. NHTSA inadvertently made no standard applicable to tires for vehicles manufactured *in* 1975. NHTSA intended for FMVSS No. 109 to apply to all vehicles manufactured in or before 1975. In addition, FMVSS No. 109 only applies to vehicles manufactured after 1948. To clarify the applicability of FMVSS No. 109 and simplify the language, this proposal changes the application of FMVSS No. 109 to passenger cars manufactured from 1949 through 1975.

B. Technical Amendments to FMVSS No. 119

This proposal includes several minor amendments to FMVSS No. 119 that were included in a January 10, 2013 Supplemental NRPM.[8] NHTSA received no adverse comment to that Supplemental NPRM. Those amendments were proposed in part after an inquiry from Continental Tire, the Americas (Continental) regarding the tire strength requirement for rayon tires. Continental noted that a footnote was missing in Table II of FMVSS No. 119, which specified a lower minimum breaking energy requirement for rayon cord tires. After considering Continental's inquiry, NHTSA determined that two footnotes for Table II of FMVSS No. 119 were inadvertently removed from the standard.

The breaking energy requirement for rayon cord tires is less than other materials to make the severity of the test comparable to tires made of other cord materials. The breaking energy requirement for rayon cord tires for light vehicles in FMVSS No. 109 remain less than the requirement for nylon or polyester cord tires. The agency can determine whether a tire is composed of rayon cord from information that is required by S6.5(f) of FMVSS No. 119 to be molded on the tire's sidewall.

However, only one footnote needs to be reinstated. The other footnote related to the procedure used for rounding metric conversions, and it is not necessary to include that information in the text of the standard.

NHTSA is also including three previously proposed non-substantive formatting changes to Table II in from the January 2013 SNPRM. First, some of the headings have been revised to more clearly explain the tire characteristics. Second, the heading row alignment has been modified. Third, the order of the columns in the right portion of the table for tires other than light truck, motorcycle, and 12 rim diameter code or smaller has been modified to group tube type and tubeless tires together. The agency believes that these formatting changes will make Table II easier to read.

NHTSA is also including a previously proposed correction to an error NHTSA discovered in the formula for computing the breaking energy of a tire in metric located in S7.3(f) of FMVSS No. 119. In S7.3(f)(1), the breaking energy (W) is reported in joules (J); however, the explanation incorrectly states the unit abbreviation for joules as kJ, which is the abbreviation for kilojoules. In S7.3(f)(2), unit abbreviations are not included in the explanation and the breaking energy equation formatting is inconsistent with S7.3(f)(1).

NHTSA has discovered an additional error in Table III of FMVSS No. 119. Table III specifies the schedule for the endurance test, including the test wheel speed, and the test load over the length of the 47-hour test (34 hours for tires subject to the high speed performance test). For reference, Table III lists the total number of revolutions of the test wheel. However, several of the values for the total number of revolutions are incorrect in the current Table III and were incorrect in prior version of Table III. NHTSA has recalculated the number of total test revolutions for each type of tire listed in the schedule. For example, the endurance test for non-speed-restricted truck and bus tires with load range H or above is 48 km/h or 150 rpm for 47 hours. This computes to 423,000 revolutions ($150 \times 60 \times 47$). However, Table III currently shows the test is 423,500 revolutions. This proposal corrects this and similar miscalculations in Table III. This change would not affect how the test is conducted because the test is conducted at the rpm rate listed in the schedule for the appropriate amount of time (47 or 34 hours) and not based on the total number of revolutions.

C. Application of FMVSS No. 139

We have identified an issue similar to the one raised by TRA with respect to deep tread tires for light trucks. In the January 2006 final rule responding to petitions for reconsideration of the June 2003 final rule, NHTSA addressed a petition from Denman requesting that deep tread light truck tires (those with tread depths of 18/32 inch or greater) be excluded from FMVSS No. 139. NHTSA agreed that a number of requirements in FMVSS No. 139 were impracticable for deep tread tires and determined it was more appropriate to subject those tires to the requirements of FMVSS No. 119. Consequently, NHTSA amended the ''Application'' section of FMVSS No. 119 to include light truck tires with a tread depth of 18/32 inch or greater for use on light vehicles. However, NHTSA made no corresponding amendment to FMVSS No. 139 to exclude deep tread light truck tires. Thus, as presently written, deep tread light truck tires would be subject to both FMVSS No. 119 and FMVSS No. 139. This was not NHTSA's intention. This proposal removes deep tread light truck tires from the ''Application'' section of FMVSS No. 139 to be consistent with NHTSA's intent in the January 2006 final rule and remove any ambiguity in the regulation.

The ''Application'' section of FMVSS No. 139 also presently excludes specialty tires. However, in addressing tires for smaller rims, FMVSS No. 139 excludes from its application tires with rim diameters of 8 inches or below. Specialty tires, as referenced in all other NHTSA regulations, include tires with rim diameters of 12 inches or below. This is a typographical error in FMVSS No. 139. This proposal corrects this typographical error and changes FMVSS No. 139 to exclude tires with rim diameters of 12 inches or below.

D. Table Headings in FMVSS No. 139

There is a typographical error in the tables setting forth the test pressure for the high speed performance test, the tire endurance test, and the low inflation pressure performance test. Each of these tables provides test pressure for standard load and extra load passenger car tires and load range C, D, and E light truck tires. Light truck tires use different test pressures depending on whether the nominal cross section is greater than 295 millimeters. However, the test pressures for light truck tires with a nominal cross section of 295 millimeters or less is listed under the heading ''Passenger car tires.'' There should be a heading ''Light truck tires with a nominal cross section ≤295 mm (11.5 inches)'' between the extra load tires and load range C tires. This proposal adds this missing heading in each of the three tables.

[8] 78 FR 2236.

E. NHTSA Address

In FMVSS No. 110 and FMVSS No. 139, manufacturers of rims and tires, respectively, may provide certain information to NHTSA by mail. However, the address for NHTSA's office in these standards is incorrect. This proposal corrects NHTSA's address in FMVSS No. 110 and FMVSS No. 139.

F. Typographical Error in Application of FMVSS No. 110

In FMVSS No. 110, the application section contains two minor typographical errors. First, the abbreviation for GVWR is missing one parenthesis. Second, the word ''of'' is used in place of the word ''or''. This proposal corrects both of these typographical errors.

IV. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). NHTSA established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit your comments electronically to the docket following the steps outlined under **ADDRESSES**. You may also submit two copies of your comments, including the attachments, by mail to Docket Management at the beginning of this document, under **ADDRESSES**.

How can I be sure that my comments were received?

If you wish to be notified upon receipt of your mailed comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit the following to the NHTSA Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590: (1) A complete copy of the submission; (2) a redacted copy of the submission with the confidential information removed; and (3) either a second complete copy or those portions of the submission containing the material for which confidential treatment is claimed and any additional information that you deem important to the Chief Counsel's consideration of your confidentiality claim. A request for confidential treatment that complies with 49 CFR part 512 must accompany the complete submission provided to the Chief Counsel. For further information, submitters who plan to request confidential treatment for any portion of their submissions are advised to review 49 CFR part 512, particularly those sections relating to document submission requirements. Failure to adhere to the requirements of Part 512 may result in the release of confidential information to the public docket. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under **ADDRESSES**.

Will the Agency consider late comments?

NHTSA will consider all comments received before the close of business on the comment closing date indicated at the beginning of this notice under **DATES**. In accordance with DOT policies, to the extent possible, NHTSA will also consider comments received after the specified comment closing date. If NHTSA receives a comment too late to consider in developing the proposed rule, NHTSA will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received on the internet. To read the comments on the internet, go to *http://www.regulations.gov* and follow the on-line instructions provided.

You may download the comments. The comments are imaged documents, in either TIFF or PDF format. Please note that even after the comment closing date, NHTSA will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, NHTSA recommends that you periodically search the Docket for new material.

You may also see the comments at the address and times given near the beginning of this document under **ADDRESSES**.

V. Rulemaking Analyses and Notices

A. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking is not considered significant and was not reviewed by the Office of Management and Budget under E.O. 12866, ''Regulatory Planning and Review.'' The rulemaking action has also been determined not to be significant under the Department's regulatory policies and procedures. The agency has further determined that the impact of this proposal is so minimal as to not warrant the preparation of a full regulatory evaluation.

This proposal clarifies the applicability of the FMVSSs to tires intended for use on trailers and makes other technical amendments. It will not result in any costs nor will it have any impact on safety.

B. Executive Order 13771

Executive Order 13771 titled ''Reducing Regulation and Controlling Regulatory Costs,'' directs that, unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed. In addition, any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs. Only those rules deemed significant under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' are subject to these requirements. As discussed above, this rule is not a significant rule under Executive Order 12866 and, accordingly, is not subject to the offset requirements of 13771.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business

entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule would not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this proposal under the Regulatory Flexibility Act. I certify that this proposal will not have a significant economic impact on a substantial number of small entities. This proposal would directly impact manufacturers of trailers with a GVWR of 4,536 kg (10,000 lbs.) or less. Although we believe many manufacturers affected by this proposal are considered small businesses, we do not believe this proposal will have a significant economic impact on those manufacturers. This proposal would not impose any costs upon manufacturers and relieves any confusion that may have been generated by the inclusion of specialty tires within the applicability of FMVSS No. 109 in the August 2007 final rule.

D. Executive Order 13132 (Federalism)

NHTSA has examined this proposal pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposal would not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

NHTSA rules can preempt in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. 49 U.S.C. 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which ''[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.'' 49 U.S.C. 30103(e). Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved. However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of such State common law tort causes of action by virtue of NHTSA's rules, even if not expressly preempted. This second way that NHTSA rules can preempt is dependent upon there being an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer, notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. See *Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000).

Pursuant to Executive Order 13132 and 12988, NHTSA has considered whether this rule could or should preempt State common law causes of action. The agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation.

To this end, the agency has examined the nature (*e.g.,* the language and structure of the regulatory text) and objectives of today's rule and finds that this rule, like many NHTSA rules, prescribes only a minimum safety standard. As such, NHTSA does not intend that this rule preempt state tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by today's rule. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard announced here. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

E. Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729; Feb. 7, 1996), requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) specifies whether administrative proceedings are to be required before parties file suit in court; (6) adequately defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The issue of preemption is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

F. Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health and Safety Risks'' (62 FR 19855, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental, health, or safety risk that the agency has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

This notice is part of a rulemaking that is not expected to have a disproportionate health or safety impact on children. Consequently, no further analysis is required under Executive Order 13045.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. There is not any information collection requirement associated with this proposal.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.,* the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as ''performance-based or design-specific technical specification and related management systems practices.'' They pertain to ''products and processes, such as size, strength, or technical performance of a product, process or material.''

Examples of organizations generally regarded as voluntary consensus standards bodies include ASTM International, the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

There are no voluntary consensus standards developed by voluntary consensus standards bodies pertaining to this proposal.

I. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires the agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the agency to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation of why that alternative was not adopted.

This proposal would not result in any expenditure by State, local, or tribal governments or the private sector of more than $100 million, adjusted for inflation.

J. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

K. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

L. 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.* In order 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.

List of Subjects in 49 CFR Parts 571

Imports, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

■ 2. Amend § 571.109 by revising the section heading and paragraph S2 to read as follows:

§ 571.109 Standard No. 109; New pneumatic tires for vehicles manufactured from 1949 to 1975, bias ply tires, and T-type spare tires.

* * * * *

S2. *Application.* This standard applies to new pneumatic radial tires for use on passenger cars manufactured from 1949 through 1975, new pneumatic bias ply tires, and T-type spare tires. However, it does not apply to any tire that has been so altered so as to render impossible its use, or its repair for use, as motor vehicle equipment.

* * * * *

■ 3. Amend § 571.110 by
■ a. Revising paragraph S2;
■ b. Revising paragraph S4.1(b)(2); and
■ c. Revising paragraph S4.4.2(e)(1).

The revisions read as follows:

§ 571.110 Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less.

* * * * *

S2. *Application.* This standard applies to motor vehicles with a gross vehicle weight rating (GVWR) of 4,536 kilograms (10,000 pounds) or less, except for motorcycles, and to non-pneumatic spare tire assemblies for those vehicles.

* * * * *

S4.1 *General* * * *

(b) * * *

(2) Trailers may be equipped with ST tires, FI tires, or tires with a rim diameter code of 12 or below that meet the requirements of § 571.119.

* * * * *

S4.4.2 *Rim markings for vehicles other than passenger cars.* * * *

(e) * * *

(1) Any manufacturer that elects to express the date of manufacture by means of a symbol shall notify NHTSA in writing of the full names and addresses of all manufacturers and brand name owners utilizing that symbol and the name and address of the trademark owner of that symbol, if any. The notification shall describe in narrative form and in detail how the month, day, and year or the month and

year are depicted by the symbol. Such description shall include an actual size graphic depiction of the symbol, showing and/or explaining the interrelationship of the component parts of the symbol as they will appear on the rim or single piece wheel disc, including dimensional specifications, and where the symbol will be located on the rim or single piece wheel disc. The notification shall be received by NHTSA not less than 60 calendar days before the first use of the symbol. The notification shall be mailed to National Highway Traffic Safety Administration, West Building, 1200 New Jersey Ave. SE, Washington, DC 20590. All information provided to NHTSA under this paragraph will be placed in the public docket.

* * * * *

■ 4. Amend § 571.119 by:
■ a. Revising the section heading.
■ b. Revising paragraph S1.
■ c. Revising paragraph S7.3(f)(1) and (2).
■ d. Revising Table II-Minimum Static Breaking Energy.
■ e. Revising Table III-Endurance Test Schedule.

The revisions read as follows:

§ 571.119 Standard No. 119; New pneumatic tires for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds), specialty tires, and tires for motorcycles.

* * * * *

S1. *Scope.* This standard establishes performance and marking requirements for tires for use on motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds), specialty tires, and tires for motorcycles.

* * * * *

S7.3 * * *

(f) * * *

(1) $W = [(F \times P)/2] \times 10^{-3}$

Where:

W = Breaking energy in joules (J),
F = Force in newtons (N), and
P = Penetration in millimeters (mm), or;

(2) $W = (F \times P)/2$

Where:

W = Breaking energy in inch-pounds (in-lb),
F = Force in pounds (lb), and
P = Penetration in inches (in).

* * * * *

* * * * *

TABLE II—MINIMUM STATIC BREAKING ENERGY
[Joules (J) and inch-pounds (in-lb)]

Tire characteristic	Motorcycle		All 12 rim diameter code or smaller except motorcycle		Tubeless 17.5 rim diameter code or smaller and Light Truck		Tires other than Light Truck, motorcycle, 12 rim diameter code or smaller							
							Tube type greater than 12 rim diameter code				Tubeless greater than 17.5 rim diameter code			
Plunger diameter (mm and inches)	7.94 mm	5/16″	19.05 mm	3/4″	19.05 mm	3/4″	31.75 mm	1 1/4″	38.10 mm	1 1/2″	31.75 mm	1 1/4″	38.10 mm	1 1/2″
Breaking energy	J	in-lb	J	in-lb	J	in-lb	J	in-lb	J	in-lb	J	in-lb	J	in-lb
Load Range:														
A	16	150	67	600	225	2,000								
B	33	300	135	1,200	293	2,600								
C	45	400	203	1,800	361	3,200	768	6,800			576	5,100		
D			271	2,400	514	4,550	892	7,900			734	6,500		
E			338	3,000	576	5,100	1,412	12,500			971	8,600		
F			406	3,600	644	5,700	1,785	15,800			1,412	12,500		
G					711	6,300			2,282	20,200			1,694	15,000
H					768	6,800			2,598	23,000			2,090	18,500
J									2,824	25,000			2,203	19,500
L									3,050	27,000				
M									3,220	28,500				
N									3,389	30,000				

Note: For rayon cord tires, applicable energy values are 60 percent of those in table.

* * * * *

TABLE III—ENDURANCE TEST SCHEDULE

Description	Load range	Test wheel speed		Test load: Percent of maximum load rating			Total test revolution (thousands)
		km/h	r/m	Step I (7 hours)	Step II (16 hours)	Step III (24 hours)	
Speed-restricted service:							
90 km/h (55 mph)	All	40	125	66	84	101	352.5
80 km/h (50 mph)	C, D	48	150	75	97	114	423.0
	E, F, G, H, J, L, M, N	32	100	66	84	101	282.0
56 km/h (35 mph)	All	24	75	66	84	101	211.5
Motorcycle	All	80	250	[a] 100	[b] 108	117	510.0
All other	A, B, C, D	80	250	[a] 75	[b] 97	114	510.0
	E	64	200	70	88	106	564.0
	F	64	200	66	84	101	564.0
	G	56	175	66	84	101	493.5
	H, J, L, M, N	48	150	66	84	101	423.0

[a] 4 hours for tire sizes subject to high speed requirements S6.3.
[b] 6 hours for tire sizes subject to high speed requirements S6.3.

* * * * *

■ 5. Amend § 571.139 by:
■ a. Revising paragraph S2;
■ b. Revising paragraph S4.1.1(a);
■ c. Revising paragraph S6.2.1.1.1;
■ d. Revising paragraph S6.3.1.1.1; and
■ e. Revising paragraph S6.4.1.1.1.

The revisions read as follows:

§ 571.139 Standard No. 139; New pneumatic radial tires for light vehicles.

* * * * *

S2 *Application.* This standard applies to new pneumatic radial tires for use on motor vehicles (other than motorcycles and low speed vehicles) that have a gross vehicle weight rating (GVWR) of 10,000 pounds or less and that were manufactured after 1975. This standard does not apply to special tires (ST) for trailers in highway service, tires for use on farm implements (FI) in agricultural service with intermittent highway use, tires with rim diameters of 12 inches and below, T-type temporary use spare tires with radial construction, and light truck tires with a tread depth of 18/32 inch or greater.

* * * * *

S4.1.1 * * *

(a) Listed by manufacturer name or brand name in a document furnished to dealers of the manufacturer's tires, to any person upon request, and in duplicate to the Docket Section (No. NHTSA–2009–0117), National Highway Traffic Safety Administration, West Building, 1200 New Jersey Ave. SE, Washington, DC 20590; or

* * * * *

S6.2.1.1.1 Mount the tire on a test rim and inflate it to the pressure specified for the tire in the following table:

Tire application	Test pressure (kPa)
Passenger car tires:	
Standard load	220
Extra load	260
Light truck tires with a nominal cross section ≤295 mm (11.5 inches):	
Load Range C	320
Load Range D	410
Load Range E	500
Light truck tires with a nominal cross section >295 mm (11.5 inches):	
Load Range C	230
Load Range D	320
Load Range E	410

* * * * *

S6.3.1.1.1 Mount the tire on a test rim and inflate it to the pressure specified for the tire in the following table:

Tire application	Test pressure (kPa)
Passenger car tires:	
Standard load	180
Extra load	220
Light truck tires with a nominal cross section ≤295 mm (11.5 inches):	
Load Range C	260
Load Range D	340
Load Range E	410
Light truck tires with a nominal cross section >295 mm (11.5 inches):	
Load Range C	190
Load Range D	260
Load Range E	340

* * * * *

S6.4.1.1.1 This test is conducted following completion of the tire endurance test using the same tire and rim assembly tested in accordance with S6.3 with the tire deflated to the following appropriate pressure:

Tire application	Test pressure (kPa)
Passenger car tires:	
Standard load	140
Extra load	160
Light truck tires with a nominal cross section ≤295 mm (11.5 inches):	
Load Range C	200
Load Range D	260
Load Range E	320
Light truck tires with a nominal cross section >295 mm (11.5 inches):	
Load Range C	150
Load Range D	200
Load Range E	260

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.5.

Heidi Renate King,

Deputy Administrator.

[FR Doc. 2019–17813 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300, 600, and 679

RIN 0648–BI65

Fisheries of the Exclusive Economic Zone Off Alaska; Authorize Retention of Halibut in Pot Gear in the Bering Sea Aleutian Islands; Amendment 118

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

ACTION: Notice of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) submitted Amendment 118 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) (Amendment 118) to the Secretary of Commerce (Secretary) for review. If approved, Amendment 118 would prohibit the use of pot gear in the Pribilof Islands Habitat Conservation Zone (PIHCZ) and a regulatory amendment would authorize the retention of halibut in pot gear under the Individual Fishing Quota (IFQ) and Western Alaska Community Development Quota (CDQ) Programs in the Bering Sea and Aleutian Islands (BSAI). Amendment 118 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, the Northern Pacific Halibut Act of 1982 (Halibut Act), and other applicable laws.

DATES: Comments must be received no later than October 21, 2019.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2018–0134, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0134,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 118 to the FMP, the Environmental Assessment/Regulatory Impact Review prepared for this action (the Analysis), and the Finding of No Significant Impact prepared for this action may be obtained from *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Stephanie Warpinski, 907–586–7228 or *stephanie.warpinski@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Council has submitted Amendment 118 to the FMP to the Secretary for review. If approved, Amendment 118 would prohibit the use of pot gear in the Pribilof Islands Habitat Conservation Zone (PIHCZ). The regulatory amendment associated with

Amendment 118 would authorize the use of pot gear, in addition to currently authorized fishing gear, to fish IFQ or CDQ halibut in the BSAI and would authorize the retention of halibut in pots in the IFQ or CDQ sablefish fishery in the BSAI. Provided a permit holder on board the fishing vessel also holds an IFQ or CDQ halibut permit with sufficient unused IFQ or CDQ halibut, the permit holder would be required to retain legal-size halibut. This action is necessary to improve information for future conservation and management measures, improve efficiency of the IFQ and CDQ sablefish and halibut fleets, and reduce bycatch and fishery interactions with whales and seabirds. Amendment 118 is intended to promote the goals and objectives of the Magnuson-Stevens Act, the FMP, the Halibut Act, and other applicable laws.

The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary. The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a document in the **Federal Register** announcing that the amendment is available for public review and comment. This document announces that proposed Amendment 118 to the FMP is available for public review and comment.

The Council prepared, and the Secretary approved, the FMP under the authority of section 302(h)(1) and 303(b) of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq*. The FMP is implemented by Federal regulations governing U.S. fisheries at 50 CFR parts 600 and 679. The Council is authorized to prepare and recommend an FMP amendment for the conservation and management of a fishery covered under the FMP. The conservation and management needs of BSAI groundfish are directly related to the management of the Pacific halibut (*Hippoglossus stenolepis*) fishery by the International Pacific Halibut Commission (IPHC). Under the FMP, Pacific halibut is not a target species but is managed as a prohibited species. Many of the management measures contained in the FMP are for the express purpose of mitigating adverse effects from the trawl and fixed gear groundfish fisheries on the halibut resource.

Sablefish (*Anoplopoma fimbria*) is managed as a groundfish species under the FMP, as well as under the IFQ Program for the fixed gear Commercial Fisheries for Pacific Halibut and Sablefish in Waters in and off Alaska (IFQ Program). The IFQ Program is a limited access privilege program implemented by Amendment 15 to the FMP in 1995 (58 FR 59375, November 9, 1993). The IFQ Program allocates halibut and sablefish harvesting privileges in terms of quota share (QS) among U.S. fishermen. The FMP specifies requirements for the initial allocation of quota share in 1995, as well as transfer, use, ownership, and general provisions. A QS holder's allocation is given effect annually through issuance of an IFQ permit. The ratio of a person's QS to the total number of QS is multiplied by the fixed gear sablefish total allowable catch (TAC) or halibut annual commercial catch limit to arrive at the annual IFQ. The IFQ permit specifies the amount of halibut or sablefish that each QS holder may harvest in pounds.

The IPHC and NMFS manage fishing for halibut through regulations at 50 CFR part 300, subpart E, established under authority of the Halibut Act, 16 U.S.C. 773–773k. The Halibut Act authorizes the Council to develop halibut fishery regulations, including limited access regulations, that are in addition to, and not in conflict with, approved IPHC regulations (16 U.S.C. 773c(c)). The Council has exercised this authority in the development and advancement of the IFQ Program.

The CDQ Program was implemented in 1992, and in 1996, the Magnuson-Stevens Act was amended to include provisions specific to the CDQ Program. The purposes of the CDQ Program are (1) to provide eligible western Alaska villages with the opportunity to participate and invest in fisheries in the BSAI management area; (2) to support economic development in western Alaska; (3) to alleviate poverty and provide economic and social benefits for residents of western Alaska; and (4) to achieve sustainable and diversified local economies in western Alaska (16 U.S.C. 1855(i)(1)(A)).

If approved, Amendment 118 to the FMP would prohibit the use of pot gear in the PIHCZ. The regulatory amendment would authorize the use of pot gear to target BSAI IFQ or CDQ halibut and would authorize retention of halibut in longline and pot-and-line pot gear used in the new BSAI IFQ or CDQ halibut and existing IFQ or CDQ sablefish fisheries. Currently, hook-and-line gear is the only authorized gear type in the IFQ and CDQ halibut fishery. Amendment 118 would authorize IFQ and CDQ fishermen to elect to use pot gear in the IFQ or CDQ halibut or IFQ or CDQ sablefish fisheries in the BSAI. In addition, if a permit holder on board the fishing vessel holds an IFQ or CDQ halibut permit with sufficient unused IFQ or CDQ halibut, the permit holder would be required to retain legal-size halibut.

In recommending Amendment 118 and the proposed rule to implement the Amendment, the Council determined, and NMFS agrees, that prohibiting the use of pot gear in the PIHCZ and authorizing halibut retention in pot gear in the BSAI is appropriate to improve efficiency in the fleet because fishermen would have more flexibility to use their quota opportunistically and minimize variable costs. In addition, the length of the IFQ season makes it much less likely that hook-and-line gear and longline pot gear conflicts would occur or that fishing grounds would be preempted for extended periods. The Council and NMFS therefore expect that gear conflicts and grounds preemption would occur in the same manner as previously analyzed by the Council and NMFS. Although hook-and-line and longline pot gear may catch slightly different sizes of halibut, the best available information indicates that the use of pot gear would not have a significant impact on the halibut resource (see Section 3.4 and 4.7.4 of the Analysis).

Due to concern over additional pot fishing activity in the PIHCZ and in the Pribilof Islands Blue King Crab (PIBKC) stock boundary area, the proposed regulatory amendment to implement Amendment 118 would require all vessels deploying pot gear for retaining IFQ or CDQ halibut or sablefish in pot gear to use logbooks and VMS to ensure consistency in monitoring fishery behavior.

Pribilof Islands Blue King Crab (PIBKC) (*Lithodes aequispinus*) are overfished and experienced overfishing most recently in 2016. Rebuilding the PIBKC stock has been a Council priority since 2002, when NMFS notified the Council that the PIBKC stock was overfished. NMFS initiated a rebuilding plan in 2002, and when that rebuilding plan did not rebuild PIBKC, a new rebuilding plan was instituted in 2011. As part of the rebuilding plan, in October 2011 the Council recommended closing the PIHCZ year-round to directed fishing for Pacific cod with pot gear. In 2014, Amendment 103 to the FMP was published, prohibiting Pacific cod pot gear in the PIHCZ to promote bycatch reduction of PIBKC (79 FR 71344, December 2, 2014). No pot fishing for Pacific cod has occurred within the PIHCZ since 2015. Section 3.6 of the Analysis contains additional detail on the status of PIBKC and the rebuilding plans.

Bycatch of PIBKC in pot gear is a concern in the BSAI, particularly in

areas where PIBKC are concentrated. The greatest concentration of PIBKC is within the PIHCZ, which encloses the Pribilof Islands. The PIHCZ, defined in § 679.22(a)(6) and shown in Figure 10 to 50 CFR part 679, is closed to all directed fishing for groundfish using trawl gear, and to directed fishing for Pacific cod using pot gear. This existing pot gear closure does not include fishing for halibut and sablefish pot gear. If approved, Amendment 118 would close the PIHCZ to all groundfish and halibut fishing with pot gear. Section 3.6 of the Analysis provides more information about PIBKC and the PIHCZ.

To help minimize the risk of overfishing PIBKC, regulations at § 679.25 provide NMFS with inseason management authority to make precise closures to BSAI fisheries that use bottom contact gear if a stock, in this case PIBKC, approaches its acceptable biological catch limit and is approaching the overfishing level (OFL) in the stock boundary area.

The IFQ and CDQ Programs already include requirements for participants to report specific information to NMFS and other management agencies for management, monitoring, and enforcement purposes. In general, vessels that fish IFQ and CDQ halibut and sablefish must adhere to many of the same requirements, although there are some differences. There is overlap in vessels that fish for IFQ halibut and sablefish and vessels that fish CDQ halibut and sablefish, particularly among the larger vessels. A vessel can retain both CDQ and IFQ species on the same trip.

The purpose of authorizing pot gear to target and retain halibut in the BSAI is to maximize the ability of permit holders to harvest their IFQ or CDQ by increasing catch per unit and reducing fishing costs. Some fishermen would like to use pot gear because it is less prone to whale depredation and seabird interactions than hook-and-line gear. Whales can remove fish from hook-and-line gear and damage the gear. This reduces catch rates, increases costs for IFQ and CDQ fishermen, and impacts fishing efficiency. Use of pot gear would minimize whale depredation and seabird interactions with fishing gear and would minimize adverse impacts on the IFQ fleet.

Killer whale (*Orcinus orca*) depredation is most common in the BSAI. Section 3.5 of the Analysis provides the most recent information on killer whale depredation in the sablefish and halibut IFQ fishery, and Figure 11 in the Analysis shows a map of observed depredation on sablefish longline surveys. While depredation events are difficult to observe because depredation occurs near the ocean floor in deep water or during active gear retrieval, fishery participants have testified to the Council that depredation continues to be a major cost to the IFQ sablefish and halibut fishery, and appears to be occurring more frequently in the BSAI.

Participants in the BSAI IFQ fisheries indicated to the Council and NMFS that authorizing the use of pot gear for IFQ halibut fishing would reduce the adverse impacts of depredation for those vessel operators who choose to switch from hook-and-line to pot gear. The Council and NMFS agree that interactions with whales throughout the BSAI could affect the ability of IFQ permit holders to harvest sablefish and halibut by reducing catch per unit of effort and decreasing fishing costs.

If some portion of the IFQ or CDQ halibut fleet switches from hook-and-line gear to pot gear, interactions between killer whales and the halibut fishery would be expected to decrease, and unaccounted halibut mortality due to depredation would be expected to decline. Because the amount of depredation is not known with certainty, the potential effects of reduced depredation from this proposed rule cannot be quantified.

Section 1.2 of the Analysis provides additional information on the Council's development and recommendation of Amendment 118 and the proposed rule.

The Council and NMFS considered all the National Standards in section 301 of the Magnuson-Stevens Act (16 U.S.C. 1851), but five national standards figured prominently in their consideration of Amendment 118: National Standard 2, National Standard 5, National Standard 8, National Standard 9, and National Standard 10. Section 5 of the Analysis provides more background on the National Standards.

National Standard 2. Amendment 118 would lessen a source of scientific uncertainty in the assessment of sablefish stock abundance and marginally improve the information available for future conservation and management measures, consistent with National Standard 2. To the extent fishery participants choose to use pot gear, this gear is likely to reduce the amount of unaccounted mortality that occurs when whales depredate on sablefish, halibut, and other fish hooked on hook-and-line gear.

National Standard 5. Amendment 118 considers efficiency consistent with National Standard 5 by providing the fleet with an additional tool, pot gear, to directly address reduced catch per unit of fishing effort and increased fishing costs due to whale depredation off of hook-and-line gear.

National Standard 8. Amendment 118 recognizes the importance of the sablefish and halibut fishery to BSAI communities and their residents, consistent with National Standard 8. Amendment 118 would provide fishery participants an option to use pot gear and would allow vessels fishing for sablefish with pot gear to retain their halibut, which would potentially improve fishing outcomes for vessels fishing for IFQ or CDQ halibut or sablefish. Amendment 118 would not alter the management measures that are designed to maintain the IFQ Program's diverse fleet; those measures include area-specific quota, different quota allocations for vessel size categories, quota share use caps, and vessel IFQ caps. Amendment 118 would sustain community participation by reducing uncertainty in stock abundance estimation that results in improving long term management of the resource.

National Standard 9. Amendment 118 would minimize bycatch, to the extent practicable, consistent with National Standard 9. Amendment 118 would authorize the use of pot gear, a gear type that is evidenced to reduce overall bycatch across all species and physically protect bycatch species from whale depredation, thereby reducing one source of bycatch mortality. In addition, under Amendment 118, the PIHCZ would be closed to all pot fishing to protect the PIBKC stock from overfishing.

National Standard 10. Amendment 118 would promote the safety of life at sea, to the extent practicable, consistent with National Standard 10. All vessels over 79 feet would still be required to maintain and abide by their stability instructions for their vessel and gear. Vessels are not being required to carry any extra gear, and operators have the option to participate in the opportunity created by this action.

Amendment 118 would require that all IFQ halibut caught in pot gear used by a vessel to fish IFQ or CDQ halibut or IFQ or CDQ sablefish in the BSAI be retained when a permit holder on board the vessel also holds an IFQ or CDQ halibut permit with sufficient IFQ or CDQ to cover the halibut harvest. Regulations that implement the IFQ Program in conjunction with FMP-managed species are consistent with the Halibut Act and the Magnuson Stevens Act, respectively. Amendment 118 also notes that requirements for retaining, handling, and reporting halibut harvest are established in regulation and unchanged by this action.

The FMP recognizes that discarding incidental catches of fish is wasteful and should be minimized. The FMP also recognizes that halibut are not managed as a target species, but as a prohibited species, under the FMP. Therefore, to remove the incentive to covertly target halibut, the FMP prohibits retention of halibut caught in target groundfish fisheries, except for when authorized. In the evaluation of retention of IFQ or CDQ halibut in a pot gear fishery for IFQ or CDQ halibut or IFQ or CDQ sablefish in the BSAI, the Council balanced the tenets of minimizing halibut discard with the IFQ Program, and the Council recommended retention of halibut in pot gear used to fish IFQ or CDQ halibut or IFQ or CDQ sablefish. Retention of halibut caught with pot gear used to fish IFQ or CDQ halibut or IFQ or CDQ sablefish is consistent with general provisions of the FMP.

The Council's recommendation to require retention of halibut in pot gear was conditioned on the IPHC adopting complementary regulations that would allow NMFS to promulgate regulations implementing the requirements specified by the Council. The IPHC approved the annual Pacific Halibut Fishery Regulations in January 2019. The 2019 annual regulations recommended by the IPHC and approved by the U.S. include approval of harvest of halibut in pot gear as legal gear for the commercial halibut fishery in Alaska when NMFS regulations permit the use of this gear to retain halibut (84 FR 9243, March 14, 2019).

Amendment 118 to the FMP would amend Table ES–2 and section 3.5.2.1.1 in the FMP to prohibit all pot gear in the Pribilof Islands Habitat Conservation Zone. NMFS is soliciting public comments on proposed Amendment 118 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that would implement Amendment 118, following NMFS's evaluation of the proposed rule under the Magnuson-Stevens Act. All comments received by the end of the comment period on Amendment 118, whether specifically directed to the FMP amendment or the proposed rule, will be considered in the approval/disapproval decision on Amendment 118. Comments received after that date may not be considered in the approval/disapproval decision on Amendment 118. To be certain of consideration, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period.

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

Dated: August 16, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–18033 Filed 8–20–19; 8:45 a.m.]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648–BI80

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Amendment 8

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

ACTION: Availability of proposed fishery management plan amendment; request for comments.

SUMMARY: The New England Fishery Management Council developed Amendment 8 to the Atlantic Herring Fishery Management Plan to specify a long-term acceptable biological catch control rule for herring and address localized depletion and user group conflict. This amendment would establish an acceptable biological catch control rule that accounts for herring's role in the ecosystem and prohibit midwater trawling in inshore Federal waters from the U.S./Canada border to the Rhode Island/Connecticut border. Amendment 8 is intended to support sustainable management of the herring resource and help ensure that herring is available to minimize possible detrimental biological impacts on predators of herring and associated socioeconomic impacts on other user groups.

DATES: Public comments must be received on or before October 21, 2019.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2019–0078, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0078;*

2. Click the ''Comment Now!'' icon and complete the required fields; and

3. Enter or attach your comments.

- *Mail:* Submit written comments to Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Herring Amendment 8.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by us. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of Amendment 8, including the Environmental Impact Statement, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis (EIS/RIR/IRFA) prepared in support of this action are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the internet at: *http://www.nefmc.org.*

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, phone: (978) 281–9272 or email: *Carrie.Nordeen@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The goal of the Atlantic Herring Fishery Management Plan (FMP) is to manage the herring fishery at long-term sustainable levels and objectives of the FMP include providing for full utilization of the optimum yield (OY) and, to the extent practicable, controlled opportunities for participants in other New England and Mid-Atlantic fisheries. The Herring FMP describes OY as the amount of fish that will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, taking into account the protection of marine ecosystems, including maintenance of a biomass that supports the ocean ecosystem, predator consumption of herring, and biologically sustainable human harvest. This includes recognition of the importance of herring as one of many forage species of fish, marine mammals, and birds in the Greater Atlantic Region. Consistent with these aims, the goals for Amendment 8 are to: (1) Account for the role of herring within the ecosystem,

including its role as forage; (2) stabilize the fishery at a level designed to achieve OY; and (3) address localized depletion in inshore waters.

On February 26, 2015 (80 FR 10458), the New England Fishery Management Council (Council) published a notice of intent (NOI) to prepare an EIS for Amendment 8 to consider long-term harvest strategies for herring, including an ABC control rule that addresses the biological and ecological requirements of the herring resource. The importance of herring as a forage species was underscored by the Council's specified intent to consider a wide range of ABC control rule alternatives, including those that explicitly account for herring's role in the ecosystem. The Council held scoping meetings during March and April of 2015 to solicit comments on ABC control rule alternatives.

The Council developed alternatives for a herring ABC control rule using a Management Strategy Evaluation (MSE). MSE is a decision-making tool that uses computer modeling to compare the performance of alternatives (management strategies) under various management scenarios to achieve multiple, competing objectives. The Council held two public workshops to generate stakeholder input to help identify objectives for the MSE analysis. Results of the MSE informed the range of ABC control rule alternatives and impact analysis of those alternatives in Amendment 8.

On August 21, 2015 (80 FR 50825), the Council published a supplemental NOI announcing it was expanding the scope of Amendment 8 to consider localized depletion in inshore waters. The supplemental NOI defined localize depletion as harvesting more fish from an area than can be replaced within a given time period. It also explained the Council was seeking input from the interested public as to how to define; measure; evaluate impacts; and minimize inshore, localized depletion in the herring fishery as part of Amendment 8. Public comment during the supplemental scoping made it clear that localized depletion concerns voiced by many stakeholders were not just related to the biological impacts of herring removals on the herring stock and on predators of herring. Public comment also indicated that impacts of localized depletion should be measured and evaluated relative to competing uses for the herring resource and potentially negative economic impacts on businesses that rely on predators of herring. In response, the Council's consideration of localized depletion included a consideration of competing interests for how herring should be utilized, and it identified this consideration of the localized depletion issue as user group conflict. Minimizing user group conflict became an important Council consideration in Amendment 8 and, in part, the basis for its recommended measures in the amendment.

On May 11, 2018 (83 FR 22060), the Environmental Protection Agency announced the public comment period for the Amendment 8 draft environmental impact statement (DEIS). The 45-day public comment period extended until June 25, 2018. During that time, the Council held public hearings on the DEIS in Rockland and Portland, Maine; Gloucester and Chatham, Massachusetts; Narragansett, Rhode Island; Philadelphia, Pennsylvania; and via webinar. The Council adopted Amendment 8 on September 25, 2018, and submitted the amendment to us for review in 2019.

Proposed Measures

Amendment 8 would establish a long-term ABC control rule for herring. Under the proposed control rule, when biomass is at or above 50 percent of the biomass associated with maximum sustainable yield (B_{MSY}) or its proxy, ABC is the catch associated with a maximum fishing mortality (F) of 80 percent of F_{MSY} or its proxy. When biomass falls below 50 percent of B_{MSY} or its proxy, F declines linearly to 0 at 10 percent of B_{MSY} or its proxy. The control rule would set ABC for a three-year period but would allow ABC to vary year-to-year in response to projected changes in biomass. The control rule could be revised via a framework adjustment if a quantitative assessment is not available, if projections are producing ABCs that are not justified or consistent with available information, or if the stock requires a rebuilding program.

The proposed control rule is intended to explicitly account for herring as forage in the ecosystem by limiting F to 80 percent of F_{MSY} when biomass is high and setting it at zero when biomass is low. It is also intended to generate an ABC consistent with specific criteria identified by the Council, including low variation in yield, low probability of the stock becoming overfished, low probability of a fishery shutdown, and catch limits set at a relatively high proportion of MSY. The Council anticipates that short-term negative economic impacts on participants in the herring or lobster fisheries, resulting from a reduced herring harvest in response to low herring biomass, may become a long-term economic benefit for industry participants, especially if the proposed control rule results in low variation in yield, low probability of a fishery shutdown, and low probability of overfishing. Relative to other control rules considered by the Council, the proposed control rule is designed to more effectively balance the goal and objectives of the Herring FMP, including managing the fishery at long-term sustainable levels, taking forage for predators into account to support the ocean ecosystem, and providing a biologically sustainable harvest as a source of revenue for fishing communities and bait for the lobster fishery.

Shortly before the Council took final action on Amendment 8, an updated stock assessment concluded that herring biomass is low, and the probability of overfishing and the stock becoming overfished is high. While not directly applicable to a long-term harvest policy, the Council noted that under herring's current condition of low biomass, setting catch more conservatively than status quo may increase the likelihood of stock growth. In turn, this would have positive impacts on the herring fishery, predators, and predator fisheries.

Amendment 8 would also prohibit the use of midwater trawl gear inshore of 12 nautical miles (22 km) from the U.S./Canada border to the Rhode Island/Connecticut border and inshore of 20 nautical miles (37 km) off the east coast of Cape Cod. Specifically, federally permitted vessels would be prohibited from using, deploying, or fishing with midwater trawl gear within the inshore midwater trawl restricted area located shoreward of the 12-nautical mile (22-km) territorial sea boundary from Canada to Connecticut and within thirty-minute squares 114 and 99 off Cape Cod (Figure 1). Midwater trawl vessels would be able to transit the inshore midwater trawl restricted gear area provided gear was stowed and not available for immediate use. The proposed measure would be in addition to the existing prohibition on midwater trawling for herring in Area 1A during June 1 through September 30.

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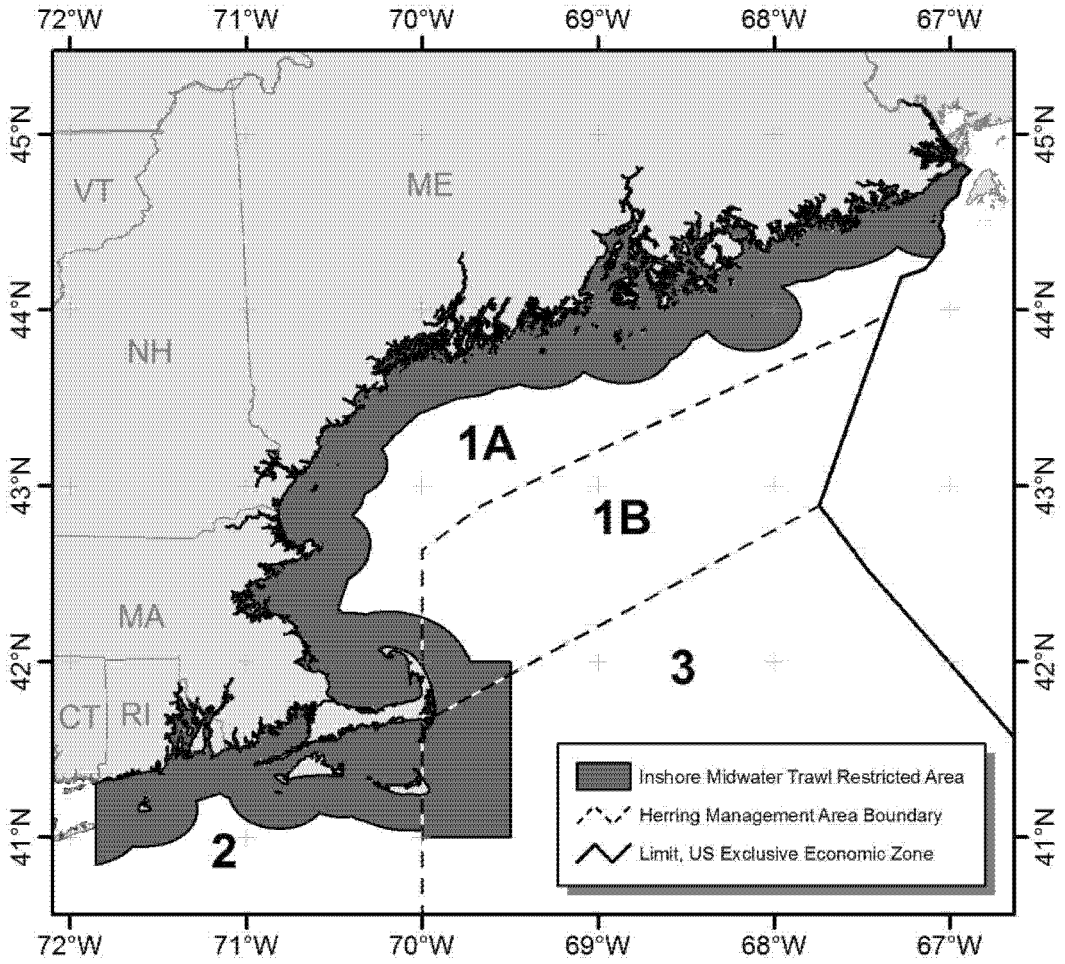
Figure 1. Proposed Inshore Midwater Trawl Restricted Area.



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The Council recommended the proposed inshore midwater trawl restricted area to minimize local depletion and user group conflict when midwater trawl vessels harvesting herring overlap with other user groups (*i.e.,* commercial fisheries, recreational fisheries, ecotourism) that rely on herring as forage and provide inshore conservation benefits. The Council focused on midwater trawl gear to mitigate potential negative socioeconomic impacts on other user groups in response to short duration, high volume herring removals by midwater trawl vessels that are relatively more mobile and capable of fishing in offshore areas than vessels using other gear types. Information to quantify the impact of midwater trawling on other user groups is scarce, so the amendment analyzed the degree of overlap between midwater trawl vessels and other user groups. The proposed measure is intended to incorporate areas with a high degree of overlap between midwater trawl vessels and other user groups throughout the year. Specifically, it incorporates the overlap with predator fisheries in the Gulf of Maine and southern New England throughout the year, as well as the overlap with ecotourism and the tuna fishery in Area 1A during the fall. While overlap with the midwater trawl vessels does not necessarily translate into negative biological impacts on predators, less overlap may reduce potential user conflicts, provided midwater trawl effort does not shift into other areas and generate additional overlap.

The Herring FMP specifies that herring research set-aside (RSA) can equal up to three percent of the sub-annual catch limit for a herring management area. RSA compensation fishing using midwater trawl gear would be permitted within the inshore midwater trawl restricted area. The Council recommended permitting RSA compensation fishing within the inshore midwater trawl restricted area to help ensure the RSA would be harvested and those funds would be available to support the projects awarded RSA. Vessels engaged in herring RSA compensation fishing typically operate as authorized by an exempted fishing permit (EFP) so they can request exemptions from certain regulations that would otherwise restrict herring harvest. While vessels would be permitted to use midwater trawl gear within the inshore midwater trawl restricted area while RSA compensation fishing, it does not mean that compensations trips would be without restrictions. Terms and conditions of the EFP must be consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), other applicable law, and Herring FMP. Additionally, we would consider whether additional terms and conditions would be required for EFPs to ensure RSA compensation trips do not exacerbate the overlap between

midwater trawl vessels and other user groups.

Amendment 8 would allow the inshore midwater trawl restricted area or new closures to address localized depletion and/or user group conflict to be modified or implemented via framework adjustment. The list of framework provisions at § 648.206 already includes closed areas; this amendment would add the inshore midwater trawl restricted area to that list.

The Council's recommendation to prohibit midwater trawling in inshore areas is an allocation decision intended to balance the needs of user groups and provide conservation benefits. Consistent with objectives in the Herring FMP, the proposed measure is intended to facilitate an efficient, fair, and equitable accommodation of social, economic, and ecological factors associated with achieving OY, in part by providing, to the extent practicable, controlled opportunities for participants in other New England and Mid-Atlantic fisheries. Because midwater trawl vessels historically harvested a larger percentage of herring than other gear types and are able to fish offshore, the Council recommended prohibiting them from inshore waters to help ensure herring was available inshore for other user groups and predators of herring. The proposed inshore midwater trawl restricted area is designed to be reasonably large enough to address the overlap between midwater trawl vessels and other user groups and, ultimately, user group conflict in inshore waters. This proposed measure is likely to negatively impact the midwater trawl fleet, with potentially increased trip costs and lower annual catches, but the Council believes that, on balance, the benefits to other user groups, such as potentially reduced trips costs, higher annual catches, and improved safety, outweigh the costs to midwater trawl vessels. The proposed measure may also have biological benefits if moving midwater trawl vessels offshore minimizes catch of river herring and shad, reduces fishing pressure on the inshore component of the herring stock, and helps ensure herring are available to predators. Herring is currently assessed as one stock, but it likely has stock components. Reducing fishing pressure inshore would benefit an inshore stock component. Analyses in Amendment 8 estimate that in recent years approximately 30 percent of the midwater trawl fleet's annualized revenue came from within the proposed inshore midwater trawl restricted area. Negative economic impacts on the midwater trawl fleet may be mitigated if the fleet is able to offset lost revenue from inshore areas with increased revenue from offshore areas. Herring catch limits are currently low, so the fishery has the capacity to harvest the OY. Recent midwater trawl landings (2007–2015) offshore of the proposed midwater trawl restricted area (36,903 mt) are much higher than the Council-recommended OY for 2020 and 2021 (11,621 mt). In the longer-term, the fishery will likely adapt to be able harvest an increased OY, provided vessels are able to locate herring.

Public Comment Instructions

The Magnuson-Stevens Act allows us to approve, partially approve, or disapprove measures recommended by the Council in an amendment based on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. The Council develops policy for its fisheries and we defer to the Council on policy decisions unless those policies are inconsistent with the Magnuson-Steven Act or other applicable law. As such, we are seeking comment on whether measures in Amendment 8 are consistent with the Herring FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. Public comments on Amendment 8 and its incorporated documents may be submitted through the end of the comment period stated in this notice of availability. A proposed rule to implement the amendment, including draft regulatory text, will be published in the **Federal Register** for public comment. Public comments on the proposed rule received by the end of the comment period provided in this notice of availability will be considered in the approval/disapproval decision on the amendment. All comments received by October 21, 2019, whether specifically directed to Amendment 8 or the proposed rule for this amendment, will be considered in the approval/disapproval decision on the Amendment 8. Comments received after that date will not be considered in the decision to approve or disapprove the amendment. To be considered, comments must be received by close of business on the last day of the comment period.

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

Dated: August 16, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–18032 Filed 8–20–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648–BJ02

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod Management in the Groundfish Fisheries of the Bering Sea and Aleutian Islands

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

ACTION: Notice of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council submitted Amendment 120 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands (BSAI) Management Area (BSAI FMP) and Amendment 108 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA) (GOA FMP; collectively Amendments 120/108) to the Secretary of Commerce for review. If approved, Amendment 120 would limit the number of catcher/processors (C/Ps) acting as motherships receiving and processing Pacific cod from catcher vessels (CVs) directed fishing for Pacific cod in the BSAI non-Community Development Quota (CDQ) Program trawl fishery. If approved, Amendments 120/108 would prohibit replaced Amendment 80 C/Ps from receiving and processing Pacific cod harvested and delivered by CVs directed fishing for Pacific cod in the BSAI and GOA.

DATES: Comments must be received no later than October 21, 2019.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2019–0060, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0060,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or

individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 120 to the BSAI FMP, Amendment 108 to the GOA FMP, the Regulatory Impact Review (RIR; referred to as the ''Analysis'') and the draft National Environmental Policy Act (NEPA) Categorical Exclusion evaluation document may be obtained from *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Bridget Mansfield, (907) 586–7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. This notice announces that proposed Amendment 120 to the BSAI FMP and Amendment 108 to the GOA FMP are available for public review and comment.

NMFS manages the groundfish fisheries in the exclusive economic zone under the BSAI and GOA FMPs. The North Pacific Fishery Management Council (Council) prepared the BSAI and GOA FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the BSAI and GOA FMPs appear at 50 CFR parts 600 and 679.

Amendments 120/108 would (1) establish eligibility criteria, based on historical participation, for an endorsement to groundfish License Limitation Program (LLP) licenses for a C/P to operate as a mothership in the BSAI non-CDQ Pacific cod trawl CV directed fishery; (2) issue an endorsement to those groundfish LLP licenses that meet the eligibility criteria; (3) authorize receipt and processing of Pacific cod deliveries from directed fishing in the BSAI non-CDQ Pacific cod trawl CV fishery by only those C/Ps designated on a groundfish LLP license with a BSAI Pacific cod trawl mothership endorsement; and (4) prohibit Amendment 80 sector C/Ps not designated on an Amendment 80 Quota Share (QS) permit and an Amendment 80 LLP license or not designated on an Amendment 80 LLP/QS license from receiving and processing Pacific cod harvested from directed fishing in the Pacific cod fisheries in the BSAI and GOA.

Amendments 120/108 are necessary to prevent increased participation by C/Ps operating as motherships from reducing the benefits the fishery provides to C/Ps and shoreside processors with long term, sustained participation in the BSAI non-CDQ trawl fishery in which CVs are directed fishing for Pacific cod, help to stabilize the fishing season duration in that fishery, and prevent replaced Amendment 80 C/Ps from operating as motherships.

Amendment 120 to the BSAI FMP would amend the species and gear endorsements on groundfish LLP licenses. The LLP was implemented under Amendments 39 and 41 to the FMP, and NMFS published the final rule to implement these amendments on October 1, 1998 (63 FR 52642). The LLP limits access to the groundfish, crab, and scallop fisheries in the BSAI and the GOA, by requiring that persons hold and assign a license to each vessel that is used to fish in federally managed fisheries, with some limited exemptions. The LLP is intended to prevent unlimited entry into federally managed fisheries and to limit the ability of a person to assign an LLP license derived from the historic landing activity of a vessel in one area, using a specific fishing gear or operational type, to be used in other areas, with other gears, or for other operational types in a manner that could expand fishing capacity. Licenses issued under the LLP authorize, through individual endorsements, fishing activities in specific fishing areas, gear types, and vessel operations as CVs or C/Ps. Once issued, the components of the LLP license cannot be transferred independently.

Amendment 120 would implement a new groundfish LLP license endorsement to authorize a C/P to operate as a mothership, as defined at § 679.2, to receive and process Pacific cod from CVs directed fishing in the BSAI non-CDQ Pacific cod trawl CV fishery. C/Ps without this endorsement would not be authorized to receive and process Pacific cod from CVs directed fishing in the BSAI non-CDQ Pacific cod trawl CV fishery. For purposes of this notice, that fishery will be referred to as the BSAI non-CDQ Pacific cod trawl CV directed fishery. The Council determined, and NMFS agrees, that this action is an appropriate response to a sharp increase in C/P participation operating as motherships in the BSAI non-CDQ Pacific cod trawl CV directed fishery beginning in 2016. This increase shifted historical patterns of harvest processing from shoreside plants to offshore C/Ps, which has caused concern over the reduced benefits to C/Ps and shoreside processors with long term, sustained participation in the fishery. This shift has also resulted in a shorter fishing season from 2016 through 2019, causing vessel crowding on the fishing grounds and raising concerns for vessel safety and increased PSC rates.

In April 2019, the Council adopted Amendment 120 to the BSAI FMP, which would limit the number of C/Ps operating as motherships receiving and processing Pacific cod in the BSAI non-CDQ Pacific cod trawl CV directed fishery. If approved, Amendment 120 would amend the BSAI FMP to require a C/P be designated on a groundfish LLP license with a BSAI Pacific cod trawl mothership endorsement to receive and process Pacific cod delivered by CVs in the BSAI non-CDQ Pacific cod trawl CV directed fishery. A groundfish LLP license would receive the endorsement if a vessel designated on it is credited with receiving and processing at least one legal mothership trip target of Pacific cod in the BSAI non-CDQ Pacific cod trawl CV directed fishery each year from 2015 through 2017. Under BSAI Amendment 120, ''mothership trip target'' would mean, in the aggregate, the groundfish species that is delivered by a CV to a given C/P operating as a mothership in an amount greater than the retained amount of any other groundfish species delivered by the same CV to the same C/P for a given week.

In April 2019, the Council also adopted GOA Amendment 108. Amendments 120/108 would prohibit Amendment 80 sector C/Ps from receiving and processing Pacific cod harvested by vessels directed fishing for Pacific cod in the BSAI and GOA, if the C/P was not designated on an Amendment 80 QS permit and an Amendment 80 LLP license or not designated on an Amendment 80 LLP/QS license.

Amendment 120 would amend four sections of the BSAI FMP. First, in Table ES–2 in the Executive Summary, row ''License and Permits'' would have a sentence added to read, ''Catcher/

processor vessels receiving and processing Pacific cod harvested by catcher vessels directed fishing using trawl gear in the BSAI non-Community Development Quota Program Pacific cod fishery must qualify for a BSAI Pacific cod trawl mothership endorsement.'' The same row, ''License and Permits,'' would have a second sentence added to read, ''All Amendment 80 vessels not designated on an Amendment 80 QS permit and an Amendment 80 LLP license or on an Amendment 80 LLP/QS license are prohibited from receiving and processing Pacific cod harvested by a vessel directed fishing for Pacific cod in the BSAI.''

Second, BSAI FMP Section ''3.3.1.3 Species and Gear Endorsements for Vessels Using Trawl Gear'' would have a sentence added to read that ''A catcher/processor vessel receiving and processing Pacific cod harvested by catcher vessels directed fishing using trawl gear in the BSAI non-Community Development Quota Program Pacific cod fishery must hold an area endorsement and general license with a BSAI Pacific cod trawl mothership endorsement.'' A second sentence would be added to read, ''*BSAI non-Community Development Quota Program Pacific cod*. An LLP license must be credited with receiving and processing at least one mothership trip target delivered by a catcher vessel directed fishing using trawl gear in the BSAI non-Community Development Quota Program Pacific cod fishery in each year from 2015 through 2017.''

Third, a new BSAI FMP Section ''3.7.5.8.4 Limitations on Replaced Amendment 80 Vessels'' would have a sentence added to read, ''All Amendment 80 vessels not designated on an Amendment 80 QS permit and an Amendment 80 LLP license or on an Amendment 80 LLP/QS license is prohibited from receiving and processing Pacific cod harvested by a vessel directed fishing for Pacific cod in the BSAI.''

Finally, a section would be added to Appendix A of the BSAI FMP that summarizes the main provisions of Amendment 120, and the Table of Contents would be revised accordingly.

Amendment 108 to the GOA FMP would amend two sections of the GOA FMP. First, in Table ES–2 in the Executive Summary, row ''Participation Restrictions'' would have a sentence added to read, ''All Amendment 80 vessels not designated on an Amendment 80 QS permit and an Amendment 80 LLP license or on an Amendment 80 LLP/QS license are prohibited from receiving and processing Pacific cod harvested by a vessel directed fishing for Pacific cod in the GOA.''

Second, GOA FMP Section 3.3.3, ''Access Limitations'' would add a new sentence that reads, ''All Amendment 80 vessels not designated on an Amendment 80 QS permit and an Amendment 80 LLP license or on an Amendment 80 LLP/QS license are prohibited from receiving and processing Pacific cod harvested by a vessel directed fishing for Pacific cod in the GOA.''

Finally, a section would be added to Appendix A of the GOA FMP that summarizes the main provisions of Amendment 108, and the Table of Contents would be revised.

The proposed rule to implement proposed Amendments 120/108 provides the details of the eligibility criteria for a BSAI Pacific cod trawl mothership endorsement to a groundfish LLP license, the process to establish eligibility of individual groundfish LLP licenses based on historical participation in the fishery, and issuance of the endorsements. The specific groundfish LLP licenses eligible for such an endorsement will be named in the proposed rule and in the regulations implementing the rule. The proposed rule also provides details on the prohibition of replaced Amendment 80 C/Ps operating as a mothership in the BSAI and GOA Pacific cod fisheries.

Before adopting its preferred alternatives for Amendment 120, the Council considered a range of historical participation levels to qualify for an endorsement authorizing a C/P to operate as a mothership in the fishery, as well as a range of limits on the amount of Pacific cod that could be received and processed by C/Ps operating as a mothership in the fishery. The Council determined, and NMFS agrees, that the eligibility requirements for a BSAI Pacific cod trawl mothership endorsement under Amendment 120 would balance the need to limit entry of additional C/Ps operating as motherships in the BSAI directed, non-CDQ Pacific cod trawl CV fishery with the need to continue to provide processing opportunities for C/Ps with long term, sustained participation operating as motherships and shoreside processors in the fishery consistent with historical patterns of Pacific cod deliveries. The Council also determined, and NMFS agrees, a prohibition on allowing replaced Amendment 80 C/Ps to operate as a mothership in the BSAI and GOA Pacific cod fisheries is necessary to implement the Council's intent to prevent replaced Amendment 80 C/Ps from operating as motherships once they leave the Amendment 80 Program.

NMFS is soliciting public comments on proposed Amendments 120/108 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on the proposed rule that would implement Amendments 120/108 following NMFS's evaluation of the proposed rule under the Magnuson-Stevens Act.

Respondents do not need to submit the same comments on Amendments 120/108 and the proposed rule. All relevant written comments received by the end of the applicable comment period, whether specifically directed at the FMP amendments or the proposed rule will be considered by NMFS in the approval/disapproval decision for Amendments 120/108 and addressed in the response to comments in the final decision. Comments received after the end of the applicable comment period will not be considered in the approval/disapproval decision on Amendments 120/108. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period (see **DATES**).

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

Dated: August 15, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–17907 Filed 8–20–19; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 84, No. 162
Wednesday, August 21, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 16, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; 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 September 20, 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.

Rural Utilities Service

Title: Water and Waste Disposal Programs Guaranteed Loans.

OMB Control Number: 0572–0122.

Summary of Collection: The Rural Utilities Service (RUS) is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public agencies, nonprofit corporations, and Indian tribes for the development of water and waste disposal facilities primarily servicing rural residents. The Waste and Water Disposal Programs (WW) of RUS provide insured loan and grant funds through the WW program to finance many types of projects varying in size and complexity. The Waste and Water Disposal Guaranteed Program is implemented through 7 CFR 1779. The guaranteed loan program encourages lender participation and provides specific guidance in the processing and servicing of guaranteed WW loans.

Need and Use of the Information: Rural Development's field offices will collect information from applicants/borrowers, lenders, and consultants to determine eligibility, project feasibility and to ensure borrowers operate on a sound basis and use loan funds for authorized purposes. There are agency forms required as well as other requirements that involve certifications from the borrower, lenders, and other parties. Failure to collect proper information could result in improper determinations of eligibility, improper use of funds and or unsound loans.

Description of Respondents: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 10.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 2,782.

Kimble Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–18022 Filed 8–20–19; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–164–2019]

Foreign-Trade Zone 7—Mayaguez, Puerto Rico; Application for Subzone; Motorambar, Inc.; Cataño, Puerto Rico

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Puerto Rico Industrial Development Company, grantee of FTZ 7, requesting subzone status for the facility of Motorambar, Inc., located in Cataño, Puerto Rico. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on August 15, 2019.

The proposed subzone (8.17 acres) is located at Road 869, Km. 2.8, Palmas Ward, Cataño, Puerto Rico. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 7.

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov*. The closing period for their receipt is September 30, 2019. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 15, 2019.

A copy of the application will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz*.

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: August 15, 2019.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2019–18016 Filed 8–20–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Notice of Partially Closed Meeting of the Materials Technical Advisory Committee

The Materials Technical Advisory Committee will meet on September 5, 2019, 10:00 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues NW, Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda

Open Session

1. Opening Remarks and Introduction.
2. Remarks from BIS senior management.
3. Report on regime-based activities.
4. Public Comments and New Business.

Closed Session

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than August 29, 2019.

A limited number of seats will be available during the public session of the meeting.

Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 19, 2019, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2019–17980 Filed 8–20–19; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Notice of Partially Closed Meeting of the Transportation and Related Equipment Technical Advisory Committee

The Transportation and Related Equipment Technical Advisory Committee will meet on September 4, 2019, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues NW, Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

Agenda

Public Session

1. Welcome and Introductions.
2. Status reports by working group chairs.
3. Public comments and Proposals.

Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than August 28, 2019.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 19, 2019, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 (10)(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2019–17979 Filed 8–20–19; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–866]

Sodium Sulfate Anhydrous From Canada: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable August 21, 2019.

FOR FURTHER INFORMATION CONTACT: Davina Friedmann or Daniel Deku, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0698 or (202) 482–5075, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 17, 2019, the Department of Commerce (Commerce) initiated a less-than-fair-value (LTFV) investigation of imports of sodium sulfate anhydrous from Canada.[1] Currently, the preliminary determination is due no later than September 4, 2019.

Postponement of Preliminary Determination

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in an LTFV investigation within 140 days after the date on which

[1] *See Sodium Sulfate Anhydrous from Canada: Initiation of Less-Than-Fair-Value Investigation,* 84 FR 17138 (April 24, 2019).

Commerce initiated the investigation. However, section 733(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.[2]

On July 24, 2019, the petitioners [3] submitted a timely request that Commerce postpone the preliminary determination in this LTFV investigation.[4] The petitioners stated that the purpose of their request is to provide Commerce with adequate time to solicit information from the respondents and to allow Commerce and the petitioners sufficient time to analyze the respondents' questionnaire responses.[5]

For the reasons stated above, and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1) of the Act and 19 CFR 351.205(e), is postponing the deadline for the preliminary determination by 50 days (*i.e.,* 190 days after the date on which this investigation was initiated). As a result, Commerce will issue its preliminary determination no later than October 24, 2019.

Pursuant to section 735(a)(l) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

Notification to Interested Parties

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

[2] *See* 19 CFR 351.205(e).

[3] The petitioners are Cooper Natural Resources, Inc., Elementis Global LLC, and Searles Valley Minerals.

[4] *See* Petitioners' Letter, ''Sodium Sulfate Anhydrous from Canada: Petitioners' Request to Postpone the Antidumping Investigation Preliminary Determination,'' dated July 24, 2019.

[5] *Id.*

Dated: August 15, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–18024 Filed 8–20–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–856]

Certain Corrosion-Resistant Steel Products From Taiwan: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on available information, the Department of Commerce (Commerce) is self-initiating a country-wide anti-circumvention inquiry to determine whether imports of corrosion-resistant steel products (CORE), completed in Malaysia using hot-rolled steel (HRS) and cold-rolled steel (CRS) flat products manufactured in Taiwan, are circumventing the antidumping duty (AD) order on CORE from Taiwan.

DATES: Applicable August 21, 2019.

FOR FURTHER INFORMATION CONTACT: Brendan Quinn at (202) 482–5848, AD/CVD Operations, Office III or Barb Rawdon at (202) 482–0474, Office of Policy, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2015, AK Steel Corporation, ArcelorMittal USA LLC, California Steel Industries, Inc., Nucor Corporation, Steel Dynamics, Inc., and United States Steel Corporation filed petitions seeking imposition of antidumping and countervailing duties on imports of CORE from China, India, Italy, the Republic of Korea, and Taiwan.[1] Following Commerce's affirmative determination of dumping,[2] and the U.S. International Trade Commission's (ITC) finding of material injury,[3] Commerce issued an AD order on imports of CORE from Taiwan.[4]

Scope of the Order

The products covered by the *Order* are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals (CORE). For a full description of the scope of the *Order, see* the ''Scope of the Order,'' in the Appendix to this notice.

Prior Circumvention Finding

On August 2, 2018, pursuant to section 781(b) of the Act and 19 CFR 351.225(h), Commerce initiated an anti-circumvention inquiry on the *Order* to determine whether certain imports of CORE, completed in the Socialist Republic of Vietnam (Vietnam) using HRS and CRS flat products manufactured in Taiwan, were circumventing the *Order*.[5] Following the completion of the inquiry, on July 10, 2019, Commerce determined that imports of CORE completed in Vietnam using HRS or CRS manufactured in Taiwan were circumventing the *Order* and, therefore determined that such imports fall within the scope of the *Order*.[6]

Merchandise Subject to the Anti-Circumvention Inquiry

This anti-circumvention inquiry covers CORE completed in Malaysia using HRS or CRS manufactured in Taiwan and subsequently exported from Malaysia to the United States.

Initiation of Anti-Circumvention Inquiry

Section 781(b)(1) of the Tariff Act of 1930, as amended (the Act) provides

[1] *See Certain Corrosion-Resistant Steel Products from Italy, India, the People's Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 37228 (June 30, 2015); *Certain Corrosion-Resistant Steel Products from the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan: Initiation of Countervailing Duty Investigations,* 80 FR 37223 (June 30, 2015).

[2] *See Certain Corrosion-Resistant Steel Products from Taiwan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part,* 81 FR 35313 (June 2, 2016).

[3] *See Certain Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan; Determinations,* 81 FR 47177 (July 20, 2016); *see also Certain Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan,* Inv. Nos. 701–TA–534–537 and 731–TA–1274–1278, USITC Pub. 4620 (July 2016) (Final) (hereinafter, *USITC CORE Report*).

[4] *See Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders,* 81 FR 48390 (July 25, 2016) (*Order*).

[5] *See Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 83 FR 37785 (August 2, 2018) (*Taiwan/Vietnam CORE Initiation*).

[6] *See Certain Corrosion-Resistant Steel Products from Taiwan: Affirmative Preliminary Determination of Anti-Circumvention Inquiry on the Antidumping Duty Order,* 84 FR 32864 (July 10, 2019) and accompanying Preliminary Decision Memorandum.

that Commerce may find circumvention of an AD or CVD order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting anti-circumvention inquiries, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) Merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping or countervailing duty order or finding, (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or merchandise which is produced in the foreign country that is subject to the order, (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant, (D) the value of the merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States, and (E) the administering authority determines that action is appropriate to prevent evasion of such order or finding.

In determining whether or not the process of assembly or completion in a third country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider: (A) The level of investment in the foreign country, (B) the level of research and development in the foreign country, (C) the nature of the production process in the foreign country, (D) the extent of production facilities in the foreign country, and (E) whether or not the value of processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a third country is minor or insignificant.[7] Accordingly, it is Commerce's practice to evaluate each of these five factors as they exist in the third country, depending on the totality of the circumstances of the particular anti-circumvention inquiry.[8]

Furthermore, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in a third country within the scope of an antidumping and/or countervailing duty order. Specifically, Commerce shall take into account such factors as: (A) The pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise is affiliated with the person who, in the third country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the third country have increased after the initiation of the investigation that resulted in the issuance of such order or finding.

We have analyzed the criteria above and from available information we determine, pursuant to section 781(b) of the Act and 19 CFR 351.225(b) and (h), that initiation of an anti-circumvention inquiry is warranted to determine whether certain imports of CORE, completed in Malaysia using HRS and CRS flat products manufactured in Taiwan, are circumventing the *Order.* For a full discussion of the basis for our decision to initiate this anti-circumvention inquiry, *see* the Anti-Circumvention Initiation Memo.[9] As explained in the Anti-Circumvention Initiation Memo, the available information warrants initiating this anti-circumvention inquiry on a country-wide basis. Commerce has taken this approach in a prior anti-circumvention inquiry, where the facts warranted initiation on a country-wide basis.[10]

Consistent with the approach in the prior anti-circumvention inquiry that was initiated on a country-wide basis, Commerce intends to issue questionnaires to solicit information from producers and exporters in Malaysia concerning their shipments of CORE to the United States and the origin of any imported HRS and CRS being processed into CORE. A company's failure to respond completely to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

Notification to Interested Parties

In accordance with 19 CFR 351.225(b), Commerce determines that available information warrants initiating an anti-circumvention inquiry to determine whether certain imports of CORE, completed in Malaysia using HRS and CRS flat products manufactured in Taiwan, are circumventing the *Order.* Accordingly, Commerce hereby notifies all parties on Commerce's scope service list of the initiation of anti-circumvention inquiries. In addition, in accordance with 19 CFR 351.225(f)(1)(i) and (ii), in this notice of initiation issued under 19 CFR 351.225(b), we have included a description of the product that is the subject of this anti-circumvention inquiry (*i.e.,* CORE completed in Malaysia using HRS and CRS flat products manufactured in Taiwan), and an explanation of the reasons for Commerce's decision to initiate this anti-circumvention inquiry as provided above. Commerce will establish a schedule for questionnaires and comments on the issues in this inquiry.

In accordance with 19 CFR 351.225(l)(2), if Commerce issues preliminary affirmative determinations, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of the estimated antidumping duty, at the applicable rate, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of this inquiry. Commerce intends to issue its final determination within 300 days of the date of publication of this initiation, in accordance with section 781(f) of the Act and 19 CFR 351.225(f)(5).

This notice is published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

[7] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. No. 103–316 (1994) at 893.

[8] *See Uncovered Innerspring Units from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order,* 83 FR 65626 (December 21, 2018), and accompanying Issues and Decision Memorandum at 4.

[9] *See* Memorandum, ''Certain Corrosion-Resistant Steel Products from Taiwan: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order'' (Anti-Circumvention Initiation Memo). This memo is a public document dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[10] *See Taiwan/Vietnam CORE Initiation; see also Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order,* 82 FR 40556, 40560 (August 25, 2017) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted); *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 81 FR 79454, 79458 (November 14, 2016) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted).

Dated: August 12, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Order

The products covered by this *Order* are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.,* in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with nonrectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this *Order* are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with microalloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels. Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope corrosion resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this *Order* unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this *Order:*

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (terne plate), or both chromium and chromium oxides (tin free steel), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the *Order* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the *Order* may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the *Order* is dispositive.

[FR Doc. 2019–18013 Filed 8–20–19; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–825]

Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review; 2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Ozdemir Boru Profil San. Ve Tic. Ltd. Sti. (Ozdemir) received countervailable subsidies for the production and export of heavy walled rectangular welded carbon steel pipes and tubes (HWR pipes and tubes) from the Republic of Turkey (Turkey) during the period of review January 1, 2017 through December 31, 2017. Interested parties are invited to comment on these preliminary results.

DATES: Applicable August 21, 2019.

FOR FURTHER INFORMATION CONTACT: Janae Martin or Jaron Moore, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0238 or (202) 482–3640, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 15, 2018, Commerce published a notice of initiation of an administrative review of the countervailing duty (CVD) order on HWR pipes and tubes from Turkey.[1] Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.[2] On June 19, 2019, Commerce

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 83 FR 57411 (November 15, 2018).

[2] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations for Enforcement and Compliance, ''Deadlines

Continued

extended the deadline for the preliminary results to August 16, 2019.[3]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[4] A list of topics discussed in the Preliminary Decision Memorandum is included as an Appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Order

The merchandise covered by the order is HWR pipes and tubes. The subject merchandise is currently provided for in item 7306.61.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under HTSUS 7306.61.3000. While the HTSUS subheadings and ASTM specification are provided for convenience and customs purposes, the written description of the scope of this order is dispositive. For a complete description of the scope of the order, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this 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 preliminarily find that there is a subsidy, *i.e.,* a government financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[5] For a full description of the methodology underlying our conclusions, *see* the accompanying Preliminary Decision Memorandum.

Preliminary Results of Review

We preliminarily find that the following subsidy rate exists for Ozdemir, the sole respondent in this administrative review, for the period January 1, 2017 through December 31, 2017:

Company	Subsidy rate (percent)
Ozdemir Boru Profil San. Ve Tic. Ltd. Sti	1.94

Assessment Rate

Consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Rate

Pursuant to section 751(a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount indicated for Ozdemir with regard to 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, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit instructions, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.[6] Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[7]

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance using Enforcement and Compliance's ACCESS system.[8] Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce will inform parties of the scheduled date of the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined.[9] Issues addressed during the hearing will be limited to those raised in the briefs.[10] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS and received successfully in their entirety by 5 p.m. Eastern Time on the due date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after publication of these preliminary results.

Notification to Interested Parties

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: August 13, 2019.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[3] *See* Memorandum, ''Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2017,'' dated June 19, 2019.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results: Administrative Review of the Countervailing Duty Order on Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *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.

[6] *See* 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1).

[7] *See* 19 CFR 351.309(c)(2) and 351.309(d)(2).

[8] *See* 19 CFR 351.310(c).

[9] *See* 19 CFR 351.310.

[10] *See* 19 CFR 351.310(c).

IV. Subsidies Valuation Information
V. Benchmarks and Interest Rates
VI. Analysis of Programs
VII. Recommendation

[FR Doc. 2019–18011 Filed 8–20–19; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–875]

Carbon and Alloy Steel Cut-To-Length Plate From Japan: Rescission of Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on carbon and alloy steel cut-to-length plate from Japan for the period May 1, 2018, through April 30, 2019, based on the timely withdrawal of the request for review.

DATES: Applicable August 21, 2019.

FOR FURTHER INFORMATION CONTACT: Hannah Falvey, 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) 482–4889.

Background

On May 1, 2019, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty (AD) order on carbon and alloy steel cut-to-length plate (CTL plate) from Japan for the period May 1, 2018, through April 30, 2019.[1] On May 31, 2019, Commerce received a timely request to conduct an administrative review of the AD order on CTL plate from Japan from Hitachi Metals, Ltd. (Hitachi Metals).[2] On July 15, 2019, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i), Commerce initiated an administrative review of the AD order on CTL plate from Japan with respect to Hitachi Metals.[3] On August 6, 2019, Hitachi Metals timely withdrew its request for an administrative review.[4]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication date of the notice of initiation of the requested review. Hitachi Metals withdrew its request for review within the 90-day deadline. Because Commerce received no other requests for review of Hitachi Metals, and no other requests were made for a review of the AD order on CTL plate from Japan with respect to other companies, we are rescinding the administrative review covering the period May 1, 2018, through April 30, 2019, in full, in accordance with 19 CFR 351.213(d)(1).

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess AD duties on all appropriate entries of CTL plate from Japan during the period of review. For the company for which this review is rescinded, AD duties shall be assessed at rates equal to the cash deposit rate of estimated AD duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as the only reminder to importers whose entries will be liquidated as a result of this rescission notice, of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of AD duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of the AD duties occurred and the subsequent assessment of double AD duties.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751 and 777(i)(l) of the Act and 19 CFR 351.213(d)(4).

Dated: August 15, 2019.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–18014 Filed 8–20–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–026, C–570–027]

Corrosion-Resistant Steel Products From the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY Based on available information, the Department of Commerce (Commerce) is self-initiating country-wide anti-circumvention inquiries to determine whether imports of corrosion-resistant steel products (CORE) completed in Costa Rica, Guatemala, Malaysia, South Africa, and the United Arab Emirates (UAE) (collectively, third countries) using hot-rolled steel (HRS) and cold-rolled steel (CRS) flat products manufactured in the People's Republic of China (China) are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CORE from China.

DATES: Applicable August 21, 2019.

FOR FURTHER INFORMATION CONTACT: Brendan Quinn at (202) 482–5848, AD/CVD Operations, Office III or Justin Enck at (202) 482–1614, Office of Policy, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2015, AK Steel Corporation, ArcelorMittal USA LLC, California Steel Industries, Inc., Nucor Corporation, Steel Dynamics, Inc., and

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 18479 (May 1, 2019).

[2] *See* Hitachi Metals' Letter, ''Carbon and Alloy Steel Cut-To-Length Plate from Japan—Hitachi Metals' Request for Administrative Review,'' dated May 31, 2019.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 33739 (July 15, 2019).

[4] *See* Hitachi Metals' Letter, ''Carbon and Alloy Steel Cut-To-Length Plate from Japan—Hitachi Metals' Withdrawal of Request for Administrative Review,'' dated August 6, 2019.

United States Steel Corporation filed petitions seeking the imposition of antidumping and countervailing duties on imports of CORE from China, India, Italy, the Republic of Korea, and Taiwan.[1] Following Commerce's affirmative determinations of dumping and countervailable subsidies,[2] and the U.S. International Trade Commission's (ITC) finding of material injury,[3] Commerce issued AD and CVD orders on imports of CORE from China.[4]

Scope of the Orders

The products covered by the *Orders* are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals (CORE). For a full description of the scope of these orders, *see* the ''Scope of the Orders,'' in the Appendix to this notice.

Prior Circumvention Finding

On November 14, 2016, pursuant to section 781(b) of the Act and 19 CFR 351.225(h), Commerce initiated anti-circumvention inquiries on the *Orders* to determine whether certain imports of CORE completed in the Socialist Republic of Vietnam (Vietnam) using HRS and CRS flat products manufactured in China were circumventing the *Orders*.[5] Following the completion of the inquiries, on May 23, 2018, Commerce determined that imports of CORE completed in Vietnam using HRS or CRS manufactured in China were circumventing the *Orders* and, therefore, determined that such imports fall within the scope of the *Orders*.[6]

Merchandise Subject to the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover CORE completed in the third countries using HRS or CRS manufactured in China and subsequently exported from the third countries to the United States.

Initiation of Anti-Circumvention Inquiries

Section 781(b)(1) of the Tariff Act of 1930, as amended (the Act), provides that Commerce may find circumvention of an AD or CVD order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting anti-circumvention inquiries, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) Merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping or countervailing duty order or finding, (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or merchandise which is produced in the foreign country that is subject to the order, (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant, (D) the value of the merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States, and (E) the administering authority determines that action is appropriate to prevent evasion of such order or finding.

In determining whether or not the process of assembly or completion in a third country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider: (A) The level of investment in the foreign country, (B) the level of research and development in the foreign country, (C) the nature of the production process in the foreign country, (D) the extent of production facilities in the foreign country, and (E) whether or not the value of processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a third country is minor or insignificant.[7] Accordingly, it is Commerce's practice to evaluate each of these five factors as they exist in the third country, depending on the totality of the circumstances of the particular anti-circumvention inquiry.[8]

Furthermore, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in a third country within the scope of an antidumping and/or countervailing duty order. Specifically, Commerce shall take into account such factors as: (A) The pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise is affiliated with the person who, in the third country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the third country have increased after the initiation of the investigation that resulted in the issuance of such order or finding.

We have analyzed the criteria above and from available information we determine, pursuant to section 781(b) of the Act and 19 CFR 351.225(b) and (h), that initiation of anti-circumvention inquiries is warranted to determine whether certain imports of CORE, completed in Costa Rica, Guatemala, Malaysia, South Africa, and the UAE using HRS and CRS flat products manufactured in China, are circumventing the *Orders.* For a full discussion of the basis for our decision to initiate these anti-circumvention inquiries, *see* the Anti-Circumvention Initiation Memo.[9] As explained in the

[1] *See Certain Corrosion-Resistant Steel Products from Italy, India, the People's Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations,* 80 FR 37228 (June 30, 2015); *Certain Corrosion-Resistant Steel Products from the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan: Initiation of Countervailing Duty Investigations,* 80 FR 37223 (June 30, 2015).

[2] *See Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Critical Circumstances Determination, in Part,* 81 FR 35316 (June 2, 2016); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part,* 81 FR 35308 (June 2, 2016).

[3] *See Certain Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan; Determinations,* 81 FR 47177 (July 20, 2016); *see also Certain Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan;* Inv. No. 701–TA–534–537 and 731–TA–1274–1278, USITC Pub. 4620 (July 2016) (Final) (hereinafter, *USITC CORE Report*).

[4] *See Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders,* 81 FR 48390 (July 25, 2016); *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea and the People's Republic of China: Countervailing Duty Order,* 81 FR 48387 (July 25, 2016) (collectively, *Orders*).

[5] *See Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 81 FR 79454 (November 14, 2016).

[6] *See Certain Corrosion-Resistant Steel Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders,* 83 FR 23895 (May 23, 2018) (*China/Vietnam CORE Final Determination*).

[7] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. No. 103–316 (1994) at 893.

[8] *See Uncovered Innerspring Units from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order,* 83 FR 65626 (December 21, 2018), and accompanying Issues and Decision Memorandum at 4.

[9] *See* Memorandum, ''Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty

Anti-Circumvention Initiation Memo, the available information warrants initiating these anti-circumvention inquiries on a country-wide basis. Commerce has taken this approach in a prior anti-circumvention inquiry, where the facts warranted initiation on a country-wide basis.[10]

Consistent with the approach in the prior anti-circumvention inquiry that was initiated on a country-wide basis, Commerce intends to issue questionnaires to solicit information from producers and exporters in each of the third countries concerning their shipments of CORE to the United States and the origin of any imported HRS and CRS being processed into CORE. A company's failure to respond completely to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

Notification to Interested Parties

In accordance with 19 CFR 351.225(b), Commerce determines that available information warrants initiating these anti-circumvention inquiries to determine whether certain imports of CORE, completed in Costa Rica, Guatemala, Malaysia, South Africa, and the UAE using HRS and CRS flat products manufactured in China, are circumventing the *Orders.* Accordingly, Commerce hereby notifies all parties on Commerce's scope service list of the initiation of anti-circumvention inquiries. In addition, in accordance with 19 CFR 351.225(f)(1)(i) and (ii), in this notice of initiation issued under 19 CFR 351.225(b), we have included a description of the product that is the subject of these anti-circumvention inquiries (*i.e.,* CORE completed in the third countries using HRS and CRS flat products manufactured in China), and an explanation of the reasons for Commerce's decision to initiate these anti-circumvention inquiries, as provided above. Commerce will establish a schedule for questionnaires and comments on the issues in these inquiries.

In accordance with 19 CFR 351.225(l)(2), if Commerce issues preliminary affirmative determinations, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated antidumping and countervailing duties, at the applicable rate, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiries. Commerce intends to issue its final determinations within 300 days of the date of publication of this initiation, in accordance with section 781(f) of the Act and 19 CFR 351.225(f)(5).

This notice is published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: August 12, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Orders

The products covered by these *Orders* are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.,* in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.,* in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with nonrectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of these *Orders* are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with microalloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels. Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope corrosion resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of these *Orders* unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of these *Orders:*

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (terne plate), or both chromium and chromium oxides (tin free steel), whether or not painted, varnished

Orders'' (Anti-Circumvention Initiation Memo). This memo is a public document that is dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[10] *See, e.g., Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 83 FR 37785 (August 2, 2018); *see also Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order,* 82 FR 40556, 40560 (August 25, 2017) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted); *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 81 FR 79454, 79458 (November 14, 2016) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted).

or coated with plastics or other non-metallic substances in addition to the metallic coating;

- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%–60%–20% ratio.

The products subject to the *Orders* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the *Orders* may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the *Orders* is dispositive.

[FR Doc. 2019–18012 Filed 8–20–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Northeast Region Permit Family of Forms.

OMB Control Number: 0648–0202.

Form Number(s): None.

Type of Request: Regular.

Number of Respondents: 65,360.

Average Hours per Response: 5 minutes: Dealer Permit Renewal, VMS Certification Form, Industry Call to Confirm Reporting to NOAA, Emails for US EEZ Arrival/Departure and Transhipment Activity, VMS Reporting, Exemption programs authorized for permit holders, Change in Multispecies Permit Category, Gillnet Designations; 10 minutes: VMS certification form and Installation confirmation, Lobster Area Designation and Requests for Trap Tags; 15 minutes: Initial Dealer Permit, VMS Power Down Exemption; 20 minutes: Lobster Area 5 Waiver; 30 minutes: Vessel Permit Renewal, Good Samaritan Credit, Entangled Whale DAS Credit, Canceled Trip DAS Credit, Vessel Owner Single Letter Option; 45 minutes: Initial Vessel Permit; 1 hour: Initial Operator Permit, Operator Permit Renewal, VMS Installation, State Quota Transfer; 1.3 hours: Installation and Operation Maintenance Fees; 1.5 hours: Replacement/CPH, History Retention; 2 hours: Notification and Communication with USCG and Center for Coastal Studies regarding Entangled Whale.

Burden Hours: 20,825.

Needs and Uses: The information collected via permit issuance (vessel, dealer, and operator) and through the Vessel Monitoring Systems (VMS) is used by several offices of the NOAA Fisheries Service, the U.S. Coast Guard, the Councils, and state fishery enforcement agencies under contract to the NOAA Fisheries Service in order to develop, implement, and monitor fishery management strategies. Identification of the participants, gear types, vessels, expected activity, and activity levels is an effective and necessary tool in the enforcement and management of fishery regulations.

Affected Public: Businesses and other for-profit organizations are primarily affected. Individuals or households, state, local or tribal governments, and the Federal Government are also affected.

Frequency: On occasion, weekly, monthly, annually, every three years.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–17991 Filed 8–20–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Nevada Broadband Workshop

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Telecommunications and Information Administration's (NTIA) BroadbandUSA Program will host a Broadband Workshop in Reno, Nevada on September 27, 2019. The purpose of the Workshop is to engage the public and stakeholders with information to accelerate broadband connectivity, improve digital inclusion, and support local priorities. The Workshop will provide information on topics including local broadband planning, funding, and engagement with service providers. Speakers and attendees from Nevada, federal agencies, and across the country will come together to explore ways to facilitate the expansion of broadband capacity, access, and utilization.

DATES: The Broadband Workshop will be held on September 27, 2019, from 8:30 a.m. until 3:30 p.m. Pacific Time.

ADDRESSES: The Broadband Workshop will be held in Reno, Nevada at Lawlor Events Center at the University of Nevada, Reno, 1664 North Virginia Street, Reno, NV 89557.

FOR FURTHER INFORMATION CONTACT: Janice Wilkins, National Telecommunications and Information Administration, U.S. Department of Commerce, Room 4678, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5791; email: *broadbandusaevents@ntia.doc.gov*. Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002; email: *press@ntia.gov.*

SUPPLEMENTARY INFORMATION: The NTIA's BroadbandUSA program promotes innovation and economic growth by supporting efforts to expand broadband access and meaningful use across America.

The Broadband Workshop is open to the public. Pre-registration is requested because space may be limited. NTIA asks registrants to provide their first and last name, title, organization/company, and email address for registration purposes, name tags to be provided at the workshop, and to receive any updates on the workshop. Information about the workshop is subject to change. Registration information, meeting

updates, including changes in the agenda, and relevant documents will be available on NTIA's website at *https://broadbandusa.ntia.doc.gov/NevadaBroadbandWorkshopSept2019.*

The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as language interpretation or other ancillary aids, should notify Janice Wilkins at the contact information listed above at least ten (10) business days before the meeting so that accommodations can be made.

Dated: August 15, 2019.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2019–17958 Filed 8–20–19; 8:45 am]

BILLING CODE 3510–60–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Revise and Extend Collection 3038–0111: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants; Comparability Determinations With Margin Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing an opportunity for public comment on the proposed revision and renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the burdens associated with the following aspects of the Commission's Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants (''Final Rule''): Requesting a comparability determination from the Commission; maintaining policies and procedures for compliance with the Commission's special provisions for non-netting jurisdictions and non-segregation jurisdictions; and maintaining books and records properly documenting that all of the requirements of the special provisions for non-netting jurisdictions and non-segregation jurisdictions are satisfied.

DATES: Comments must be submitted on or before October 21, 2019.

ADDRESSES: You may submit comments, and ''OMB Control No. 3038–0111'' by any of the following methods:

- The Agency's website, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Lauren Bennett, Special Counsel, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, (202) 418–5290 or *lbennett@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed extension and revision to the collection listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Title: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants; Comparability Determinations With Margin Requirements (OMB Control No. 3038–0111). This is a request for an extension and revision of a currently approved information collection.

Abstract: Section 731 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''),[1] amended the Commodity Exchange Act (''CEA''), 7 U.S.C. 1 *et seq.,* to add, as section 4s(e) thereof, provisions concerning the setting of initial and variation margin requirements for swap dealers (''SDs'') and major swap participants (''MSPs'').[2] Each SD and MSP for which there is a Prudential Regulator, as defined in section 1a(39) of the CEA,[3] must meet margin requirements established by the applicable Prudential Regulator, and each SD and MSP for which there is no Prudential Regulator (''Covered Swap Entities'' or ''CSEs'') must comply with the Commission's regulations governing margin on all swaps that are not centrally cleared.

With regard to the cross-border application of the Commission's margin rules, section 2(i)[4] of the CEA provides the Commission with express authority over activities outside the United States relating to swaps when certain conditions are met. Section 2(i) of the CEA provides that the provisions of the CEA relating to swaps that were enacted by the Wall Street Transparency and Accountability Act of 2010 (including any rule prescribed or regulation promulgated under that Act), shall not apply to activities outside the United States unless those activities (1) have a direct and significant connection with activities in, or effect on, commerce of the United States or (2) contravene such rules or regulations as the Commission may prescribe or promulgate as are necessary or appropriate to prevent the evasion of any provision of the CEA that was enacted by the Wall Street Transparency and Accountability Act of 2010.

On May 31, 2016, the Commission published a final rule addressing the cross-border application of its margin requirements for uncleared swaps applicable to CSEs.[5] As described below, the adopting release for the Final Rule contained a collection of information regarding requests for comparability determinations, which was previously included in the proposing release, and for which the Office of Management and Budget (''OMB'') assigned OMB control number 3038–0111, titled ''Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants; Comparability Determinations With Margin Requirements.'' In addition, the adopting release included two additional information collections

[1] Public Law 111–023, 124 Stat. 1376 (2010).

[2] 7 U.S.C. 6s(e).

[3] 7 U.S.C. 1a(39).

[4] 7 U.S.C. 2(i).

[5] 81 FR 34818 (May 31, 2016).

regarding non-netting jurisdictions [6] and non-segregation jurisdictions [7] that were not previously proposed. Subsequently, on August 2, 2016, the Commission requested a revision of the collection for Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants; Comparability Determinations With Margin Requirements (OMB control number 3038–0111) to include the burden estimates for the provisions regarding non-netting jurisdictions and non-segregation jurisdictions.[8]

Under section 23.160(c)(1) of the Final Rule, a CSE that is eligible for substituted compliance or a foreign regulatory agency that has direct supervisory authority over one or more CSEs and that is responsible for administering the relevant foreign jurisdiction's margin requirements may request, individually or collectively, that the Commission make a determination that a CSE that complies with margin requirements in the relevant foreign jurisdiction would be deemed to be in compliance with the Commission's corresponding margin rule promulgated by the Commission (a ''comparability determination''). Once a comparability determination is made for a jurisdiction, it applies for all entities or transactions in that jurisdiction to the extent provided in the comparability determination, as approved by the Commission and subject to any conditions specified by the Commission. All CSEs, regardless of whether they rely on a comparability determination, remain subject to the Commission's examination and enforcement authority.

Section 23.160(c)(2) of the Final Rule requires that applicants for a comparability determination provide copies of the relevant foreign jurisdiction's margin requirements and descriptions of their objectives, how they differ from the BCBS/IOSCO international framework, and how they address the elements of the Commission's margin requirements. The applicant must identify the specific legal and regulatory provisions of the foreign jurisdiction's margin requirements that correspond to each element and, if necessary, whether the relevant foreign jurisdiction's margin requirements do not address a particular element.

Section 23.160(d) of the Final Rule includes a special provision for non-netting jurisdictions. This provision allows CSEs that cannot conclude after sufficient legal review with a well-founded basis that the netting agreement with a counterparty in a foreign jurisdiction meets the definition of an ''eligible master netting agreement'' set forth in the Final Rule to nevertheless net uncleared swaps in determining the amount of margin that they post, provided that certain conditions are met. In order to avail itself of this special provision, a CSE must treat the uncleared swaps covered by the agreement on a gross basis in determining the amount of initial and variation margin that it must collect, but may net those uncleared swaps in determining the amount of initial and variation margin it must post to the counterparty, in accordance with the netting provisions of the Final Rule. A CSE that enters into uncleared swaps in ''non-netting'' jurisdictions in reliance on this provision must have policies and procedures ensuring that it is in compliance with the special provision's requirements, and maintain books and records properly documenting that all of the requirements of this exception are satisfied.

Section 23.160(e) of the Final Rule includes a special provision for non-segregation jurisdictions that allows non-U.S. CSEs that are Foreign Consolidated Subsidiaries (as defined in the Final Rule) and foreign branches of U.S. CSEs to engage in swaps in foreign jurisdictions where inherent limitations in the legal or operational infrastructure make it impracticable for the CSE and its counterparty to post collateral in compliance with the custodial arrangement requirements of the Commission's margin rules, subject to certain conditions. In order to rely on this special provision, a Foreign Consolidated Subsidiary (''FCS'') or foreign branch of a U.S. CSE is required to satisfy all of the conditions of the rule, including that (1) inherent limitations in the legal or operational infrastructure of the foreign jurisdiction make it impracticable for the CSE and its counterparty to post any form of eligible initial margin collateral for the uncleared swap pursuant to custodial arrangements that comply with the Commission's margin rules; (2) foreign regulatory restrictions require the CSE to transact in uncleared swaps with the counterparty through an establishment within the foreign jurisdiction and do not permit the posting of collateral for the swap in compliance with the custodial arrangements of section 23.157 of the Final Rule in the United States or a jurisdiction for which the Commission has issued a comparability determination under the Final Rule with respect to section 23.157; (3) the CSE's counterparty is not a U.S. person and is not a CSE, and the counterparty's obligations under the uncleared swap are not guaranteed by a U.S. person; (4) the CSE collects initial margin in cash on a gross basis, in cash, and posts and collects variation margin in cash, for the uncleared swap in accordance with the Final Rule; (5) for each broad risk category, as set out in § 23.154(b)(2)(v) of the Final Rule, the total outstanding notional value of all uncleared swaps in that broad risk category, as to which the CSE is relying on § 23.160 (e), may not exceed 5 percent of the CSE's total outstanding notional value for all uncleared swaps in the same broad risk category; (6) the CSE has policies and procedures ensuring that it is in compliance with the requirements of this provision; and (7) the CSE maintains books and records properly documenting that all of the requirements of this provision are satisfied.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information

[6] As used in the adopting release, a ''non-netting jurisdiction'' is a jurisdiction in which a CSE cannot conclude, with a well-founded basis, that the netting agreement with a counterparty in that foreign jurisdiction meets the definition of an ''eligible master netting agreement'' set forth in the Final Rule, as described in section II.B.5.b of the adopting release.

[7] As used in the adopting release, a ''non-segregation jurisdiction'' is a jurisdiction where inherent limitations in the legal or operational infrastructure of the foreign jurisdiction make it impracticable for the CSE and its counterparty to post initial margin pursuant to custodial arrangements that comply with the Commission's margin rules, as further described in section II.B.4.b of the adopting release.

[8] 81 FR 50690 (Aug. 2, 2016).

that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[9]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement—Information Collection for Comparability Determinations: The Commission estimates that approximately 55 CSEs may request a comparability determination pursuant to section 23.160(c) of the Final Rule.[10] The Commission notes that any foreign regulatory agency that has direct supervisory authority over one or more CSEs and that is responsible for administering the relevant foreign jurisdiction's margin requirements may also apply for a comparability determination. Further, once a comparability determination is made for a jurisdiction, it will apply for all entities or transactions in that jurisdiction to the extent provided in the determination, as approved by the Commission. To date, the Commission has issued a comparability determination for 3 jurisdictions.[11] Accordingly, the Commission estimates that it will receive requests from the 13 remaining jurisdictions within the G20, in addition to Switzerland. In light of its experience in evaluating requests for comparability determinations, the Commission is revising its estimate for the number of burden hours associated with such requests from 10 hours to 40 hours. Accordingly, the respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 14.

Estimated Average Burden Hours per Respondent: 40.

Estimated Total Annual Burden Hours: 560.

Frequency of Collection: Once.

There are no capital costs or operating and maintenance costs associated with this collection.

Burden Statement—Information Collection for Non-Netting Jurisdictions: The Commission estimates that approximately 55 CSEs may rely on section 23.160(d) of the Final Rule.[12] Furthermore, the Commission estimates that these CSEs would incur an average of 10 annual burden hours to maintain books and records properly documenting that all of the requirements of this exception are satisfied (including policies and procedures ensuring compliance). Accordingly, the respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 55.

Estimated Average Burden Hours per Respondent: 10.

Estimated Total Annual Burden Hours: 550.

Frequency of Collection: Once; As needed.

There are no capital costs or operating and maintenance costs associated with this collection.

Burden Statement—Information Collection for Non-Segregation Jurisdictions: The Commission estimates that there are eight jurisdictions for which the first two conditions specified above for non-segregation jurisdictions are satisfied and where FCSs and foreign branches of U.S. CSEs that are subject to the Commission's margin rules may engage in swaps. The Commission estimates that approximately 12 FCSs or foreign branches of U.S. CSEs may rely on section 23.160(e) of the Final Rule in some or all of these jurisdictions. The Commission estimates that each FCS or foreign branch of a U.S. CSE relying on this provision would incur an average of 20 annual burden hours to maintain books and records properly documenting that all of the requirements of this provision are satisfied (including policies and procedures for ensuring compliance) with respect to each jurisdiction as to which they rely on the special provision. Thus, based on the estimate of eight non-segregation jurisdictions, the Commission estimates that each of the approximately 12 FCSs or foreign branches of U.S. CSEs that may rely on this provision will incur an estimated 160 average burden hours per year (*i.e.,* 20 average burden hours per jurisdiction multiplied by 8). Accordingly, the respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 12.

Estimated Average Burden Hours per Respondent: 160.

Estimated Total Annual Burden Hours: 1,920.

Frequency of Collection: Once; As needed.

There are no capital costs or operating and maintenance costs associated with this collection.

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

Dated: August 16, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2019–18027 Filed 8–20–19; 8:45 am]

BILLING CODE 6351–01–P

[9] 17 CFR 145.9.

[10] Currently, there are approximately 107 swap entities provisionally registered with the Commission. The Commission estimates that of the approximately 107 swap entities that are provisionally registered, approximately 55 are CSEs for which there is no Prudential Regulator, and are therefore subject to the Commission's margin rules.

[11] *See* Comparability Determination for Japan: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 63376 (Sep. 15, 2016); Comparability Determination for the European Union: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 82 FR 48394 (Oct. 18, 2017) (''Margin Comparability Determination for the European Union''); and Comparability Determination for Australia: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 84 FR 12908 (Apr. 3, 2019). The Commission subsequently amended its comparability determination for Japan. *See* Amendment to Comparability Determination for Japan: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 84 FR 12074 (Apr. 1, 2019).

[12] Currently, there are approximately 107 swap entities provisionally registered with the Commission. The Commission estimates that of the approximately 107 swap entities that are provisionally registered, approximately 55 are CSEs for which there is no Prudential Regulator, and are therefore subject to the Commission's margin rules. Because all of these CSEs are eligible to use the special provision for non-netting jurisdictions, the Commission estimates that 55 CSEs may rely on section 23.160(d) of the Final Rule.

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: CP19–499–000.

Applicants: Columbia Gas Transmission, LLC.

Description: Abbreviation Application of Columbia Gas Transmission, LLC for Authorization to Abandon Exchange Service under Rate Schedule X–103.

Filed Date: 8/12/19.

Accession Number: 20190812–5093.

Comments Due: 5 p.m. ET 9/3/19.

Docket Numbers: RP19–1039–001.

Applicants: Venice Gathering System, L.L.C.

Description: Request for a Limited Extension of Time to Implement Certain NAESB WGQ Version 3.1 Standards of Venice Gathering System, L.L.C. under RP19–1039.

Filed Date: 8/7/19.

Accession Number: 20190807–5059.

Comments Due: 5 p.m. ET 8/19/19.

Docket Numbers: RP19–1468–000.

Applicants: Northern Natural Gas Company.

Description: § 4(d) Rate Filing: 20190813 Carlton Flow Obligations to be effective 11/1/2019.

Filed Date: 8/13/19.

Accession Number: 20190813–5043.

Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: RP19–1469–000.

Applicants: DTE Midstream Appalachia, LLC.

Description: Compliance filing Order No. 587–Y Compliance Filing to be effective 8/1/2019.

Filed Date: 8/13/19.

Accession Number: 20190813–5069.

Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: RP19–1470–000.

Applicants: WestGas InterState, Inc.

Description: Compliance filing 20190813_RP19–1097_Order No. 587–Y to be effective 8/1/2019.

Filed Date: 8/13/19.

Accession Number: 20190813–5122.

Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: RP19–1471–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Non-Conforming Negotiated Rate Agreement (Targa) to be effective 9/20/2019.

Filed Date: 8/13/19.

Accession Number: 20190813–5213.

Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: RP19–910–001.

Applicants: Gulf Shore Energy Partners, LP.

Description: Compliance filing Compliance to 275 to be effective 8/1/2019.

Filed Date: 8/13/19.

Accession Number: 20190813–5175.

Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: RP19–1472–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Agreements Filing (MRC Permian) to be effective 8/14/2019.

Filed Date: 8/14/19.

Accession Number: 20190814–5097.

Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: RP19–857–001.

Applicants: Garden Banks Gas Pipeline, LLC.

Description: Compliance filing Garden Banks 587–Y Compliance Filing to be effective 8/1/2019.

Filed Date: 8/14/19.

Accession Number: 20190814–5020.

Comments Due: 5 p.m. ET 8/26/19.

Docket Numbers: RP19–864–001.

Applicants: Mississippi Canyon Gas Pipeline, L.L.C.

Description: Compliance filing Mississippi Canyon—Compliance Filing to be effective 8/1/2019.

Filed Date: 8/14/19.

Accession Number: 20190814–5029.

Comments Due: 5 p.m. ET 8/26/19.

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: August 15, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–18005 Filed 8–20–19; 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 electric rate filings:

Docket Numbers: ER10–2421–001; ER11–2457–001; ER11–2449–002; ER12–75–005; ER12–2252–003; ER12–2251–002; ER12–2253–002; ER12–2250–002; ER11–3069–004; ER11–3141–004; ER11–3098–004; ER11–3545–003; ER12–2010–001; ER12–1769–004; ER14–2245–002.

Applicants: Energy Services Providers, Inc., Massachusetts Gas & Electric, Inc., Connecticut Gas & Electric, Inc., Public Power, LLC, Public Power (PA), LLC, Public Power & Utility of NY, Inc, Public Power & Utility of Maryland, LLC, Everyday Energy, LLC, Everyday Energy NJ, LLC, Viridian Energy, LLC, Viridian Energy NY, LLC, Viridian Energy PA, LLC, Cincinnati Bell Energy LLC, Energy Rewards, LLC, TriEagle Energy, LP.

Description: Notice of Change in Status of the Crius Public Utilities.

Filed Date: 8/14/19.

Accession Number: 20190814–5120.

Comments Due: 5 p.m. ET 9/4/19.

Docket Numbers: ER18–1737–005.

Applicants: Northern Indiana Public Service Company.

Description: Compliance filing: Reactive Supply Service Rate Compliance Filing to be effective 10/1/2018.

Filed Date: 8/15/19.

Accession Number: 20190815–5104.

Comments Due: 5 p.m. ET 9/5/19.

Docket Numbers: ER19–2613–000.

Applicants: Birchwood Power Partners, L.P.

Description: § 205(d) Rate Filing: Reactive Power Rate Schedule to be effective 8/15/2019.

Filed Date: 8/14/19.

Accession Number: 20190814–5106.

Comments Due: 5 p.m. ET 9/4/19.

Docket Numbers: ER19–2614–000.

Applicants: WSPP Inc.

Description: § 205(d) Rate Filing: List of Members Update 2019 to be effective 8/12/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5015.

Comments Due: 5 p.m. ET 9/5/19.

Docket Numbers: ER19–2615–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–08–15_SA 3340 Iris Solar-Entergy Louisiana GIA (J1184) to be effective 8/1/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5047.

Comments Due: 5 p.m. ET 9/5/19.

Docket Numbers: ER19–2616–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: ISO–NE & NEPOOL; JNC Authority to Waive ISO Board Candidate Age Limit to be effective 10/15/2019.

Filed Date: 8/15/19.

Accession Number: 20190815–5052.

Comments Due: 5 p.m. ET 9/5/19.

Docket Numbers: ER19–2617–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits Average System Cost Filing for Sales of Electric Power to the Bonneville Power Administration, FY 2020–2021.

Filed Date: 8/15/19.

Accession Number: 20190815–5107.

Comments Due: 5 p.m. ET 9/5/19.

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: August 15, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–18004 Filed 8–20–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2018–0014; FRL–9996–82]

Cancellation Order for Certain Pesticide Registrations and Amendments To Terminate Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations and amendments to terminate uses, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1, Table 1A, Table 1B, Table 1C, Table 1D, Table 1E and Table 2, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a May 31, 2019 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 3 of Unit II to voluntarily cancel and amend to terminate uses of certain product registrations. In the May 31, 2019 notice, EPA indicated that it would issue an order implementing the cancellations and amendments to terminate uses, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency received one anonymous public comment on the notice but didn't merit its further review of the requests. Further, two registrants did withdraw their requests. The Agency has removed the requests withdrawn by the registrants. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations and amendments to terminate uses. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations and amendments are effective August 21, 2019.

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. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0014, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

This notice announces the cancellations and amendments to terminate uses, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Tables 1, 1A, 1B, 1C, 1D, 1E and 2 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
100–1083	100	Doubleplay Selective Herbicide	Carbamothioic acid, dipropyl-, S-ethyl ester & Acetochlor.
279–3556	279	Nic-It Herbicide	Nicosulfuron.
279–3577	279	Solida Grande Herbicide	Rimsulfuron & Nicosulfuron.
279–3593	279	Harrow Herbicide	Rimsulfuron & Thifensulfuron.
499–534	499	TC 281	Fludioxonil.
1258–161	1258	HTH Dry Chlorinator Granular for Swimming Pools 70%.	Calcium hypochlorite.
1258–162	1258	HTH Dry Chlorinator for Swimming Pools Tablet 70%.	Calcium hypochlorite.
1258–974	1258	Calcium Hypochlorite Tablets—65	Calcium hypochlorite.
1258–1064	1258	Calcium Hypochlorite Sanitizer Tablets 60	Calcium hypochlorite.
1258–1171	1258	HTH Tablets 75	Calcium hypochlorite.
1258–1218	1258	Calcium Hypochlorite 20 Gram Tablets	Calcium hypochlorite.
1258–1240	1258	HTH Granular Sanitizer/Shock	Calcium hypochlorite.
1258–1281	1258	Pool Breeze Pool Care System Shock Treatment and Superchlorinator.	Calcium hypochlorite.
1258–1333	1258	AW08	Calcium hypochlorite.

TABLE 1—PRODUCT CANCELLATIONS—Continued

Registration No.	Company No.	Product name	Active ingredients
1258–1348	1258	AW78	Sodium hypochlorite.
1258–1356	1258	AW88 (ICM)	Calcium hypochlorite.
1258–1357	1258	AW88 (MASS)	Calcium hypochlorite.
1258–1360	1258	AW91 (MASS)	Calcium hypochlorite.
1258–1362	1258	AW91 (RPL)	Calcium hypochlorite.
1543–16	1543	Leather Therapy	o-Phenylphenol (NO INERT USE).
2693–188	2693	Intersmooth 365 Ecoloflex SPC Antifouling BEA 363.	Cuprous oxide & Zinc pyrithione.
2693–194	2693	Optima Activator	Zinc pyrithione.
2693–200	2693	Multi-Micron Antifouling-Blue	Cuprous oxide & Zinc pyrithione.
2693–222	2693	Trilux CF—Black	Zinc pyrithione.
2693–223	2693	Trilux ABF-White	Zinc pyrithione.
2749–587	2749	Buprofezin 70WDG IGR	Buprofezin.
5185–459	5185	Proteam HGH-Tech Tabs	Boron sodium oxide (B4Na2O7), pentahydrate & Trichloro-s-triazinetrione.
5481–525	5481	Lorsban 15G Smartbox	Chlorpyrifos.
7969–93	7969	FACET 50 WP	Quinclorac.
7969–113	7969	PARAMOUNT HERBICIDE	Quinclorac.
7969–130	7969	DRIVE 75 DF HERBICIDE	Quinclorac.
7969–152	7969	PARAMOUNT BW HERBICIDE	Quinclorac & 2,4–D.
7969–158	7969	FACET GR HERBICIDE 46	Quinclorac.
7969–267	7969	ONETIME HERBICIDE	Quinclorac; Dicamba & Mecoprop-P.
7969–313	7969	FACET 75 DF HERBICIDE	Quinclorac.
7969–342	7969	Boric Acid Granular Insect Bait	Boric acid.
10404–37	10404	PCNB 12.5% Plus Fertilizer	Pentachloronitrobenzene.
10772–23	10772	Capricorn	Tetraacetylethylenediamine & Sodium percarbonate.
19713–297	19713	Ida Inc. Sodium Hypochlorite	Sodium hypochlorite.
19713–312	19713	Drexel PCNB–2E Liquid	Pentachloronitrobenzene.
40810–19	40810	Irgaguard(R) B502 1	Silver & Zinc.
40810–23	40810	Irgaguard B102 N	Silver & Zinc.
40810–25	40810	Irgaguard B 102 Z	Zinc.
40810–26	40810	Irgaguard B 102 M	Silver.
40810–27	40810	Irgaguard B6000	Zinc & Silver.
47033–20001	47033	Cascade S100L	Sodium hypochlorite.
47371–191	47371	Formulation HWS–512	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16) & 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
55852–4	55852	SODIUM HYPOCHLORITE SOLUTION	Sodium hypochlorite.
67690–37	67690	CuPro 2005 T/N/O	Copper hydroxide.
70506–277	70506	Symmetry II	Copper carbonate, basic.
70627–69	70627	Terrific Antibacterial Disinfectant Sanitizer	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) & Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
70627–73	70627	Scrubbing Bubbles Disinfectant Bathroom Cleaner.	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride & Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
71326–2	71326	Sweetwater Purifier Solution	Sodium hypochlorite.
87246–5	87246	Protx2 AV	Poly(iminoimido carbonylimi/no imido carbonyliminohexa methylene) hydrochloride.
87373–21	87373	ARG Oxamyl Technical	Oxamyl.
87373–22	87373	ARG Oxamyl MUP	Oxamyl.
91234–53	91234	A127.01	Oxamyl.
91234–54	91234	A127.02	Oxamyl.
91234–99	91234	A308.07	Prodiamine & Sulfentrazone.
AR–090002	279	Authority MTZ DF Herbicide	Metribuzin & Sulfentrazone.
AR–130005	69969	Avipel Liquid Corn Seed Treatment	Anthraquinone.
CO–170001	5481	Parazone 3SL	Paraquat dichloride.
CO–170002	5481	Parazone 3SL	Paraquat dichloride.
OR–080036	400	Vitaflo 280	Thiram & Carboxin.
OR–980006	10163	Gowan Cryolite Bait	Cryolite.
TX–190001	228	NUP–17063 Herbicide	2,4–DP-p, 2-ethylhexyl ester.
UT–180004	100	Gramoxone SL 2.0	Paraquat dichloride.
WA–090007	62719	Rally 40WSP	Myclobutanil.
WA–110002	264	Liberty 280 SL Herbicide	Glufosinate.
WA–110006	62719	Entrust	Spinosad.
WA–130001	62719	Crossbow	2,4–D, butoxyethyl ester & Triclopyr, butoxyethyl ester.
WY–080001	400	Comite	Propargite.

TABLE 1A—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
464–327	464	Dowicil 150 Antimicrobial	3,5,7-Triazatricyclo(3.3.1.1(superscript 3,7))decane, 1-(3-chloro-2-propenyl)-, chloride, (Z)-.
464–403	464	Dowicil 75 Preservative	1-(3-Chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride.

The registrants of the registrations in Table 1A, request the cancellations to be effective on August 12, 2019.

TABLE 1B—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
1021–2576	1021	MGK 2935	Tetramethrin; Piperonyl butoxide & Phenothrin.

The registrant of the registration in Table 1B, requests the cancellation to be effective on October 01, 2020.

TABLE 1C—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
40810–18	40810	Irgaguard B5000	Silver & Zinc.
40810–24	40810	Irgaguard B7000	Zinc & Silver.

The registrant of the registrations in Table 1C, requests the cancellations to be effective on October 01, 2019.

TABLE 1D—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
56228–10	56228	Compound DRC–1339 Concentrate—Feedlots.	Starlicide.
56228–17	56228	Compound DRC–1339 Concentrate—Gulls.	Starlicide.
56228–28	56228	Compound DRC–1339 Concentrate—Pigeons.	Starlicide.
56228–30	56228	Compound DRC–1339 Concentrate—Staging Areas.	Starlicide.
ID–050013	56228	Compound DRC–1339—Staging Areas	Starlicide.
ID–050014	56228	Compound DRC–1339—Feedlots	Starlicide.
IN–040001	56228	Compound DRC–1339 Concentrate for Staging Areas.	Starlicide.
IN–080003	56228	Compound DRC–1339 Concentrate Feedlots Indiana.	Starlicide.
KY–020003	56228	Compound DRC–1339 Concentrate—Feedlots.	Starlicide.
MD–080005	56228	Compound DRC–1339 Concentrate—Staging Areas—MD.	Starlicide.
MS–050008	56228	DRC–1339	Starlicide.
ND–920001	56228	Compound DRC–1339 Concentrate—Feedlots.	Starlicide.
NE–100003	56228	Compound DRC–1339 Concentrate—Staging Areas and Feedlots—Nebraska.	Starlicide.
NM–110004	56228	Compound DRC–1339 Concentrate—Staging Areas.	Starlicide.
NV–020005	56228	Compound DRC–1339 Concentrate—Staging Areas.	Starlicide.
NV–040004	56228	Compound DRC–1339 98% Concentrate—Livestock Nest & Fodder Depredations.	Starlicide.
OK–990001	56228	Compound DRC–1339 Concentrate—Staging Areas.	Starlicide.
OR–010024	56228	Compound DRC–1339 Concentrate—Staging Areas.	Starlicide.

TABLE 1D—PRODUCT CANCELLATIONS—Continued

Registration No.	Company No.	Product name	Active ingredients
PA–050002	56228	DRC–1339	Starlicide.
SD–130001	56228	Compound DRC–1339 Concentrate—Staging Areas.	Starlicide.
TN–080003	56228	Compound DRC–1339 Concentrate—Feedlots.	Starlicide.
TN–080004	56228	Compound DRC–1339 Concentrate—Staging Areas.	Starlicide.
TX–020003	56228	Compound DRC–1339 Concentrate—Staging Areas.	Starlicide.
TX–890001	56228	Compound DRC–1339 Concentrate—Feedlots.	Starlicide.
UT–130005	56228	Compound DRC–1339 98% Concentrate—Livestock Nest & Fodder Depredations.	Starlicide.
WV–010002	56228	Compound DRC–1339 Concentrate—Staging Areas.	Starlicide.
WV–040001	56228	Compound DRC–1339 Concentrate—Staging Areas.	Starlicide.
WV–110001	56228	Compound DRC–1339 Concentrate—Staging Areas.	Starlicide.

The registrant of the registrations in Table 1D, requests the cancellations to be effective on December 31, 2018.

TABLE 1E—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
WA–180007	92120	Hazel	1-Methylcyclopropene.

The registrant of the registration in Table 1E, requests the cancellation to be effective on October 12, 2018.

TABLE 2—PRODUCT REGISTRATION AMENDMENTS TO TERMINATE USES

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
432–978	432	Stabilene Fly Repellent Insecticide	Stabilene	Companion animal uses.
1381–255	1381	Saddle-Up	2,4–D & Dicamba	Forest management use pattern.
34704–1100	34704	LPI Tebuconazole Technical	Tebuconazole	Wood treatment uses.
45385–99	45385	Cenol 0.5% Multipurpose Insecticide.	Permethrin	Food animals (livestock) uses.

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Tables 1, 1A, 1B, 1C, 1D, 1E and 2 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 above.

TABLE 3—REGISTRANTS OF CANCELLED AND AMENDED PRODUCTS

EPA company No.	Company name and address
100	Syngenta Crop Protection, LLC, Swing Road, P.O. Box 18300, Greensboro, NC 27419–8300.
228	NuFarm Americas, Inc., 4020 Aerial Center Pkwy., Ste. 101, Morrisville, NC 27560.
264	Bayer CropScience, LP, 800 N. Lindbergh Blvd., St. Louis, MO 63167.
279	FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104.
400	Macdermid Agricultural Solutions Inc., C/O Arysta LifeScience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513.
432	Bayer Environmental Science, A Division of Bayer CropScience, LP, 5000 CentreGreen Way, Suite 400, Cary, NC 27513.
464	DDP Specialty Electronic Materials US, Inc., A wholly owned Subsidiary of The Dow Chemical Company, 1501 Larkin Center Drive, Midland, MI 48674.
499	BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528.
1021	Mclaughlin Gormley King Company, D/B/A MGK, 8810 Tenth Ave North, Minneapolis, MN 55427–4319.

TABLE 3—REGISTRANTS OF CANCELLED AND AMENDED PRODUCTS—Continued

EPA company No.	Company name and address
1258	Arch Chemicals, Inc., 1200 Bluegrass Lakes Parkway, Alpharetta, GA 30004.
1381	Winfield Solutions, LLC, P.O. Box 64589, St. Paul, MN 55164–0589.
1543	W.F. Young, Inc., 302 Benton Drive, East Longmeadow, MA 01028.
1769	NCH Corp, 2727 Chemsearch Blvd., Irving, TX 75062.
2693	International Paint, LLC, 6001 Antoine Drive, Houston, TX 77091.
2749	Aceto Agricultural Chemicals Corp., 4 Tri Harbor Court, Port Washington, NY 11050–4661.
5185	Bio-Lab, Inc., P.O. Box 300002, Lawrenceville, GA 30049–1002.
5481	Amvac Chemical Corporation, 4695 Macarthur Court, Suite 1200, Newport Beach, CA 92660–1706.
7969	BASF Corporation, Agricultural Products, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528.
10163	Gowan Company, P.O. Box 5569, Yuma, AZ 85366.
10404	Lesco, Inc., 1385 East 36th Street, Cleveland, OH 44114–4114.
10772	Church & Dwight Co., Inc., Agent Name: Landis International, Inc., P.O. Box 5126, Valdosta, GA 31603–5126.
19713	Drexel Chemical Company, P.O. Box 13327, Memphis, TN 38113–0327.
34704	Loveland Products, Inc., P.O. Box 1286, Greeley, CO 80632–1286.
40810	BASF Corporation, 100 Park Avenue, Florham Park, NJ 07932.
45385	CTX-Cenol, Inc., 1393 East Highland Rd., Twinsburg, OH 44087.
47033	Cascade Water Services, Inc., 113 Bloomingdale Rd., Hicksville, NY 11801.
47371	H&S Chemicals Division of Lonza, Inc., 412 Mount Kemble Avenue, Suite 200S, Morristown, NJ 07960.
55852	Champion Packaging & Distribution, Inc., Agent Name: Technology Sciences Group, Inc., 1150 18th St. NW, Suite 1000, Washington, DC 20036.
56228	U.S. Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 149, Riverdale, MD 20737.
62719	Dow Agrosciences LLC, 9330 Zionsville Rd., 308/2e, Indianapolis, IN 46268–1054.
67690	Sepro Corporation, 11550 N. Meridian St., Suite 600, Carmel, IN 46032–4565.
69969	Arkion Life Sciences, LLC, Agent Name: Landis International, Inc., 3815 Madison Highway, P.O. Box 5126, Valdosta, GA 31603–5126.
70506	UPL NA, Inc., D/B/A United Phosphorus, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406.
70627	Diversey, Inc., P.O. Box 19747, Charlotte, NC 28219–0747.
71326	Cascade Designs, Inc., 4000 1st Avenue South, Seattle, WA 98134.
87246	Intelligent Fabric Technologies (North America), Inc., Agent Name: Intertek Surveying Services, 16441 Space Center Blvd., Suite D–100, Houston, TX 77058.
87373	Argite, LLC, Agent Name: Pyxis Regulatory Consulting, Inc., 4110 136th Street Ct. NW, Gig Harbor, WA 98332–9122.
91234	Atticus, LLC, Agent Name: Pyxis Regulatory Consulting, Inc., 4110 136th Street Ct. NW, Gig Harbor, WA 98332–9122.
92120	Hazel Technologies, Inc., Agent Name: The Acta Group, 2200 Penn. Ave. NW, Suite 100W, Washington, DC 20037.

III. Summary of Public Comments Received and Agency Response to Comments

The Agency received one anonymous public comment on the notice. For this reason, the Agency does not believe that the comment submitted during the comment period merits further review or a denial of the requests for voluntary cancellation and use termination. Further, two registrants did withdraw their requests. The Agency received a withdrawal request from the registrant, Koopers Performance Chemicals, to withdraw the cancellation request for product registration 3008–91 and AEF Global, Inc., to withdraw the cancellation requests for product registrations 89046–11, 89046–12 and 89046–14.

Therefore, the Agency has removed these requests from this cancellation order and the registrations will remain active.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)(1)), EPA hereby approves the requested cancellations and amendments to terminate uses of the registrations identified in Tables 1, 1A, 1B, 1C, 1D, 1E and 2 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Tables 1, 1A, 1B, 1C, 1D, 1E and 2 of Unit II are canceled and amended to terminate the affected uses. The effective date of the cancellations that are subject of this notice August 21, 2019. Any distribution, sale, or use of existing stocks of the products identified in Tables 1, 1A, 1B, 1C, 1D, 1E and 2 of Unit II in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI will be a violation of FIFRA.

V. 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**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of May 31, 2019 (84 FR 25258) (FRL–9993–41). The comment period closed on July 1, 2019.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provision for the products subject to this order is as follows.

A. For products: 464–327 and 464–403

The registrant has requested the cancellation effective date to be August 12, 2019, therefore, the registrant may continue to sell and distribute existing stocks of products listed in Table 1A until August 12, 2020, which is 1 year after the effective cancellation date. Thereafter, the registrant is prohibited from selling or distributing products listed in Table 1A of Unit II, except for export in accordance with FIFRA

section 17 (7 U.S.C. 136o) or for proper disposal.

B. For product: 1021–2576

The registrant has requested the cancellation effective date to be October 1, 2020, therefore, the registrant may continue to sell and distribute existing stocks of products listed in Table 1B until October 1, 2021, which is 1 year after the effective cancellation date. Thereafter, the registrant is prohibited from selling or distributing products listed in Table 1B of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

C. For products: 40810–18 and 40810–24

The registrant has requested the cancellation effective date to be October 1, 2019. The registrant also requested to the Agency via letter to sell existing stocks for an 18-month period, therefore, the registrant may continue to sell and distribute existing stocks of products listed in Table 1C until April 1, 2021, which is 18 months after the effective cancellation date. Thereafter, the registrants are prohibited from selling or distributing products listed in Table 1C of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

D. For products: 40810–19, 40810–23, 40810–25, 40810–26, 40810–27 and 55852–4

The registrants have requested to the Agency via letter to sell existing stocks for an 18-month period, for products 40810–19, 40810–23, 40810–25, 40810–26, 40810–27 and 55852–4. The registrants may continue to sell and distribute existing stocks of products 40810–19, 40810–23, 40810–25, 40810–26, 40810–27 and 55852–4 until February 22, 2021, which is 18 months after publication of this cancellation order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing products 40810–19, 40810–23, 40810–25, 40810–26, 40810–27 and 55852–4, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

E. For all products listed in Table 1D

The registrants have requested the cancellation effective date to be December 31, 2018, therefore, the registrants may continue to sell and distribute existing stocks of products listed in Table 1D until December 31, 2019 which is 1 year after the effective cancellation date. Thereafter, the registrants are prohibited from selling or distributing products listed in Table 1D of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

F. For product: WA–180007

The registrant has requested the cancellation effective date to be October 12, 2018, therefore, the registrants may continue to sell and distribute existing stocks of the product listed in Table 1E until October 12, 2019 which is 1 year after the effective cancellation date. Thereafter, the registrant is prohibited from selling or distributing the product listed in Table 1E of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

For all other voluntary cancellations, listed in Table 1 of Unit II the registrants may continue to sell and distribute existing stocks of products listed in Table 1 until August 21, 2020, which is 1-year after publication of this cancellation order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing products listed in Table 1 of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Now that EPA has approved product labels reflecting the requested amendments to terminate uses, registrants are permitted to sell or distribute products listed in Table 2 of Unit II under the previously approved labeling until February 22, 2021, a period of 18 months after publication of the cancellation order in this **Federal Register**, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the terminated uses identified in Table 2 of Unit II, except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products and products whose labels include the terminated uses 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 and terminated uses.

Authority: 7 U.S.C. 136 *et seq.*

Dated: July 29, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019–17992 Filed 8–20–19; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

Notice of Open Meeting of Both the Advisory Committee of the Export-Import Bank of the United States (EXIM) and the Sub-Saharan Africa Advisory Committee of the Export-Import Bank of the United States (EXIM)

Summary: The Advisory Committee was established to advise EXIM Bank on its programs and to provide comments for inclusion in the report on competitiveness of the Export-Import Bank of the United States to Congress.

Established by Congress, the Sub-Saharan Africa Advisory Committee provides guidance and advice regarding EXIM Bank policies and programs designed to support the expansion of financing support for U.S. manufactured goods and services in Sub-Saharan Africa.

Time and Place: Wednesday, September 11, 2019 from 9:30 a.m. until 1:45 p.m. A break for lunch will be at the expense of the attendee. Security processing will be necessary for reentry into the building. The meeting will be held at EXIM headquarters in the Main Conference Room—11th Floor, 811 Vermont Avenue NW, Washington, DC 20571.

Agenda: Agenda items include updates for the Advisory Committee members regarding: EXIMs business and products, EXIMs committee overview, and EXIMs potential lapse in authority.

Public Participation: The meeting will be open to public participation, and 15 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If you plan to attend, a photo ID must be presented at the guard's desk as part of the clearance process into the building, you may contact India Walker at *external@exim.gov* to be placed on an attendee list. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please email India Walker at *external@exim.gov* no later than 5:00 p.m. EDT on Thursday, September 5, 2019.

Members of the Press: For members of the Press planning to attend the meeting, a photo ID must be presented at the guard's desk as part of the clearance process into the building. Please email *external@exim.gov* to be placed on an attendee list.

Further Information: For further information, contact the External Engagement team, 811 Vermont Ave.

NW, Washington, DC 20571, at *external@exim.gov.*

Joyce Brotemarkle Stone,

Assistant Corporate Secretary.

[FR Doc. 2019–17972 Filed 8–20–19; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Interpretation of Federal Financial Accounting Standards 9, Cleanup Cost Liabilities Involving Multiple Component Reporting Entities: An Interpretation of SFFAS 5 & SFFAS 6

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules Of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued Interpretation of Federal Financial Accounting Standards 9, *Cleanup Cost Liabilities Involving Multiple Component Reporting Entities: An Interpretation of SFFAS 5 & SFFAS 6.*

The Interpretation is available on the FASAB website at *https://www.fasab.gov/accounting-standards/.* Copies can be obtained by contacting FASAB at (202) 512–7350.

FOR FURTHER INFORMATION CONTACT: Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: August 16, 2019.

Monica R. Valentine,

Executive Director.

[FR Doc. 2019–18047 Filed 8–20–19; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 84 FR 42916.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, August 22, 2019 at 10:00 a.m., 1050 First Street NE, Washington, DC (12th floor).

CHANGES IN THE MEETING:

The following matters will also be considered:

Notice of Availability for REG 2019–04 (Reporting Segregated Party Accounts)

Audit Division Recommendation Memorandum on the South Dakota Democratic Party (A17–21)

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Authority: Government in the Sunshine Act, 5 U.S.C. 552b.

Laura E. Sinram,

Acting Secretary and Clerk of the Commission.

[FR Doc. 2019–18145 Filed 8–19–19; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011550–019.

Agreement Name: ABC Discussion Agreement.

Parties: Crowley Caribbean Services LLC; King Ocean Services Limited, Inc. and Seaboard Marine Ltd.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment adds Venezuela to the geographic scope of the Agreement.

Proposed Effective Date: 9/28/2019.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/883.

Agreement No.: 201315.

Agreement Name: NYSA–ILA Assessment Agreement.

Parties: New York Shipping Association and International Longshoremen's Association, AFL–CIO.

Filing Party: Richard Ciampi; the Lambos Firm, LLP and Andre Mazzola; Marrinan & Mazzola Mardon P.C.

Synopsis: The Agreement consolidates prior amendments into a single assessment agreement.

Proposed Effective Date: 8/14/2019.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/22427.

Dated: August 15, 2019.

Rachel E. Dickon,

Secretary.

[FR Doc. 2019–18025 Filed 8–20–19; 8:45 am]

BILLING CODE 6731–AA–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 September 19, 2019.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *First Guaranty Bancshares, Inc., Hammond, Louisiana;* to merge with Union Bancshares, Incorporated, and thereby indirectly acquire its subsidiary, The Union Bank, both of Marksville, Louisiana.

Board of Governors of the Federal Reserve System, August 15, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–17976 Filed 8–20–19; 8:45 am]

BILLING CODE 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 (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 September 5, 2019.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Newport Trust Company, as Trustee of Citizens Bancshares of Loyal Stock Bonus Plan and Trust (ESOP);* to acquire voting shares of Citizens Bancshares of Loyal and thereby indirectly acquire shares of Citizens State Bank of Loyal, both of Loyal, Wisconsin.

B. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Annette Louise Harper, Woodson, Texas;* to retain voting shares of Woodson Bancshares, Inc., and indirectly retain voting shares of First State Bank, both of Graham, Texas.

C. 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. *Homer Lawton Johnson, Brunswick, Georgia; Jacquelyn S. Johnson, Alma, Georgia; Jacquelyn Lee Johnson, Woodbine, Georgia, Jennifer J. Pope, Macon, Georgia, Zachary M. Johnson, III and Homer Jackson Johnson, both of Alma, Georgia,* as co-trustees of the Zachary M. Johnson, Jr. Irrevocable Trust; to retain shares of First Bank Shares of the South East, Inc., and thereby indirectly retain shares of its subsidiary, FNB South (formerly known as First National Bank South), both of Alma, Georgia.

Board of Governors of the Federal Reserve System, August 15, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–17977 Filed 8–20–19; 8:45 am]

BILLING CODE P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Privacy Act of 1974; System of Records

AGENCY: Federal Retirement Thrift Investment Board (FRTIB).

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, the Federal Retirement Thrift Investment Board (FRTIB) proposes to establish a new system of records. Records contained in this system will be used to implement Identity, Credential, and Access Management (ICAM) capabilities at the Agency. ICAM manages digital identities, credentials, and access controls for FRTIB applications and systems.

DATES: This system will become effective upon its publication in today's **Federal Register**, with the exception of the routine uses which will be effective on September 20, 2019. FRTIB invites written comments on the routine uses and other aspects of this system of records. Submit any comments by September 20, 2019.

ADDRESSES: You may submit written comments to FRTIB by any one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the website instructions for submitting comments.
- *Fax:* 202–942–1676.
- *Mail or Hand Delivery:* Office of General Counsel, Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Marla Greenberg, Chief Privacy Officer, Federal Retirement Thrift Investment Board, Office of General Counsel, 77 K Street NE, Suite 1000, Washington, DC 20002, (202) 942–1600. For access to any of the FRTIB's systems of records, contact Amanda Haas, FOIA Officer, Office of General Counsel, at the above address and phone number.

SUPPLEMENTARY INFORMATION: FRTIB proposes to establish a new system of records entitled, ''FRTIB–21, Identity, Credential and Access Management (ICAM).'' ICAM manages digital identities, credentials, and access controls for FRTIB applications and systems. ICAM is necessary to vet potential users; link employees and contractors to digital identity accounts; provision and de-provision accounts and access; and to monitor identity credentials, access to systems and data, and related risks. The proposed system of records implements ICAM capabilities across all FRTIB IT systems.

ICAM supports the following seven key functions of the ICAM Framework as defined by the Federal Chief Information Officer (CIO) Council: digital identity, credentialing, authentication, cryptography, auditing and reporting, authorization and access, and privilege management. FRTIB's ICAM's capabilities are also aligned with the Federal CIO Council's Federal Identity, Credential, and Access Management (FICAM) procedures, available at, *https://www.idmanagement.gov/wp-content/uploads/sites/1171/uploads/FICAM_Roadmap_and_Implem_Guid.pdf.*

FRTIB proposes to apply thirteen routine uses to FRTIB–21.

Megan Grumbine,

General Counsel and Senior Agency Official for Privacy.

SYSTEM NAME AND NUMBER:

FRTIB–21, Identity, Credential and Access Management (ICAM).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are located at the Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002. Records may also be maintained at additional locations for Business Continuity purposes.

SYSTEM MANAGER:

Director, Office of Technology Services, Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002, 202–942–1600.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474; and 44 U.S.C. Chapter 35.

PURPOSE(S) OF THE SYSTEM:

ICAM employs a comprehensive management approach for digital identities and associated attributes, credentials (including PKI, PIV, other authentication tokens), and access controls. It centralizes a consistent, integrated method for managing the identities of individuals and devices requiring logical access and for enforcing logical access privileges to FRTIB resources for all FRTIB employees and contractors.

ICAM protects FRTIB information and systems by ensuring that only the appropriate users have access to information systems, personally identifiable information (PII), and other sensitive data based on the principles of least privilege and need-to-know. ICAM manages the identities of individuals that access FRTIB logical resources, authorizes users' permissions, enforces access controls for IT systems and information, and audits access to and the use of sensitive information and functions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FRTIB employees and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include: First name, middle name, last name, personal phone number, personal email address, social security number, date of birth, place of birth, current address, business address, business email address, business phone number, employment information (*e.g.,* employment type, manager status, domain administrator status, hire date, contract end date), user name, user name creation date, IP address, background investigation data including Electronic Questionnaires for Investigations Processing (e-QIP) review and release date, fingerprint submission and completion date, OPM investigation type, investigation review and completion date, PIV card information, completion date for required training, and completion date for required documentation (*e.g.,* rules of behavior, non-disclosure agreement).

RECORD SOURCE CATEGORIES:

FRTIB obtains records within this system from FRTIB employees and contractors and from OPM through access to e-QIP.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information about covered individuals may be disclosed without consent as permitted by the Privacy Act of 1974, as amended, 5 U.S.C. 552a(b); and:

1. Audit: A record from this system of records may be disclosed to an agency, organization, or individual for the purpose of performing an audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to FRTIB officers and employees.

2. Breach Mitigation and Notification: Response to Breach of FRTIB Records: A record from this system of records may be disclosed to appropriate agencies, entities, and persons when (1) FRTIB suspects or has confirmed that there has been a breach of the system of records; (2) FRTIB has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, FRTIB (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 FRTIB's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

3. Response to Breach of Other Records: A record from this system of records may be disclosed to another Federal agency or Federal entity, when FRTIB 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, resulting from a suspected or confirmed breach.

4. Congressional Inquiries: A record from this system of records may be disclosed to a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the request of the individual to whom the record pertains.

5. Contractors, et al.: A record from this system of records may be disclosed to contractors, grantees, experts, consultants, the agents thereof, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for FRTIB, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to FRTIB officers and employees.

6. Investigations, Third Parties: A record from this system of records may be disclosed to third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate to the proper performance of the official duties of the third party officer making the disclosure.

7. Investigations, Other Agencies: A record from this system of records may be disclosed to appropriate Federal, state, local, tribal, or foreign government agencies or multilateral governmental organizations for the purpose of investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, license, or treaty where FRTIB determines that the information would assist in the enforcement of civil or criminal laws.

8. Law Enforcement Intelligence: A record from this system of records may be disclosed to a Federal, state, tribal, local, or foreign government agency or organization, or international organization, lawfully engaged in collecting law enforcement intelligence information, whether civil or criminal, or charged with investigating, prosecuting, enforcing or implementing civil or criminal laws, related rules, regulations or orders, to enable these entities to carry out their law enforcement responsibilities, including the collection of law enforcement intelligence.

9. Law Enforcement Referrals: A record from this system of records may be disclosed to an appropriate Federal, state, tribal, local, international, or foreign agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

10. Litigation, DOJ or Outside Counsel: A record from this system of records may be disclosed to the Department of Justice, FRTIB's outside counsel, other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when: (1) FRTIB, or (2) any employee of FRTIB in his or her official capacity, or (3) any employee of FRTIB in his or her individual capacity where DOJ or FRTIB has agreed to represent the employee, or (4) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FRTIB determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FRTIB collected the records.

11. Litigation, Opposing Counsel: A record from this system of records may be disclosed to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings or in response to a subpoena.

12. NARA/Records Management: A record from this system of records may be disclosed to the National Archives and Records Administration (NARA) or other Federal Government agencies pursuant to the Federal Records Act.

13. Security Threat: A record from this system of records may be disclosed to Federal and foreign government intelligence or counterterrorism agencies when FRTIB reasonably believes there to be a threat or potential threat to national or international security for which the information may be useful in countering the threat or potential threat, when FRTIB reasonably believes such use is to assist in anti-terrorism efforts, and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in paper and electronic form, including on computer databases and cloud-based services, all of which are securely stored.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by employee/contractor name or user ID.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

These records are maintained in accordance with General Records Schedule 3.2 (Information Systems Security Records), Items 030 and 031, issued by the National Archives and Records Administration (NARA).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

FRTIB has adopted appropriate administrative, technical, and physical controls in accordance with FRTIB's security program to protect the security, confidentiality, availability, and integrity of the information and to ensure that records are not disclosed to or accessed by unauthorized individuals.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records within this system must submit a request pursuant to 5 CFR part 1630. Attorneys or other persons acting on behalf of an individual must provide written authorization from that individual, such as a Power of Attorney, in order for the representative to act on their behalf.

CONTESTING RECORD PROCEDURES:

See Record Access Procedures above.

NOTIFICATION PROCEDURES:

See Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2019–18034 Filed 8–20–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Fees for Sanitation Inspection of Cruise Ships

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: General notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS) announces fees for vessel sanitation inspections for Fiscal Year (FY) 2020. These inspections are conducted by HHS/CDC's Vessel Sanitation Program (VSP). VSP helps the cruise line industry fulfill its responsibility for developing and implementing comprehensive sanitation programs to minimize the risk for acute gastroenteritis. Every vessel that has a foreign itinerary and carries 13 or more passengers is subject to twice-yearly unannounced operations inspections and, when necessary, re-inspection.

DATES: These fees apply to inspections conducted from October 1, 2019, through September 30, 2020.

FOR FURTHER INFORMATION CONTACT: CDR Aimee Treffiletti, Chief, Vessel Sanitation Program, National Center for Environmental Health, Centers for Disease Control and Prevention, 4770 Buford Highway NE, MS F–59, Atlanta, Georgia 30341–3717; phone: 800–323–2132; email: *vsp@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose and Background

HHS/CDC established the Vessel Sanitation Program (VSP) in the 1970s as a cooperative activity with the cruise ship industry. VSP helps the cruise ship industry prevent and control the introduction, transmission, and spread of gastrointestinal illnesses on cruise ships. VSP operates under the authority of the Public Health Service Act (Section 361 of the Public Health Service Act; 42 U.S.C. Section 264, ''Control of Communicable Diseases''). Regulations found at 42 CFR 71.41 (Foreign Quarantine—Requirements Upon Arrival at U.S. Ports: Sanitary Inspection; General Provisions) state that carriers arriving at U.S. ports from foreign areas are subject to sanitary inspections to determine whether there exists rodent, insect, or other vermin infestations; contaminated food or water; or other sanitary conditions requiring measures for the prevention of the introduction, transmission, or spread of communicable diseases.

The fee schedule for sanitation inspections of passenger cruise ships by VSP was first published in the **Federal Register** on November 24, 1987 (52 FR 45019). HHS/CDC began collecting fees on March 1, 1988. This notice announces fees for inspections conducted during FY 2020 (beginning on October 1, 2019, through September 30, 2020).

The following formula will be used to determine the fees:

$$Average\ cost\ per\ inspection = \frac{Total\ cost\ of\ VSP}{Weighted\ number\ of\ annual\ inspections}$$

Total cost of VSP = Total cost of operating the program, such as administration, travel, staffing, sanitation inspections, and outbreak response. Weighted number of annual inspections = Total number of ships and inspections per year accounting for vessel size, number of inspectors needed for vessel size, travel logistics to conduct inspections, and vessel location and arrivals in U.S. jurisdiction per year.

The fee schedule was most recently published in the **Federal Register** on June 20, 2018 (83 FR 28650). The fee

schedule for FY 2020 is presented in Appendix A.

Fee

The fee schedule (Appendix A) applies to inspections conducted from October 1, 2019, through September 30, 2020. The FY 2020 fee schedule adds a new category and fee for the largest ships (Super Mega) and a schedule table for construction and renovation inspections.

Applicability

The fees will apply to all passenger cruise vessels for which inspections are conducted as part of HHS/CDC's VSP.

Dated: August 14, 2019.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

Appendix A

FEE SCHEDULE FOR EACH VESSEL SIZE—OPERATIONS INSPECTIONS

Vessel size (GRT [1])	Inspection fee (US$)
Extra Small (<3,000 GRT)	1,495
Small (3,001–15,000 GRT) ..	2,990
Medium (15,001–30,000 GRT)	5,980
Large (30,001–60,000 GRT)	8,970
Extra Large (60,001–120,000 GRT)	11,960
Mega (120,001–140,000 GRT)	17,940
Super Mega (>140,001 GRT) *	23,920

* *New vessel size category.*

[1] Gross register tonnage in cubic feet, as shown in Lloyd's Register of Shipping.

Operations inspections and re-inspections involve the same procedures and require the same amount of time, so they are charged at the same rates.

FEE SCHEDULE FOR EACH VESSEL SIZE—CONSTRUCTION/RENOVATION INSPECTIONS

Vessel size (GRT [1])	Inspection fee (US$)
Extra Small (<3,000 GRT)	2,990
Small (3,001–15,000 GRT) ..	5,980
Medium (15,001–30,000 GRT)	11,960
Large (30,001–60,000 GRT)	17,940
Extra Large (60,001–120,000 GRT)	23,920
Mega (120,001–140,000 GRT)	35,880
Super Mega (>140,001 GRT) *	47,840

* *New vessel size category.*

[1] Gross register tonnage in cubic feet, as shown in Lloyd's Register of Shipping.

Construction/renovations inspections require at least twice the amount of time as operations inspections, so they are charged double the rates.

[FR Doc. 2019–17973 Filed 8–20–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–3617]

Joint Pediatric Advisory Committee and Drug Safety and Risk Management 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 Pediatric Advisory Committee and the Drug Safety and Risk Management Advisory Committee. The general function of the committees 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 September 26, 2019, from 9 a.m. to 4:40 p.m.

ADDRESSES: The meeting will be held at FDA White Oak Campus, 10903 New Hampshire Ave., Building 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–3617. The docket will close on September 24, 2019. Submit either electronic or written comments on this public meeting by September 24, 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 September 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 September 12, 2019, will be provided to the committees. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate. 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–3617 for ''Joint Pediatric Advisory Committee and Drug Safety and Risk Management 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: Marieann Brill, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5154, Silver Spring, MD 20993, 240–402–3838, *marieann.brill@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: On September 26, 2019, the Pediatric Advisory Committee and the Drug Safety and Risk Management Advisory Committee will meet to discuss the pediatric-focused safety review for OxyContin (oxycodone hydrochloride) extended-release tablets, as mandated by the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), and to discuss pediatric data considerations for opioid analgesics labeling and Pediatric Research Equity Act studies for opioids generally, using Opana IR as an example.

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. Written submissions may be made to the contact person on or before September 19, 2019. 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 September 11, 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 September 12, 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 Marieann Brill (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: August 15, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–17997 Filed 8–20–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–3611]

Joint Pediatric Advisory Committee and Drug Safety and Risk Management 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 Pediatric Advisory Committee and the Drug Safety and Risk Management Advisory Committee. The general function of the committees 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 September 27, 2019, from 8:30 a.m. to 1:30 p.m.

ADDRESSES: The meeting will be held at FDA White Oak Campus, 10903 New Hampshire Ave., Building 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–3611. The docket will close on September 25, 2019. Submit either electronic or written comments on this public meeting by September 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 September 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 September 13, 2019, will be provided to the committees. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications of information, and consider any comments submitted to the docket, as appropriate.

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–3611 for ''Joint Pediatric Advisory Committee and Drug Safety and Risk Management 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: Marieann Brill, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5154, Silver Spring, MD 20993, 240–402–3838, *marieann.brill@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: On September 27, 2019, the Pediatric Advisory Committee and the Drug Safety and Risk Management Advisory Committee will meet to discuss a pediatric-focused safety review of neuropsychiatric events with use of Singulair (montelukast).

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. Written submissions may be made to the contact person on or before September 20, 2019. Oral presentations from the public will be scheduled between approximately 10:30 a.m. and 12 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 September 12, 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 September 13, 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 Marieann Brill (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: August 15, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–17996 Filed 8–20–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1393]

Agency Information Collection Activities; Proposed Collection; Comment Request; Patent Term Restoration; Due Diligence Petitions; Filing, Format, and Content of Petitions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection provisions found in our Patent Term Restoration regulations.

DATES: Submit either electronic or written comments on the collection of information by October 21, 2019.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 21, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of October 21, 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–2013–N–1393 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Patent Term Restoration; Due Diligence Petitions; Filing, Format, and Content of Petitions.'' 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: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Patent Term Restoration; Due Diligence Petitions; Filing, Format, and Content of Petitions 21 CFR part 60

OMB Control Number 0910–0233—Extension

This information collection supports Agency regulations. FDA's patent extension activities are conducted under the authority of the Drug Price Competition and Patent Term Restoration Act of 1984 (21 U.S.C. 355(j)) and the Generic Animal Drug and Patent Term Restoration Act of 1988 (35 U.S.C. 156). New human drug, animal drug, human biological, medical device, food additive, or color additive products regulated by the FDA must undergo FDA safety, or safety and effectiveness review before marketing is permitted. If the product is covered by a patent, part of the patent's term may be consumed during this review, which diminishes the value of the patent. In enacting the Drug Price Competition and Patent Term Restoration Act of 1984 and the Generic Animal Drug and Patent Term Restoration Act of 1988, Congress sought to encourage development of new, safer, and more effective medical and food additive products. It did so by authorizing the U.S. Patent and Trademark Office (USPTO) to extend the patent term by a portion of the time during which FDA's safety and effectiveness review prevented marketing of the product. The length of the patent term extension is generally limited to a maximum of 5 years and is calculated by USPTO based on a statutory formula. When a patent holder submits an application for patent term extension to USPTO, USPTO requests information from FDA, including the length of the regulatory review period for the patented product. If USPTO concludes that the product is eligible for patent term extension, FDA publishes a notice that describes the length of the regulatory review period and the dates used to calculate that period. Interested parties may request, under § 60.24 (21 CFR 60.24), revision of the length of the regulatory review period, or may petition under § 60.30 (21 CFR 60.30) to reduce the regulatory review period by any time where marketing approval was not pursued with ''due diligence.''

The statute defines due diligence as ''that degree of attention, continuous directed effort, and timeliness'' as may reasonably be expected from, and are ordinarily exercised by, a person during a regulatory review period. As provided in § 60.30(c), a due diligence petition ''shall set forth sufficient facts, including dates if possible, to merit an investigation by FDA of whether the applicant acted with due diligence.'' Upon receipt of a due diligence petition, FDA reviews the petition and evaluates whether any change in the regulatory review period is necessary. If so, the corrected regulatory review period is published in the **Federal Register**. A due diligence petition not satisfied with FDA's decision regarding the petition may, under § 60.40 (21 CFR 60.40), request an informal hearing for reconsideration of the due diligence determination. Petitioners are likely to include persons or organizations having knowledge that FDA's marketing permission for that product was not actively pursued throughout the regulatory review period. The information collection for which an extension of approval is being sought is the use of the statutorily created due diligence petition.

During the calendar years 2016 through 2018, 16 requests for revision of the regulatory review period were submitted under § 60.24(a). In addition, a total of three due diligence petitions were submitted under § 60.30. There have been no requests for hearings under § 60.40; however, for purposes of this information collection approval, we estimate that we may receive one submission annually.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR part 60—Patent Term Restoration	Number of respondents	Number of responses per respondent	Total responses (2016–2018)	Average burden per response	Total hours (2016–2018)	Average annual burden hours
60.24; revision of regulatory review period determinations	12	1.333	16	100	1,600	533.33
60.30; due diligence petitions	1	1	3	50	150	50
60.40; due diligence hearings	1	1	1	10	10	3.3
Total						586.63

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects a small increase (+7 responses) associated with submissions received under § 60.24 in previous years.

Dated: August 15, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–17999 Filed 8–20–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–2396]

Psychopharmacologic Drugs Advisory Committee; Cancellation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The meeting of the Psychopharmacologic Drugs Advisory Committee scheduled for July 31, 2019, has been canceled. This meeting was announced in the **Federal Register** of June 14, 2019. This meeting has been canceled because of new information regarding the application. The Agency intends to continue evaluating the application and, as needed, will announce future meeting dates in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jay Fajiculay, 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: *PDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting, which was announced in the **Federal Register** of June 14, 2019 (84 FR 27783).

Dated: August 16, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–18026 Filed 8–20–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0902]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Prescription Drug Product Labeling; Medication Guide Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Fax written comments on the collection of information by September 20, 2019.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0393. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Prescription Drug Product Labeling; Medication Guide Requirements

OMB Control Number 0910–0393—Extension

FDA regulations require the distribution of patient labeling, called Medication Guides, for certain prescription human drug and biological products used primarily on an outpatient basis that pose a serious and significant public health concern. Medication Guides provide patients the most important information about drug products, including the drugs' approved uses, contraindications, adverse drug reactions, and cautions for specific populations. These regulations are intended to improve the public health by providing information necessary for patients to use certain medications safely and effectively.

The regulations contain the following reporting requirements that are subject to the PRA:

- § 208.20 (21 CFR 208.20)—Applicants must submit draft Medication Guides for FDA approval according to the prescribed content and format.
- §§ 314.70(b)(3)(ii) and 601.12(f) (21 CFR 314.70(b)(3)(ii) and 21 CFR 601.12(f))—Application holders must submit changes to Medication Guides as supplements to their applications to FDA for approval.
- § 208.24(c) (21 CFR 208.24(c))—Each distributor or packer who receives Medication Guides, or the means to produce Medication Guides, from a manufacturer under paragraph (b) of this section shall provide those Medication Guides to each authorized dispenser to whom it ships a drug product.

• § 208.24(e) (21 CFR 208.24(e))—Each authorized dispenser of a prescription drug product for which a Medication Guide is required must provide a Medication Guide directly to each patient when dispensing the product to the patient or to the patient's agent, unless an exemption applies under § 208.26 (21 CFR 208.26).

• § 208.26(a)—Requests may be submitted for an exemption or a deferral from particular Medication Guide content or format requirements.

In the **Federal Register** of October 26, 2018 (83 FR 54110), we published a 60-day notice requesting public comment on the proposed collection of information. One comment was received encouraging the use of ''provider-neutral language'' in places where terms such as ''doctor'' or ''physician'' are used suggesting that these terms may cause some confusion for patients. We are appreciative of this recommendation; however, we decline to implement such changes.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Content and Format of a Medication Guide—§ 208.20	61	1	61	320	19,520
Supplements and Other Changes to an Approved Application—§§ 314.70(b)(3)(ii) and 601.12(f)	155	1	155	72	11,160
Exemptions and Deferrals—§ 208.26(a)	1	1	1	4	4
Total					30,684

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Distributing Medication Guide to Authorized Dispenser—§ 208.24(c)	191	9,000	1,719,000	1.25	2,148,750
Distributing and Dispensing a Medication Guide to Patient—§ 208.24(e)	88,736	5,705	506,238,880	0.05 (3 minutes)	25,311,944
Total					27,460,694

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated annual reporting burden for the information collection reflects an overall increase of 4,664 total hours. We attribute this adjustment to an increase in the number of submissions we received over the last few years. Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our annual third-party disclosure burden estimate.

Dated: August 15, 2019.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2019–18000 Filed 8–20–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–0221]

Agency Information Collection Request; 60-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 October 21, 2019.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990-New-60D, and project title for reference, to Sherrette Funn, the Reports Clearance Officer, *Sherrette.funn@hhs.gov,* or call 202–795–7714.

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: Family Planning Annual Report (FPAR).

Type of Collection: Renewal with change.

OMB No.: 0990–0221.

Abstract: The Office of Population Affairs within the Office of the Assistant Secretary for Health is requesting an extension on a currently approved Family Planning Annual Report (FPAR) data collection and reporting tool (OMB No. 0990–0221). This annual reporting requirement is for family planning services delivery projects authorized and funded by the Title X Family Planning Program [''Population Research and Voluntary Family Planning Programs'' (Public Law 91–572)], which was enacted in 1970 as Title X of the Public Health Service Act (Section 1001; 42 U.S.C. 300). The FPAR data collection and reporting tool will include a new module to collect

substance use disorder (SUD) screening data in this request to extend an OMB approval to collect essential, annual data from Title X grantees.

Need and Proposed Use of the Information: The Title X Family Planning Program (''Title X program'' or ''program'') is the only Federal grant program dedicated solely to providing individuals with comprehensive family planning and related preventive health services (*e.g.,* screening for breast and cervical cancer, sexually transmitted diseases (STDs), and human immunodeficiency virus). By law, priority is given to persons from low-income families (Section 1006[c] of Title X of the Public Health Service Act, 42 U.S.C. 300). The Office of Population Affairs (OPA) within the Office of the Assistant Secretary for Health administers the Title X program.

Likely Respondents: Respondents for this annual reporting requirement are centers that receive funding directly from OPA for family planning services authorized and funded under the Title X Family.

This weighted average hour burden accounts for differences in reporting burden by type of grantee agency grantee (*e.g.,* public health department or private agency), as found in the *2009 FPAR Burden Study.* For purposes of this estimate, the average hour burden ranges between 39 hours (public health department) and 32 hours (private agency).

ANNUALIZED BURDEN HOUR TABLE

Type of respondents	Form name	Number of respondents	Number of responses per respondents	Average annualized burden per response (hours)	Annualized total burden (hours)
Grantees	FPAR	93	1	36	3,348
Total		93	1	36	3,348

Terry Clark,

Asst. Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2019–18046 Filed 8–20–19; 8:45 am]

BILLING CODE 4150–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Respiratory Sciences.

Date: September 13, 2019.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ghenima Dirami, PhD., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, 240–498–7546, *diramig@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 15, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–17989 Filed 8–20–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute Of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of NIGMS Support of Competitive Research (SCORE) Award Applications.

Date: October 11, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Brian R. Pike, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892 301–594–3907, *pikebr@mail.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of NIGMS Support of Competitive Research (SCORE) Award Applications.

Date: November 1, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Manas Chattopadhyay, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12, Bethesda, MD 20892, 301–827–5320, *manasc@mail.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of NIGMS Support of Competitive Research (SCORE) Award Applications.

Date: November 20, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Nina Sidorova, Ph.D., Scientific Review Officer, Office of Scientific

Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN22, Bethesda, MD 20892, 301–594–3663, *sidorova@nigms.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: August 15, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–17988 Filed 8–20–19; 8:45 am]

BILLING CODE 4140–01–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1103]

Certain Digital Video Receivers and Related Hardware and Software Components; Commission Decision To Review in Part a Summary Determination and To Review in Part a Final Initial Determination; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, the Public Interest and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the presiding administrative law judge's (''ALJ's'') summary determination (''SD'') (Order No. 47) concerning importation and sale after importation and to review in part a final initial determination (''ID'' or ''final ID'') finding a violation of section 337 of the Tariff Act of 1930, as amended, with respect to U.S. Patent No. 7,779,011 (''the '011 patent''). The Commission requests briefing from the parties on certain issues under review, as set forth in this notice. The Commission also requests briefing from the parties, interested persons, and government agencies on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's Electronic Docket Information System (''EDIS'') (*https://edis.usitc.gov*). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: On March 16, 2018, the Commission instituted this investigation based on a supplemented complaint filed on behalf of Rovi Corporation of San Jose, California; Rovi Guides, Inc. of San Jose, California; and Veveo, Inc. of Andover, Massachusetts (collectively, ''Rovi''); as well as Rovi Technologies Corporation of San Jose, CA. The supplemented complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital video receivers and related hardware and software components by reason of infringement of one or more claims of the '011 patent; and one or more claims of U.S. Patent Nos. 7,937,394 (''the '394 patent''); 7,827,585 (''the '585 patent''); 9,294,799 (''the '799 patent''); 9,396,741 (''the '741 patent''); 9,578,363 (''the '363 patent''); 9,621,956 (''the '956 patent''); and 9,668,014 (''the '014 patent''). 83 FR 11792 (Mar. 16, 2018). The Commission's notice of investigation named as respondents Comcast Corporation of Philadelphia, Pennsylvania; Comcast Cable Communications, LLC of Philadelphia, Pennsylvania; Comcast Cable Communications Management, LLC of Philadelphia, Pennsylvania; Comcast Business Communications, LLC of Philadelphia, Pennsylvania; Comcast Holdings Corporation of Philadelphia, Pennsylvania; and Comcast Shared Services, LLC of Chicago, Illinois (collectively, ''Comcast''). *Id.* The Office of Unfair Import Investigations was also named as a party in this investigation. *Id.*

The Commission previously terminated the investigation as to complainant Rovi Technologies Corporation; as to the '956, '394, '014, '799, and '363 patents in their entirety; and as to certain claims of the '011, '585, and '741 patents. Order No. 12, *unreviewed,* Notice (July 24, 2018); Order No. 33, *unreviewed,* Notice (Sept. 19, 2018); Order 39, *unreviewed,* Notice (Oct. 25, 2018).

On June 3, 2019, the presiding ALJ issued Order No. 47, the subject SD, which, *inter alia,* granted Rovi's motions for summary determination as to importation and sale after importation. On June 11, 2019, Comcast filed a petition for review of the SD. On June 18, 2019, Rovi responded to Comcast's petition. On June 25, 2019, the Commission investigative attorney (''IA'') responded to Comcast's petition.

On June 4, 2019, the ALJ issued the final ID. On June 17, 2019, Comcast and Rovi each filed a petition for review of the final ID. On June 25, 2019, Comcast and Rovi responded to each other's petition, and the IA responded to both.

In addition, the Commission has received comments from Rovi on the public interest pursuant to Commission Rule 210.50(a)(4). The Commission also received comments from the following organizations in response to the Commission notice soliciting public interest comments, 84 FR 27804 (June 14, 2019): Tea Party Patriots Action; Americans for Limited Government; Frontiers of Freedom Institute; Market Institute; and Conservatives for Property Rights (joined by 60 Plus Association, and Americans for Limited Government).

On June 26, 2019, the Commission extended the deadline for whether to review the SD to be commensurate with the deadline for the final ID. On July 24, 2019, the Commission extended the deadline for whether to review the SD and the final ID from August 5, 2019 to August 15, 2019.

With respect to the subject SD, having reviewed the record of this investigation, including the SD and the parties' submissions to the ALJ and to the Commission, the Commission has determined to review in part the SD. In particular, the Commission has determined to review and take no position on whether Comcast's alleged reimportations satisfy the importation requirement of section 337; the SD made no findings on the issue. The Commission has determined not to review the remainder of the SD.

With respect to the subject final ID, having reviewed the record of the investigation, including the final ID and the parties' submissions to the ALJ and to the Commission, the Commission has determined to review in part the final ID as follows:

For the '011 patent, the Commission has determined to review the final ID's findings on direct and indirect infringement of claims 1 and 9 of the '011 patent by Comcast's non-redesigned system. The Commission has determined not to review the remainder of the final ID's findings as to the '011 patent, including the final ID's findings that Comcast's two redesigns do not infringe claims 1 and 9 of the '011 patent.

For the '585 patent, the Commission has determined to review and take no position as to the final ID's findings on the contingent noninfringement issues raised in Comcast's petition for review of the final ID, particularly whether the final ID erred in finding no disavowal by Rovi of settings that do not control how programs are to be digitally stored; whether the accused ''auto pad recordings'' functionality infringes claims 1 and 15; and whether the accused ''start,'' ''stop,'' and ''HD Preferred'' functionality infringes claims 8, 11, and 22. The Commission has determined not to review the remainder of the final ID's findings as to the '585 patent, including the finding that the asserted claims are invalid in view of the ReplayTV prior art.

For the '741 patent, the Commission has determined to review and take no position as to the final ID's findings on the contingent invalidity issues raised in Comcast's petition for review of the final ID, particularly whether U.S. Patent Application Publication US 2002/0095510 to Sie (RX–69) anticipates claims 1, 8, and 14 of the '741 patent and whether, under Rovi's claim construction, U.S. Patent No. 7,073,189 to McElhatten (RX–71) anticipates Claims 1, 8, and 14 of the '741 patent. The Commission has determined not to review the remainder of the findings as to the '741 patent, including the ALJ's construction of ''specified time'' in the *Markman* order, Order No. 41 (Oct. 15, 2018), the final ID's finding of noninfringement, and the final ID's waiver determination with respect to the ''Restart Reminder'' feature.

Comcast's petition for review of the final ID questioned the final ID's findings as to whether the accused products are ''articles that—infringe'' the asserted patents, 19 U.S.C. 1337(a)(1)(B) & (a)(1)(B)(i), and the scope of the Commission's authority to find an unfair trade act based upon Comcast's direct infringement. Such issues fall within the scope of the Commission's review of infringement as to the '011 patent, and the Commission will address Comcast's arguments based upon the Commission's infringement findings as to the '011 patent.

In connection with its review, the Commission requests responses to the following questions based in part on Comcast's assertion in its petition for review of the final ID that the final ID ''is not entirely clear as to whether it found a violation of Section 337 on the basis of direct infringement of claim 9 of the '011 Patent by way of Comcast's use of the claimed system.'' Comcast Pet. 20. The parties are requested to brief their positions with reference to the applicable law and the existing evidentiary record.[1] In addition, the parties are to take as true: All of the final ID's findings as to the structure, function, and operation of Comcast's X1 system; and Comcast's inducement of its users' conduct. Comcast did not petition the Commission for review of any of those findings. The questions below reflect the Federal Circuit's understanding that certain ''persons' actions'' constitute infringement under 35 U.S.C. 271. *Suprema, Inc.* v. *ITC,* 796 F.3d 1338, 1347 (Fed. Cir. 2015) (en banc) (emphasis omitted).

1. Please explain, with attention to the statutory language of 35 U.S.C. 271(a) and any differences in claim language between claims 1 and 9 of the '011 patent, the circumstances in which each act of direct infringement by Comcast occurs for each claim. (For example, is there direct infringement by Comcast's testing or other use of its system, by a Comcast user's own searching, or both.)

2. Please explain, with attention to the statutory language of 35 U.S.C. 271(a) and any differences in claim language between claims 1 and 9 of the '011 patent, the circumstances in which Comcast's users directly infringe either claim. In connection with your response to this question please explain whether and how Comcast's users can directly infringe claim 9 but not claim 1, or vice versa.

3. Based on your answers to questions 1 and 2, please explain for claims 1 and 9 of the '011 patent whether and how the ''single entity'' test of *Akamai Technologies, Inc.* v. *Limelight Networks, Inc.,* 797 F.3d 1020, 1022 (Fed. Cir. 2015) should be applied and whether the final ID's application of that test to claim 1 of the '011 patent, *see* Final ID at 271, is correct.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue a cease and desist order that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (Dec. 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist order would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions limited to the enumerated questions above. The parties' opening submissions should not exceed 40 pages, and their reply submissions should not exceed 30 pages. Parties to the investigation, interested government agencies, and any other interested parties are encouraged

[1] In seeking briefing on these issues, the Commission has not determined to excuse any party's noncompliance with Commission rules and the ALJ's procedural requirements, including requirements to present issues in pre-hearing and post-hearing submissions. *See, e.g.,* Order No. 2 (Mar. 28, 2018) (ground rules). The Commission may, for example, decline to disturb certain findings in the final ID upon finding that issue was not presented in a timely manner to the ALJ.

to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the date that the asserted patents expire and the HTSUS numbers under which the accused products are imported, and provide identification information for all known importers of the subject articles. Initial written submissions and proposed remedial orders must be filed no later than close of business on Thursday, August 29, 2019. Reply submissions must be filed no later than the close of business on Tuesday, September 10, 2019. No further submissions on these issues will be permitted unless otherwise ordered by the Commission. Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (Inv. No. 337–TA–1103) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 15, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–17981 Filed 8–20–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–623 and 731–TA–1449 (Final)]

Vertical Metal File Cabinets From China; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–623 and 731–TA–1449 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of vertical metal file cabinets from China, provided for in subheading 9403.10.0020 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be subsidized and sold at less-than-fair-value.

DATES: July 24, 2019.

FOR FURTHER INFORMATION CONTACT: Lawrence Jones ((202) 205–3358), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as ''freestanding vertical metal file cabinets containing two or more extendable file storage elements and having an actual width of 25 inches or less.

The subject vertical metal file cabinets have bodies made of carbon and/or alloy steel and or other metals, regardless of whether painted, powder coated, or galvanized or otherwise coated for corrosion protection or aesthetic appearance. The subject vertical metal file cabinets must have two or more extendable elements for file storage (*e.g.,* file drawers) of a height that permits hanging files of either letter (8.5″ x 11″) or legal (8.5″ x 14″) sized documents.

An ''extendable element'' is defined as a movable load-bearing storage component including, but not limited to, drawers and filing frames. Extendable elements typically have suspension systems, consisting of glide blocks or ball bearing glides, to facilitate opening and closing.

The subject vertical metal file cabinets typically come in models with two, three, four, or five-file drawers. The inclusion of one or more additional non-file-sized extendable storage elements, not sized for storage files (*e.g.,* box or pencil drawers), does not remove an otherwise in-scope product from the scope as long as the combined height of the non-file-sized extendable storage elements does not exceed six inches. The inclusion of an integrated storage area that is not extendable (*e.g.,* a cubby) and has an actual height of six inches or less, also does not remove a subject vertical metal file cabinet from the scope. Accessories packaged with a subject vertical file cabinet, such as separate printer stands or shelf kits that sit on top of the in-scope vertical file cabinet are not considered integrated storage.

''Freestanding'' means the unit has a solid top and does not have an open top or a top with holes punched in it that would permit the unit to be attached to, hung from, or otherwise used to support

[2] All contract personnel will sign appropriate nondisclosure agreements.

a desktop or other work surface. The ability to anchor a vertical file cabinet to a wall for stability or to prevent it from tipping over does not exclude the unit from the scope.

The addition of mobility elements such as casters, wheels, or a dolly does not remove the product from the scope. Packaging a subject vertical metal file cabinet with other accessories, including, but not limited to, locks, leveling glides, caster kits, drawer accessories (*e.g.,* including but not limited to follower wires, follower blocks, file compressors, hanger rails, pencil trays, and hanging file folders), printer stand, shelf kit and magnetic hooks, also does not remove the product from the scope. Vertical metal file cabinets are also in scope whether they are imported assembled or unassembled with all essential parts and components included.

Excluded from the scope are lateral metal file cabinets. Lateral metal file cabinets have a width that is greater than the body depth, and have a body with an actual width that is more than 25 inches wide.

Also excluded from the scope are pedestal file cabinets. Pedestal file cabinets are metal file cabinets with body depths that are greater than or equal to their width, are under 31 inches in actual height, and have the following characteristics: (1) An open top or other the means for the cabinet to be attached to or hung from a desktop or other work surface such as holes punched in the top (*i.e.,* not freestanding); or (2) freestanding file cabinets that have all of the following: (a) At least a 90 percent drawer extension for all extendable file storage elements; (b) a central locking system; (c) a minimum weight density of 9.5 lbs./cubic foot; and (d) casters or leveling glides.

''Percentage drawer extension'' is defined as the drawer travel distance divided by the inside depth dimension of the drawer. Inside depth of drawer is measured from the inside of the drawer face to the inside face of the drawer back. Drawer extension is the distance the drawer travels from the closed position to the maximum travel position which is limited by the out stops. In situations where drawers do not include an outstop, the drawer is extended until the drawer back is 3½ inches from the closed position of inside face of the drawer front. The ''weight density'' is calculated by dividing the cabinet's actual weight by its volume in cubic feet (the multiple of the product's actual width, depth, and height). A ''central locking system'' locks all drawers in a unit.

Also excluded from the scope are fire proof or fire-resistant file cabinets that meet Underwriters Laboratories (UL) fire protection standard 72, class 350, which covers the test procedures applicable to fire-resistant equipment intended to protect paper records.

The merchandise subject to the investigation is classified under Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number 9403.10.0020. The subject merchandise may also enter under HTSUS statistical reporting numbers 9403.10.0040, 9403.20.0080, and 9403.20.0090. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.''

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of vertical metal file cabinets, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on April 30, 2019, by Hirsh Industries, LLC, Des Moines, Iowa.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on September 25, 2019, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Tuesday, October 8, 2019, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 2, 2019. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on October 7, 2019, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is October 2, 2019. Parties may also file written testimony in connection with their presentation at the hearing, as

provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is October 15, 2019. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before October 15, 2019. On November 1, 2019, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 5, 2019, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: August 16, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–18019 Filed 8–20–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1123 (Second Review)]

Steel Wire Garment Hangers From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty order on steel wire garment hangers from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted this review on February 1, 2019 (84 FR 2245, February 6, 2019) and determined on May 7, 2019 that it would conduct an expedited review (84 FR 32217, July 5, 2019).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on August 16, 2019. The views of the Commission are contained in USITC Publication 4945 (August 2019), entitled *Steel Wire Garment Hangers from China: Investigation No. 731–TA–1123 (Second Review).*

By order of the Commission.

Issued: August 16, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–18017 Filed 8–20–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–749 (Fourth Review)]

Persulfates From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty order on persulfates from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted this review on February 1, 2019 (84 FR 2252, February 6, 2019) and determined on May 7, 2019 that it would conduct an expedited review (84 FR 32217, July 5, 2019).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on August 15, 2019. The views of the Commission are contained in USITC Publication 4946 (August 2019), entitled *Persulfates from China: Investigation No. 731–TA–749 (Fourth Review).*

By order of the Commission.

Issued: August 15, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–17953 Filed 8–20–19; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1143 (Second Review)]

Small Diameter Graphite Electrodes from China; Notice of Commission Determination To Conduct a Full Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with a full review pursuant to the Tariff Act of 1930 to determine whether revocation of the antidumping duty order on small diameter graphite electrodes from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date.

DATES: August 5, 2019.

FOR FURTHER INFORMATION CONTACT: Nitin Joshi (202–708–1669), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting

the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

SUPPLEMENTARY INFORMATION: On August 5, 2019, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). The Commission found that the domestic interested party's response to its notice of institution (84 FR 18580, May 1, 2019) was adequate. The Commission found that the respondent interested party's response to its notice of institution were inadequate. The Commission also found that other circumstances warranted conducting a full review.[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: August 16, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–18010 Filed 8–20–19; 8:45 am]

BILLING CODE 7020–02–P

[1] Commissioner Schmidtlein voted to conduct an expedited review.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1171]

Certain Child Resistant Closures With Slider Devices Having a User Actuated Insertable Torpedo for Selectively Opening the Closures and Slider Devices Therefor; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 22, 2019, under section 337 of the Tariff Act of 1930, as amended, on behalf of Reynolds Presto Products Inc. of Lake Forest, Illinois. Supplements to the complaint were filed on August 8, 2019, and August 9, 2019. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain child resistant closures with slider devices having a user actuated insertable torpedo for selectively opening the closures and slider devices therefor by reason of infringement of certain claims of U.S. Patent No. 9,505,531 (''the '531 patent''); U.S. Patent No. 9,554,628 (''the '628 patent''); and U.S. Patent no. 10,273,058 (''the '058 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 15, 2019, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 3, and 5–10 of the '531 patent; claims 1, 4, 6–8, 11, 12, 15, and 19 of the '628 patent; and claims 1, 3, and 5–8 of the '058 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''recloseable zippers and slider devices for packages, including bags and pouches, that are resistant to opening by young children;''

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Reynolds Presto Products Inc., 1900 West Field Court, Lake Forest, IL 60045.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Dalian Takebishi Packing Industry Co., Ltd., Room 101, Unit 2, No. 125 ChangChun Road, XiGang District, Dalian, China 116011.

Dalian Altma Industry Co., Ltd., No. 36, North FuQuan Road, Economic and Technological Development Zone, Dalian, Liaoning, China.

Japan Takebishi Co., Ltd., Amai Bld 8F, 1–3–9 Shintomi, Chuoh-ku, Tokyo, Japan.

Takebishi Co., Ltd., 2418, Shigarakicho Miyamachi, Koka-Shi, Shiga, Japan.

Shanghai Takebishi Packing Material Co., Ltd., No. 368, Ext. 5, Rongxing Road, Songjiang District, Shanghai, China.

Qingdao Takebishi Packing Industry Co., Ltd., No. 411, Third Songshan Road, Jimo City, Qingdao, China.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: August 16, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–18023 Filed 8–20–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Rotating 3–D LiDar Devices and Products Containing the Same (Including Autonomous Vehicles, Unmanned Aerial Vehicles, Industrial Machines, and Robotics), and Components Thereof, DN 3403;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Velodyne Lidar, Inc. on August 15, 2019. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain rotating 3–D LiDar devices and products containing the same (including autonomous vehicles, unmanned aerial vehicles, industrial machines, and robotics), and components thereof. The complaint names as respondents: Hesai Photonics Technology Co., Ltd. of China; and Suteng Innovation Technology Co., Ltd. (a.k.a. RoboSense) of China. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the

Federal Register. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3403'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: August 16, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–18018 Filed 8–20–19; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–605 (Final)]

Glycine From Thailand; Termination of Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: On August 5, 2019, the Department of Commerce published notice in the **Federal Register** of a negative final countervailing duty determination in connection with the subject investigation concerning Thailand (84 FR 38007). Accordingly, the countervailing duty investigation concerning glycine from Thailand (Investigation No. 701–TA–605 (Final)) is terminated.

DATES: August 5, 2019.

FOR FURTHER INFORMATION CONTACT: Celia Feldpausch 202–205–2387, Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

Authority: This investigation is being terminated under authority of title VII of the Tariff Act of 1930 and pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)). This notice is published pursuant to section 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.

Issued: August 16, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–18009 Filed 8–20–19; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–450 and 731–TA–1122 (Second Review)]

Laminated Woven Sacks From China

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the countervailing and antidumping duty orders on laminated woven sacks from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted these reviews on February 1, 2019 (84 FR 2249, February 6, 2019) and determined on May 7, 2019, that it would conduct expedited reviews (84 FR 32221, July 5, 2019).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on August 15, 2019. The views of the Commission are contained in USITC Publication 4944 (August 2019), entitled *Laminated Woven Sacks from China: Investigation Nos. 701–TA–450 and 731–TA–1122 (Second Review).*

By order of the Commission.

Issued: August 15, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019–17982 Filed 8–20–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On August 9, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Massachusetts in the lawsuit entitled *United States of America* v. *Rafael et al.,* Civil Action No. 1:19–cv–10617.

The Complaint in this Clean Water Act case was filed against the

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov*

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

defendants on April 2, 2019. The Complaint alleges that the defendants, New Bedford, Massachusetts-based Vila Nova do Corvo II, Inc., company managers Carlos Rafael and Stephanie Rafael DeMello, and vessel captain Carlos Pereira, are civilly liable for violations of Section 311 of the Clean Water Act, 33 U.S.C. 1321. The Complaint alleges that the company and individuals are liable for violations related to the commercial fishing vessel *Vila Nova do Corvo II's* operations in coastal waters off of southeastern New England. The Complaint addresses discharges of oily bilge waste and used oil filters from the vessel while at sea harvesting scallops. The Complaint also includes Clean Water Act claims for violations of the Coast Guard's pollution control regulations related to the defendants' operation of the vessel. The violations were discovered by the Coast Guard during boarding operations.

Under the proposed Consent Decree, the defendants will pay a total of $511,000 as civil penalties and perform corrective and compliance assurance measures. The defendants will be required, among other things, to repair the vessel to reduce the generation of oily bilge water, operate within the vessel's capacity to retain oily bilge for the full length of planned voyages, provide crew and management training on the proper handling of oily wastes, document all oil and oily waste transfers on and off of the vessel, including documenting proper disposal of engine room bilge water at a shore reception facility, and submit compliance reports.

The penalties paid in this case will be deposited in the federal Oil Spill Liability Trust Fund managed by the National Pollution Funds Center. The Oil Spill Liability Trust Fund is used to pay for federal response activities and to compensate for damages when there is a discharge or substantial threat of discharge of oil or hazardous substances to waters of the United States or adjoining shorelines.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America* v. *Rafael et al.,* D.J. Ref. No. 90–5–1–1–12051. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted by either email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $11.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–17954 Filed 8–20–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notification of Employee Rights Under Federal Labor Laws Complaint Process

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Labor-Management Standards (OLMS) sponsored information collection request (ICR) titled, ''Notification of Employee Rights Under Federal Labor Laws Complaint Process'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before September 20, 2019.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201901-1245-001* (this link will only become active on the day following publication of this notice) or by contacting Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OLMS Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Notification of Employee Rights Under Federal Labor Laws Complaint Process information collection. Regulations 29 CFR 471.11 provides for DOL to accept a written complaint alleging that a contractor doing business with the Federal government has failed to post the notice required by Executive Order (E.O.) 13496, Notification of Employee Rights Under Federal Labor Laws. *See* 74 FR 6107. The section establishes that no special complaint form is required; however, a complaint must be in writing. In addition, the complaint must contain certain information, including the name, address, and telephone number of the person submitting the complaint and the name and address of the Federal contractor alleged to have violated the rule. The section also establishes that a written complaint may be submitted to either the Office of Federal Contract Compliance Programs or the OLMS. E.O. 13496 section 3 authorizes this information collection. *See* 74 FR 6107 (February 4, 2019).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an

information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1245–0004.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on August 31, 2019. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 20, 2019 (84 FR 5107).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register.** In order to help ensure appropriate consideration, comments should mention OMB Control Number 1245–0004. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OLMS.

Title of Collection: Notification of Employee Rights Under Federal Labor Laws Complaint Process.

OMB Control Number: 1245–0004.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 10.

Total Estimated Number of Responses: 10.

Total Estimated Annual Time Burden: 13 hours.

Total Estimated Annual Other Costs Burden: $6.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: August 15, 2019.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2019–18003 Filed 8–20–19; 8:45 am]

BILLING CODE 4510–CP–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0001]

Proposed Extension of Information Collection; Certificate of Electrical Training

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Certificate of Electrical Training.

DATES: All comments must be received on or before October 21, 2019.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2019–0027.
- *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- *Hand Delivery:* USDOL–Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h)of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines.

Under section 305(g) of the Mine Act, all electric equipment shall be frequently examined, tested, and properly maintained by a qualified person to assure safe operating conditions.

Title 30 CFR 75.153 and 77.103 define a person as qualified to perform electrical work if he has been qualified as a coal mine electrician by a State that has a coal mine electrical qualification program approved by MSHA; or if he has at least one year of experience performing electrical work underground in a coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and has satisfactorily completed a coal mine electrical training program approved by MSHA or has attained a satisfactory grade on a series of five written tests approved by MSHA.

MSHA Form 5000–1 provides the coal mining industry with a standardized reporting format that expedites the certification process while ensuring compliance with the regulations. The information provided on the form enables MSHA to determine if the applicants satisfy the requirements to obtain the certification or qualification.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Certificate of

Electrical Training. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL–Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Certificate of Electrical Training. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0001.

Affected Public: Business or other for-profit.

Number of Respondents: 266.

Frequency: On occasion.

Number of Responses: 2,025.

Annual Burden Hours: 849 hours.

Annual Respondent or Recordkeeper Cost: $413.

MSHA Forms: MSHA Form 5000–1, Certificate of Electrical Training.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Roslyn B. Fontaine,

Certifying Officer.

[FR Doc. 2019–18001 Filed 8–20–19; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0020]

Proposed Extension of Information Collection; Operations Mining Under a Body of Water

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Operations Mining Under a Body of Water.

DATES: All comments must be received on or before October 21, 2019.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number MSHA–2019–0030.
- *Regular Mail:* Send comments to USDOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452.
- *Hand Delivery:* USDOL–Mine Safety and Health Administration, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, MSHA, at *MSHA.information.collections@dol.gov* (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines.

Title 30 CFR Sections 75.1716, 75.1716–1 and 75.1716–3 require operators of underground coal mines to provide MSHA notification before mining under bodies of water and to obtain a permit to mine under a body of water if, in the judgment of the Secretary, it is sufficiently large to constitute a hazard to miners. The regulation is necessary to prevent the inundation of underground coal mines with water that has the potential of drowning miners.

The coal mine operator submits an application for the permit to the District Manager in whose district the mine is located. Applications contain the name and address of the mine; projected mining and ground support plans; a mine map showing the location of the river, stream, lake or other body of water and its relation to the location of all working places; and a profile map showing the type of strata and the distance in elevation between the coal bed and the water involved. MSHA has provided an exemption from notification and permit application for mine operators where the projected mining is under any water reservoir constructed by a Federal agency as of December 30, 1969, and where the operator is required by such agency to operate in a manner that adequately protects the safety of miners. The exemption for such mining is addressed by 30 CFR Sections 75.1716 and 75.1717.

MSHA also encourages a mine operator to provide more information in an application. When the operator files an application for a permit, in addition

to the information required under 30 CFR Section 75.1716–3, operators are also encouraged to include a map of the active areas of the mine under the body of water showing the following: Bottom of coal elevations (minimum 10-ft contour intervals); the limits of the body of water and the estimated quantity of water in the pool; the limits of the proposed ''safety zone'' within which precautions will be taken; overburden thickness (depth of cover) contours; corehole locations; and known faults, lineaments, and other geologic features.

If the body of water is contained within an overlying mine, then MSHA recommends a map of the overlying mine showing bottom of coal elevations (minimum 10-ft contour intervals), when available, corehole locations, the limits of the body of water with the estimated quantity of water in the pool, and interburden to active mine below be provided. Operators are also encouraged to submit the methods that were used to estimate the quantity of water in the pool, borehole logs, including geotechnical information (RQD, fracture logs, etc.) if available; rock mechanics data on the overburden, interburden, mine roof, and mine floor, if available; mining height of the seam being mined, pillar and floor stability analyses for the active mine, whether second mining is planned, whether mining will be conducted down-dip or up-dip, where water will flow to in the active mine if encountered, pumping capabilities for dewatering, a comprehensive evacuation plan for the miners, and a statement of what in-mine conditions would trigger the implementation of the evacuation plan, and training that will be provided to the miners regarding the potential hazards.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Operations Mining Under a Body of Water. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The information collection request will be available on *http://www.regulations.gov.* MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on *www.regulations.gov* and *www.reginfo.gov.*

The public may also examine publicly available documents at USDOL–Mine Safety and Health Administration, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Operations Mining Under a Body of Water. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0020.

Affected Public: Business or other for-profit.

Number of Respondents: 77.

Frequency: On occasion.

Number of Responses: 77.

Annual Burden Hours: 424 hours.

Annual Respondent or Recordkeeper Cost: $1,040.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Roslyn B. Fontaine,

Certifying Officer.

[FR Doc. 2019–18002 Filed 8–20–19; 8:45 am]

BILLING CODE 4510–43–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 19–05]

Millennium Challenge Corporation Economic Advisory Council Call for Nominations

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, the Millennium Challenge Corporation (MCC) is hereby soliciting representative nominations for the MCC Economic Advisory Council (''the EAC'').

DATES: Nominations for EAC members must be received on or before 5 p.m. EDT on September 13, 2019. Further information about the nomination process is included below. MCC plans to host the next EAC meeting in late 2019. The EAC will meet at least one time per year in Washington, DC or via video/teleconferencing.

ADDRESSES: All nomination materials or requests for additional information should be emailed to MCC's Economic Advisory Council Designated Federal Officer, Brian Epley at *MCCEACouncil@mcc.gov* or mailed to Millennium Challenge Corporation, Attn: Brian Epley, 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: The EAC serves MCC in a solely advisory capacity and provides advice and guidance to economists, evaluators, leadership of the Department of Policy and Evaluation (DPE), 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, including without limitation social and gender inclusion. In doing so, an overarching purpose of the EAC is to sharpen MCC's analytical methods and capacity in support of continuing development effectiveness. It also serves as a sounding board and reference group for assessing and advising on strategic policy innovations and methodological directions at MCC.

The EAC focuses on issues related to the analytical products and strategy used as inputs to compact and threshold program development and decision making, on learning from MCC

experience about program effectiveness and impact, and to reflect on the broader global development trends and context of MCC's work. The EAC provides advice, recommendations, and guidance from experts in academia and the international development community on the design and implementation of programs in a structured and integrated manner.

The EAC is seeking members from a range of academic organizations, independent think tanks, and international development agencies to add to its current membership. Members will be chosen to represent a diversity of expertise, background and geographic experience.

Additional information about MCC and its portfolio can be found at *www.mcc.gov*.

The EAC shall consist of not more than 20 individuals who are recognized experts in their field, academics, innovators and thought leaders representing (without limitation) academic organizations, independent think tanks, international development agencies, multilateral and regional development financial institutions, and foundations. Efforts will be made to include expertise from developing countries, within the resource constraints of MCC to support logistic costs.

Qualified individuals may self-nominate or be nominated by any individual or organization. To be considered for the EAC, nominators should submit the following information:

- Name, title, organization and relevant contact information (including phone and email address) of the individual under consideration;
- A letter containing a brief biography for the nominee and description why the nominee should be considered for membership; and
- CV including professional and academic credentials.

Please do not send company, or organization brochures or any other information. Materials submitted should total two pages or less, excluding CV. Should more information be needed, MCC staff will contact the nominee, obtain information from the nominee's past affiliations, or obtain information from publicly available sources.

The EAC provides advice to MCC on issues related to growth and development in low and middle income countries including:

1. New perspectives on economic development
2. Innovative approaches to growth analytics
3. Innovations in program and project evaluation
4. Applied microeconomics and cost-benefit analytics
5. Poverty and income dynamics
6. Social development and the economics of gender
7. Other innovations in the field of development economics and evaluation

All members of the EAC will be independent of MCC, representing the views and interests of their respective industry or areas of expertise, and not as Special Government Employees. All members shall serve without compensation. The duties of the EAC are solely advisory and any determinations to be made or actions to be taken on the basis of EAC advice shall be made or taken by appropriate officers of MCC.

Nominees selected for appointment to the EAC will be notified by return email and receive a letter of appointment. A selection team will review the nomination packages. Members will be determined by the Vice President for Policy and Evaluation based on criteria including: (1) Professional experience and knowledge; (2) academic field and expertise; (3) experience within regions in which MCC works; (4) contribution of diverse regional or technical professional perspectives, and (5) availability and willingness to serve.

In the selection of members for the EAC, MCC will seek to ensure a balanced representation and consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the EAC.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical disability, marital status, or sexual orientation.

Dated: August 15, 2019.

Jeanne M. Hauch,

VP/General Counsel and Corporate Secretary.

[FR Doc. 2019–17925 Filed 8–20–19; 8:45 am]

BILLING CODE 9211–03–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2019–210; Order No. 5202]

Inbound Parcel Post (at UPU Rates)

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is acknowledging a recent Postal Service filing of its intention to change prices not of general applicability to be effective January 1, 2020. This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 22, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On August 14, 2019, the Postal Service filed notice announcing its intention to change prices not of general applicability for a certain portion of its Inbound Parcel Post (at Universal Postal Union (UPU) Rates) product effective January 1, 2020.[1]

II. Contents of Filing

In its Notice, the Postal Service proposes new prices for the UPU e-commerce delivery option (ECOMPRO). Notice at 2. ECOMPRO allows designated postal operators of UPU member countries, including the Postal Service, to mutually consent to certain delivery options, pursuant to UPU regulations for air parcel exchanges. *Id.* To support its proposed ECOMPRO prices, the Postal Service filed a redacted version of the proposed prices, a copy of the certification required under 39 CFR 3015.5(c)(2), and redacted copies of Governors' Decision 19–1. Notice at 3; *see id.,* Attachments 2–4. The Postal Service also filed redacted financial workpapers. Notice at 3.

Additionally, the Postal Service filed an unredacted copy of Governors' Decision 19–1, the unredacted new prices, and related financial information under seal. *See id.* The Postal Service also filed an application for non-public treatment of materials, filed under seal. Notice, Attachment 1.

[1] Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability for Certain Inbound Parcel Post (at UPU Rates), and Application for Non-Public Treatment, August 14, 2019, at 1 (Notice).

III. Commission Action

The Commission establishes Docket No. CP2019–210 for consideration of matters raised by the Notice and appoints Natalie R. Ward to serve as Public Representative in this docket.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, and 39 CFR part 3015. Comments are due no later than August 22, 2019. The public portions of the filing can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[2]

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2019–210 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Natalie R. Ward is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than August 22, 2019.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–17965 Filed 8–20–19; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. MT2019–1; Order No. 5200]

Market Test of Experimental Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently filed Postal Service proposal to conduct a market test of an experimental product called Plus One. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 5, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In accordance with 39 U.S.C. 3641 and 39 CFR part 3035, the Postal Service filed notice of its intent to conduct a market test of an experimental product called Plus One.[1] Plus One is an addressed advertising card that may be mailed as an add-on piece with a USPS Marketing Mail Letters ''marriage mail'' envelope containing multiple advertising pieces. Notice at 1. Marriage mail is a service provided by third-party mail service providers who combine advertisements from multiple businesses into a single mailpiece. *Id.* The Postal Service intends for the market test to run for two full years beginning on October 1, 2019. *Id.* at 5.

II. Background

On August 13, 2019, the Postal Service filed the Notice proposing the Plus One market test. The Postal Service asserts that it is critical to continue innovating to position mail as an attractive advertising channel because small- and medium-sized businesses with limited marketing budgets may choose from an array of advertising channels to reach potential customers. *Id.* at 1. The Postal Service explains that Plus One will benefit small- and medium-sized businesses, mail service providers, and the Postal Service. *Id.* at 2. Plus One mailings must meet several requirements described in the Notice. *Id.*

The Postal Service states that it will test four different price points ranging from 8.5 cents to 10.0 cents. *Id.* For purposes of the market test, the Postal Service divided the United States into four geographic areas: West (including Alaska and Hawaii), South, Midwest, and Northeast. *Id.* To the extent practical, each region contains destinating Sectional Center Facilities that serve each of four tiers of population density:

- Large (6,600 to 47,362 individuals per square mile)
- Mid-tier (1,000 to 6,600 individuals per square mile)
- Small (185 to 1,000 individuals per square mile)
- Sparse (fewer than 185 individuals per square mile)

Id. at 2–3. Each region has been randomly assigned one of four prices: 8.5 cents (West), 9.0 cents (Northeast), 9.5 cents (Midwest), and 10.0 cents (South). The Postal Service filed an accompanying workbook listing each 3-Digit ZIP Code and its associated price.[2]

III. Compliance With Legal Requirements

The Postal Service asserts that the proposed market test meets the requirements in 39 U.S.C. 3641 and 39 CFR part 3035. First, the Postal Service explains that Plus One is ''significantly different from all products offered by the Postal Service'' within the last 2 years as required by 39 U.S.C. 3641(b)(1). Notice at 3. It acknowledges that the inspiration for Plus One arose in part from the Detached Marketing Labels (DML) option developed for flat-shaped USPS Marketing Mail Saturation mailpieces. *Id.* However, the Postal Service asserts that Plus One is different because it is developed for mailers of letter-shaped mailpieces. *Id.* The Postal Service describes several material differences between Plus One and DMLs. *Id.* at 4.

Second, the Postal Service asserts that Plus One ''will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer'' as required by 39 U.S.C. 3641(b)(2). *Id.* It notes that the chosen prices more than cover the costs for Saturation letters and that Plus One will correct any potential market disruption resulting from the availability of DMLs for flat-shaped mailpieces but not for letter-shaped mailpieces. *Id.* It asserts that Plus One will create more advertising opportunities via the mail for small businesses, which will foster a market more responsive to small business needs. *Id.* at 4–5.

Third, the Postal Service states that Plus One is properly categorized as market dominant as required by 39 U.S.C. 3641(b)(3). *Id.* at 5.

IV. Data Collection

To better understand the results of the market test, the Postal Service asserts that it will collect the following data on a quarterly basis: Volumes by location,

[2] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

[1] United States Postal Service Notice of Market Test of Experimental Product—Plus One, August 13, 2019 (Notice).

[2] *Id.* Excel file ''NoticeAttachment.xlsx.''

revenue collected from the add-on Plus One piece, number of participating customers, and average size of mailing. *Id.* at 5–6. The Postal Service also states that it will collect data on the attributable costs of Plus One, including administrative costs. *Id.* at 6.

V. Notice of Commission Action

The Commission establishes Docket No. MT2019–1 to consider matters raised by the Notice. The Commission invites comments on whether the Postal Service's filing is consistent with the requirements of 39 U.S.C. 3641 and 39 CFR part 3035. Comments are due no later than September 5, 2019. The filing can be accessed via the Commission's website (*http://www.prc.gov*).

The Commission appoints Gregory Stanton to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

VI. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MT2019–1 to consider the matters raised by the Notice.

2. Pursuant to 39 U.S.C. 505, Gregory Stanton is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than September 5, 2019.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–17957 Filed 8–20–19; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2019–188 and CP2019–211]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 23, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2019–188 and CP2019–211; *Filing Title:* USPS Request to Add Parcel Select Contract 34 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 15, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* August 23, 2019.

This Notice will be published in the **Federal Register**.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–18020 Filed 8–20–19; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL REGULATORY COMMISSION

[Docket No. CP2019–209; Order No. 5201]

Inbound EMS 2

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is acknowledging a recent Postal Service filing of its intention to change prices not of general applicability to be effective January 1, 2020. This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 22, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On August 14, 2019, the Postal Service filed notice pursuant to 39 CFR 3015.5, announcing its intention to change rates not of general applicability

for Inbound EMS 2 effective January 1, 2020.[1]

II. Contents of Filing

To support its proposed Inbound EMS 2 prices, the Postal Service filed a redacted version of the proposed prices, a copy of the certification required under 39 CFR 3015.5(c)(2), a redacted copy of Governors' Decision No. 19–1, a redacted copy of the annual EMS Pay-for-Performance (PfP) Plan for 2019, and redacted copies of the EMS Cooperative Report Cards for Calendar Year 2018. Notice at 2–3; *see id.* Attachments 2–6.

Additionally, the Postal Service filed unredacted copies of Governors' Decision No. 19–1, its proposed prices, service performance data and plan, and related financial information under seal. Notice at 2. The Postal Service also filed an application for non-public treatment of materials filed under seal. *Id.* Attachment 1.

III. Commission Action

The Commission establishes Docket No. CP2019–209 for consideration of matters raised by the Notice and appoints Katalin K. Clendenin to serve as Public Representative in this docket.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, and 39 CFR part 3015. Comments are due no later than August 22, 2019. The public portions of the filing can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[2]

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2019–209 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than August 22, 2019.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

[1] Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability for Inbound EMS 2, and Application for Non-Public Treatment, August 14, 2019, at 1 (Notice).

[2] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

By the Commission.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–17959 Filed 8–20–19; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2019–187 and R2019–2]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 5, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2019–187 and R2019–2; *Filing Title:* Request of United States Postal Service to Add Inbound Market Dominant Non-Published Rate Agreements with Foreign Postal Operators to the Market Dominant Product List, Notice of a Type 2 Rate Adjustment in the Form of an Inbound Market Dominant NPR–FPO 1 Model Contract, and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* August 14, 2019; *Filing Authority:* 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR 3010.40 *et seq.,* and 39 CFR 3020.30 *et seq.; Public Representative:* Natalie R. Ward; *Comments Due:* September 5, 2019.

This Notice will be published in the **Federal Register**.

Darcie S. Tokioka,

Acting Secretary.

[FR Doc. 2019–17956 Filed 8–20–19; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86685; File No. SR–CboeBYX–2019–013]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amending its Fee Schedule Assessed on Members To Establish a Monthly Trading Rights Fee

August 15, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 1, 2019, Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX Equities'') proposes to amend its fee schedule assessed on Members to establish a monthly Trading Rights Fee. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish a monthly Trading Rights Fee under the ''Membership Fees'' section of the fee schedule. The Trading Rights Fee will be assessed on Members that trade more than a specified volume in U.S. equities, and will assist in covering the cost of a well-regulated and maintained Exchange. Self-regulation, with oversight by the Commission, is a basic premise of the Exchange Act.[3] For example, Congress recognized the regulatory role of national securities exchanges in section 6 of the Exchange Act, requiring all existing securities exchanges to register with the Commission and to function as self-regulatory organizations.[4] The Exchange remains committed to its regulatory responsibilities under the Exchange Act, and has devoted significant resources to providing a fair, orderly, and well-regulated market for its members. The proposed Trading Rights Fees will help fund a small portion of the Exchange's regulatory efforts, and therefore facilitate effective regulation of the U.S. equities markets, consistent with the goals of Congress and the Commission.

The proposed Trading Rights Fee represents a modest charge to firms that have chosen to become members of the Exchange, and that therefore both consume more regulatory resources, and benefit from the Exchange's regulatory efforts by having access to a well-regulated market. Specifically, the Exchange proposes to charge Member firms a monthly Trading Rights Fee of $250 per month for the ability to trade on the Exchange. So as to continue to encourage active participation on the Exchange by smaller Members, the Trading Rights Fee would not be charged to Members with a monthly ADV[5] of less than 100,000 shares. Similarly, to continue to support individual investor order flow on the Exchange, the Trading Rights Fee would not be charged to Members in which at least 90% of their order volume on the Exchange per month is retail order volume. In addition to this, the proposed fee will not be charged to new Exchange Members for their first three months of Membership. The Exchange intends to implement the proposed fee on August 1, 2019. The proposed fee and waivers are described in detail below.

Membership Fee per Month

As stated, the Exchange will apply a $250 Trading Rights charge to Members per month. The Exchange believes the proposed Trading Rights Fee assessed aligns with the benefit provided by allowing Members to trade on an efficient and well-regulated market. The proposed Trading Rights Fee will fund a portion of the costs incurred by the Exchange in regulating and maintaining its equities market. These costs incurred by the Exchange are necessary to maintain an efficient equities exchange, as a well-regulated exchange is inherent in the nature of all self-regulatory organizations (''SROs''). Due to the importance of effective regulation of the securities markets, an efficient regulatory division must be appropriately funded at all times. In particular, in order to successfully carry out the purposes of the Act and maintain fair, orderly, and efficient markets, and the protection of investors, SROs must invest in robust programs, policies, and procedures to enforce member compliance with both the rules of the exchange and federal securities laws.[6] In order to achieve this objective, the Exchange continuously invests in compliance, surveillance, technology, resources, and staff necessary to build and maintain such programs, policies, and procedures, some of which must be implemented in order to carry out industry-wide plans adopted by the Commission. For example, the Exchange's Regulatory Service Agreement (''RSA'') costs alone, which include funding for regulatory services in connection with market and financial surveillance, examinations, investigations, and disciplinary procedure, have increased 29.3% from 2016 to 2019. In addition to this, the Exchange's overall regulatory costs have grown 134.2% from 2016 to 2019. These costs have been incurred as a result of the allocation of increased regulatory resources and capabilities to implement and conduct regular surveillance for initiatives and programs such as regulatory software and infrastructure, alerts for various rules and initiatives, new and continued product listings, improvements to investigative processes, and so on. Therefore, the Exchange believes the proposed fee is appropriate to cover a portion of costs for the surveillance, technology, and

[3] *See* Securities Exchange Act Release No. 58092 (July 3, 2008), 73 FR 40143 (July 11, 2008).

[4] *Id.*

[5] ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADV is calculated on a monthly basis.

[6] *See* 15 U.S.C. 78f(b).

vast resources necessary to ensure that the Exchange is effectively organized and has the capacity to be able to carry out the purposes of the Act.

The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange represents a small percentage of the overall market, and broker-dealers routinely choose among a number of different venues to execute their equity order flow. These venues include thirteen registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act. Broker-dealers are not compelled to be Members of the Exchange, and a significant proportion of broker-dealers that trade U.S. equity securities have, in fact, chosen not to apply for membership on the Exchange. The Exchange currently has 124 registered members. By contrast, the Nasdaq Stock Market LLC (''Nasdaq'') has approximately 337 current members,[7] which is more than twice as many as BYX. Indeed, broker-dealers even choose between affiliated exchanges in deciding where to become a member. Of the Exchange's affiliated exchanges, Cboe EDGX Exchange, Inc. (''EDGX'') currently has 135 members, Cboe EDGA Exchange, Inc. (''EDGA'') 116 members, and Cboe BZX Exchange, Inc. (''BZX'') 158 members. None of the Exchange's Members or members of any of the affiliated exchanges are required to hold memberships across the affiliated exchanges. The same is true for participation on the Exchange itself; Membership is not a requirement to participate on the Exchange. Indeed, a number of firms, including larger firms with significant daily trading volume, currently participate on the Exchange though sponsored access arrangements rather than by becoming a member.

The cost of membership on the Exchange, including the proposed Trading Rights Fees, is significantly lower than the cost of membership in a number of other SROs.[8] For example, the Exchange's proposed Trading Rights Fee at $250 a month is substantially lower than Nasdaq's analogous fee, which assesses a monthly Trading Rights Fee of $1,250 per member. In sum, the Exchange believes the fee is priced appropriately as it is competitive with other exchanges that offer membership to their exchanges while also helping to pay for the increased cost of regulation.

New Member Waiver

As stated above, the proposed fee would not apply to new Members for their first three months of Exchange Membership. The Exchange recognizes that new Members provide new and important sources of liquidity. As such, the Exchange proposes that new Exchange Members will not be charged the proposed Trading Rights Fee for their first three months of Membership. The Exchange believes that the proposed waiver will allow new firms the flexibility in resources needed to initially adjust to the Exchange's market-model and functionality. The Exchange notes that for any month in which a firm is approved for Membership with the Exchange, the monthly Trading Rights Fee will be pro-rated in accordance with the date on which Membership is approved. For example, if a firm's Membership is approved on August 15, 2019, then, as proposed, it would not be charged for its first three months of Membership. The month of November would then be pro-rated and the Trading Rights Fee would be assessed from November 15, 2019 through the end of the month. During any month in which a firm terminates Membership with the Exchange, the monthly Trading Rights Fee will not be pro-rated.

ADV Threshold Waiver

As stated above, the Exchange would also waive the monthly Trading Rights fee for Members with a monthly ADV[9] of less than 100,000 shares. The proposed waiver is designed to reduce the costs of smaller Members that transact on the Exchange. Smaller Members execute low volumes on the Exchange, and, as a result, consume few regulatory resources. In addition, allowing smaller Members to trade on the Exchange without incurring a Trading Rights Fee may encourage participation from such Members as they grow their business, and thereby contribute to a more diverse and competitive market for equity securities traded on the Exchange. The median ADV per firm per month on the Exchange is 276,309. Therefore, the Exchange believes that ADV of 100,000 serves as an appropriate threshold to capture firms that are truly smaller volume firm outliers as compared to the overall ADV across all firms.

Retail Order Threshold Waiver

Similar to that of the ADV threshold waiver, the Exchange would waive the monthly Trading Rights fee for Members if at least 90% of their order volume on the Exchange per month is Retail Order volume. The Exchange believes that this will serve to support individual investor order flow on the Exchange by ensuring that retail broker Members can continue to submit orders for individual investors at a lower cost, thereby continuing to encourage retail investor participation on the Exchange. Like the small Member waiver, the Exchange believes this will contribute to a more diverse and competitive market for equity securities traded on the Exchange. Furthermore, the Exchange notes that continued liquidity in retail orders may incentivize other Members to send order flow to the Exchange to trade with such retail orders. Also, retail participation is more likely to reflect long-term investment intentions, and may therefore positively impact market quality. Retail order flow is highly competitive across trading venues, particularly as it relates to exchange versus off-exchange venues as many retail brokers route the majority of their retail orders to off-exchange venues. Accordingly, competitive forces compel the Exchange to use incentives to compete for retail order flow. The Exchange believes that the proposed 90% retail order volume threshold will capture broker-dealers that are primarily in the business of handling orders on behalf of retail investors rather than larger broker-dealers that may route retail orders on behalf of other broker-dealers but are also engaged in significant other activity that is not related to servicing retail investors. As such, the Exchange believes that the 90% retail order volume threshold will function to best capture those firms whose overall business and trading model focuses on the handling and execution of orders for retail clients.

[7] *See* NasdaqTrader.com Symbol Lookup (July 31, 2019), available at *http://www.nasdaqtrader.com/trader.aspx?id=symbollookup*.

[8] *See* Nasdaq Stock Market Equity Rules, Equity 7, Sec. 10(a) (assessing a trading rights fee of $1,250 per month per each member); New York Stock Exchange Price List 2019, ''Trading Licenses'' (assessing an annual fee $50,000 for the first trading license held by a member, to which the Exchange notes that the Exchange assesses a $2,500 annual fee for membership, and that this annual fee coupled with 12 months of the proposed Trading Rights Fees remains substantially lower than NYSE's annual trading license fee); *see also* Securities Exchange Act Release No. 81133 (July 12, 2017), 82 FR 32904 (July 18, 2017) (The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Trading Rights Fee) (SR–NASDAQ–2017–065). The Exchange notes that this Nasdaq filing supports its implemented Trading Rights Fee without explanation as to why an increase in funding was necessary or as to specific items covered under the broad umbrella of a well-regulated market.

[9] ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADV is calculated on a monthly basis.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[10] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[11] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed Trading Rights Fee is reasonable because the fee will assist in funding the overall regulation and maintenance of the Exchange. Effective regulation is central to the proper functioning of the securities markets. Recognizing the importance of such efforts, Congress decided to require national securities exchanges to register with the Commission as self-regulatory organizations to carry out the purposes of the Exchange Act. The Exchange therefore believes that it is critical to ensure that regulation is appropriately funded. While the proposed Trading Rights Fees are set at a modest level, and will fund only a relatively small portion of the Exchange's total regulatory costs, the Exchange believes that such fees will contribute appropriately to ensuring that adequate resources are devoted to regulation, as contemplated by Congress.

The proposed Trading Rights Fee is reasonable because it represents a modest charge to firms that have chosen to become members of the Exchange, and that therefore both consume more regulatory resources, and benefit from the Exchange's regulatory efforts by having access to a well-regulated market. As stated, the Exchange will apply a $250 Trading Rights charge to Members per month. Allocating the proposed Trading Rights Fee to fund a portion of the cost incurred by the Exchange in regulating and maintaining its equities market is reasonable because the costs incurred are necessary to maintain an efficient and well-regulated equities exchange. In order to successfully carry out the purposes of the Act and maintain fair, orderly, and efficient markets, and the protection of investors, the Exchange, like all SROs, continuously invests in robust programs, policies, and procedures to enforce member compliance with both the rules of the exchange and federal securities laws.[12] As discussed above, from 2016 to 2019, the Exchange's RSA costs alone, which cover regulatory services in connection with market and financial surveillance, examinations, investigations, and disciplinary procedure, have increased 29.3%, while the Exchange's overall regulatory costs have grown 134.2%. Such regulatory costs have been incurred as a result of the allocation of increased regulatory resources and capabilities to implement and conduct regular surveillance for initiatives and programs such as regulatory software and infrastructure, alerts for various rules and initiatives, new and continued product listings, improvements to investigative processes, and so on. It is reasonable to apply the proposed fee to contribute to a small portion of such costs that will help to fund surveillance, technology, and vast resources necessary to ensure that the Exchange is so organized and has the capacity to be able to carry out the purposes of the Act.

Additionally, the Exchange believes the fee is reasonable because the cost of this membership fee is generally less than the analogous membership fees of other markets. As indicated above, the Exchange's proposed Trading Rights Fee at $250 a month is substantially lower than Nasdaq's analogous fee, which assesses a monthly Trading Rights Fee of $1,250 per member. Trading Rights Fees, like those proposed here, are not new in the equities markets. A number of national securities exchanges currently charge such fees to assist in funding their regulatory efforts. The Exchange believes that it is appropriate to institute a similar fee to fund its increasing regulatory costs.

The Exchange believes that not charging its new Members the proposed Trading Rights Fee for their first three months of Membership is reasonable because it provides an incentive for firms and other participants that are not currently Members of the Exchange to apply for Membership and bring additional liquidity to the market, thus greater trading opportunities, to the benefit of all market participants. The proposed waiver is also reasonable because it will allow new firms the flexibility in resources needed to initially adjust to the Exchange's market-model and functionality. The Exchange believes that not charging a Trading Rights Fee for new Members will incentivize firms to become Members of the Exchange. Furthermore, creating incentives for new Exchange Members protects investors and the public interest by increasing the competition and liquidity across the Exchange.

Similarly, the Exchange believes that not charging a Trading Rights Fee for Members that trade less than a monthly ADV of 100,000 shares is reasonable because it ensures that smaller Members who do not trade significant volume on the Exchange can continue to trade on the Exchange at a lower cost. Because smaller Members with lower volumes executed on the Exchange consume fewer regulatory resources the Exchange believes it is reasonable to apply a waiver to Members on the lower side of the ADV scale for all firms. Moreover, the Exchange believes that the proposed threshold is reasonable because the median ADV per firm per month on the Exchange is 276,309, therefore, an ADV threshold of 100,000 will serve as an appropriate threshold to capture firms which are true, smaller volume firm outliers as compared to the overall ADV across all firms.

The Exchange also believes that not charging a Trading Rights Fee for Members whose retail order volume comprises 90% or more of their order volume per month is reasonable because it ensures retail broker Members can continue to submit orders for individual investors at a lower cost, thereby continuing to encourage retail investor participation on the Exchange. Furthermore, encouraging continued retail broker Members to trade on the Exchange without incurring a Trading Rights Fee may encourage additional participation from such Members and thereby contribute to a more diverse and competitive market for equity securities traded on the Exchange. Furthermore, the Exchange notes that continued liquidity in retail orders would incentivize other Members to send order flow to the Exchange to trade with such retail orders; such increased liquidity provides more trading opportunities to

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] *See* 15 U.S.C. 78f(b).

the benefit of all market participants. In addition to this, retail participation is more likely to reflect long-term investment intentions, and may therefore positively impact market quality, also to the benefit of all market participants. In addition to this, the Exchange believes that the 90% or more retail order volume threshold is reasonable because it will serve to capture broker-dealers that are primarily in the business of handling orders on behalf of retail investors rather than larger broker-dealers that may route retail orders on behalf of other broker-dealers but are also engaged in significant other activity that is not related to servicing retail investors. Therefore, the 90% retail order volume threshold reasonably ensures that those firms whose overall business and trading model focuses on the handling and execution of orders for retail clients, are identified for the waiver to appropriately apply.

The Exchange believes that the proposed Trading Rights Fee is equitable and is not unfairly discriminatory because it will apply equally to all Members with an ADV of 100,000 shares or more traded per month, all Members in which less than 90% of their order volume is comprised of retail order volume per month,[13] and all Members that are not within their first three months of new Membership on the Exchange. As proposed, all members that do not qualify for a waiver would be charged the same, modest fee for their membership. The proposed fee is therefore charged on an equal and non-discriminatory basis for all such members. At the same time, the Exchange believes that it is important to continue to encourage participation from firms that represent ordinary investors, that have more limited trading activity, or that are new members.

Specifically, the Exchange believes that not charging the Trading Rights Fee for Members that do not meet the ADV threshold in a month is equitable and not unfairly discriminatory because it will apply equally to all such firms that meet this criteria and it considers the fact that smaller firms with significantly lower volume than most firms consume less regulatory resources, therefore, it ensures that disparate treatment does not exist for firms that are much smaller than the average firm on the Exchange. The Exchange believes that not charging the Trading Rights Fee for Members that do not meet the 90% retail order volume threshold is equitable and not unfairly discriminatory because it will apply equally to all such firms that meet this criteria. The waiver is equitable as it will encourage continued retail participation and liquidity on the Exchange which is more likely to reflect long-term investment intentions, and may therefore positively impact market quality, as well as incentivize other Members to send order flow to the Exchange to trade with such retail orders, which benefits all market participants by providing more trading opportunities. Finally, the Exchange believes that not charging a Trading Rights Fee for a new Member for the first three months of Membership is equitable and not unfairly discriminatory because the proposed waiver will be offered to all market participants that wish to become Members of the Exchange and is equitable because it will allow new firms the flexibility in resources needed to initially adjust to the Exchange's market-model and functionality. In addition to this, the proposed waiver intends to incentivize new Membership which will bring increased liquidity and competition to the benefit of all market participants.

The Exchange also notes that the proposed fee is equitable and not unfairly discriminatory because it will contribute to a portion of the costs incurred by the Exchange in providing its Members with an efficient and well-regulated market, which benefits all Members. As stated, as an SRO, it is necessary for the Exchange to continuously invest in robust programs, policies, and procedures to ensure its markets are well-regulated in order to successfully carry out the purposes of the Act and maintain fair, orderly, and efficient markets, and the protection of investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary in furtherance of the purposes of the Act because the proposed rule change will apply equally to all Members that reach an ADV of 100,000 shares traded or greater, those in which less than 90% of their order volume is retail order volume per month, and those that are not within their first three months of new Membership on the Exchange. Although smaller Members would be excluded from the proposed fee, the Exchange believes that this may increase competition by encouraging additional order flow from such smaller Members thereby contributing to a more diverse, vibrant, and competitive market. In addition to this, though true retail firms would be excluded from the proposed fee, the Exchange believes that encouraging retail order flow to the Exchange will benefit all market participants by providing more trading opportunities and encouraging other Members to send orders which will contribute to more robust levels of liquidity. While the proposed tier is only available for Retail Orders, the Exchange notes it is attempting to increase retail participation and that, as noted above, retail participation is more likely to reflect long-term investment intentions, and may therefore positively impact market quality. Finally, while the proposed three month waiver of the Trading Rights Fee only applies to new Members, this incentivizes new Members which can be an important source of liquidity and facilitate competition within the market.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market, including competition for exchange memberships. Members have numerous alternative venues that they may participate on, including 12 other equities exchanges, as well as off-exchange venues, including over 50 alternative trading systems.[14] The Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 20% market share, and no exchange group has more than 22% market share.[15] Indeed, while trade through and best execution obligations may require a firm to access the Exchange, no firm is compelled to be a Member of the Exchange in order to participate in the Exchange and may freely choose to participate on the Exchange without holding a Membership. If the proposed fee is unattractive to members, it is likely that the Exchange will lose membership and market share as a result. As a result, the Exchange carefully considers any increases to its fees in concert, balancing the utility in remaining competitive with other exchanges and

[13] A Member will not be charged if it meets either one (or both) of the exceptions. To illustrate, if a Member executes 5% of its total order volume as retail order volume but only has an ADV of 90,000 shares traded, that Member will not be charged the proposed Trading Rights Fee.

[14] *See* U.S. Securities and Exchange Commission Alternative Trading Systems (''ATS'') List (June 30, 2019), available at *https://www.sec.gov/foia/docs/atslist.htm*.

[15] *See* Cboe Global Markets U.S. Equities Market Volume Summary (July 31, 2019), available at *https://markets.cboe.com/us/equities/market_share*.

with alternative trading systems exempted from compliance with the statutory standards applicable to exchanges, including the requirement to regulate their members, and in covering costs described in the filing that are associated with maintaining its equities market and its regulatory programs to ensure that the Exchange remains an efficient and well-regulated marketplace. In addition to this the Exchange notes that other exchanges currently have trading rights fees in place,[16] which have been previously filed with the Commission.

Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and paragraph (f) of Rule 19b–4 [18] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBYX–2019–013 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–CboeBYX–2019–013. 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–CboeBYX–2019–013 and should be submitted on or before September 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–17983 Filed 8–20–19; 8:45 am]

BILLING CODE 8011–01–P

[16] *See supra* note 5.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86689; File No. SR–NYSEAMER–2019–32]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE American Options Fee Schedule

August 15, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 8, 2019, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 a non-substantive amendment to the NYSE American Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the rule change effective August 8, 2019. The proposed 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify the Fee Schedule to make a non-substantive, technical change to the Fee Schedule to re-locate the text regarding the Floor Broker Volume Rebate Program (''FB Volume Rebate'') for Floor Broker organizations (each a ''Floor Broker''). The Exchange proposes to implement the fee change effective August 8, 2019.

Earlier this year, the Exchange introduced the FB Rebate Program, which offers Floor Brokers the opportunity to qualify for a $5,000 rebate each month that the Floor Broker increases its Average Daily Volume (''ADV'') by a certain percentage over one of two benchmarks.[3] Currently, the section describing the FB Rebate Program is positioned in the middle of the section describing the Floor Broker Fixed Cost Prepayment Incentive Program (the ''FB Prepay Program'').[4] The Exchange proposes to relocate the description of the FB Rebate Program so that it appears after (and immediately below) the description of the FB Prepay Program, which would add clarity and transparency to the Fee Schedule making it easier to navigate.[5] The Exchange does not propose any substantive changes to the Fee Schedule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[7] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposal to re-locate the positioning of the text describing the FB Rebate Program would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule change is non-substantive in nature and would simply move rule text relating to the FB Rebate Program to be separate from the FB Prepay Program, without any substantive differences to either program. Because the proposed rule change is technical and non-substantive, the Exchange further believes that it is reasonable, equitable and not unfairly discriminatory because it would provide clarity, transparency and internal consistency to the Fee Schedule Exchange [sic]—particularly to Section III.E—and would protect investors and the investing public by making the Exchange rules easier to navigate and comprehend.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues, but rather, is a non-substantive, technical amendment to move existing rule text to a different part of the Fee Schedule. The Exchange believes the proposal provides clarity, transparency and internal consistency to the Fee Schedule Exchange [sic]—particularly to Section III.E—and would to [sic] protect investors and the investing public by making the Exchange rules easier to navigate and comprehend.

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 foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[8] of the Act and subparagraph (f)(2) of Rule 19b–4[9] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

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)[10] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSEAMER–2019–32 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 No. SR–NYSEAMER–2019–32. 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

[3] *See* Fee Schedule, Section III.E.2. (Floor Broker Programs, Floor Broker Volume Incentive Rebate Program), *available here: https://www.nyse.com/publicdocs/nyse/markets/american-options/NYSE_American_Options_Fee_Schedule.pdf.*

[4] *See id.,* Section III.E.1(Floor Broker Programs, Floor Broker Volume Incentive Rebate Program, Floor Broker Fixed Cost Prepayment Incentive Program).

[5] *See* proposed Fee Schedule, Section III.E.2.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] 15 U.S.C. 78s(b)(2)(B).

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 No. SR–NYSEAMER–2019–32, and should be submitted on or before September 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–17990 Filed 8–20–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86686; File No. SR–CboeBZX–2019–072]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amending its Fee Schedule Assessed on Members To Establish a Monthly Trading Rights Fee

August 15, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 1, 2019, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX Equities'') proposes to amend its fee schedule assessed on Members to establish a monthly Trading Rights Fee. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish a monthly Trading Rights Fee under the ''Membership Fees'' section of the fee schedule. The Trading Rights Fee will be assessed on Members that trade more than a specified volume in U.S. equities, and will assist in covering the cost of a well-regulated and maintained Exchange. Self-regulation, with oversight by the Commission, is a basic premise of the Exchange Act.[3] For example, Congress recognized the regulatory role of national securities exchanges in section 6 of the Exchange Act, requiring all existing securities exchanges to register with the Commission and to function as self-regulatory organizations.[4] The Exchange remains committed to its regulatory responsibilities under the Exchange Act, and has devoted significant resources to providing a fair, orderly, and well-regulated market for its members. The proposed Trading Rights Fees will help fund a small portion of the Exchange's regulatory efforts, and therefore facilitate effective regulation of the U.S. equities markets, consistent with the goals of Congress and the Commission.

The proposed Trading Rights Fee represents a modest charge to firms that have chosen to become members of the Exchange, and that therefore both consume more regulatory resources, and benefit from the Exchange's regulatory efforts by having access to a well-regulated market. Specifically, the Exchange proposes to charge Member firms a monthly Trading Rights Fee of $500 per month for the ability to trade on the Exchange. So as to continue to encourage active participation on the Exchange by smaller Members, the Trading Rights Fee would not be charged to Members with a monthly ADV[5] of less than 100,000 shares. Similarly, to continue to support individual investor order flow on the Exchange, the Trading Rights Fee would not be charged to Members in which at least 90% of their order volume on the Exchange per month is retail order volume. In addition to this, the proposed fee will not be charged to new Exchange Members for their first three months of Membership. The Exchange intends to implement the proposed fee on August 1, 2019. The proposed fee and waivers are described in detail below.

Membership Fee per Month

As stated, the Exchange will apply a $500 Trading Rights charge to Members per month. The Exchange believes the proposed Trading Rights Fee assessed aligns with the benefit provided by allowing Members to trade on an efficient and well-regulated market. The proposed Trading Rights Fee will fund a portion of the costs incurred by the Exchange in regulating and maintaining its equities market. These costs incurred by the Exchange are necessary to maintain an efficient equities exchange, as a well-regulated exchange is inherent in the nature of all self-regulatory organizations (''SROs''). Due to the importance of effective regulation of the securities markets, an efficient regulatory division must be appropriately funded at all times. In particular, in order to successfully carry out the purposes of the Act and maintain fair, orderly, and efficient markets, and the protection of investors, SROs must invest in robust programs,

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 58092 (July 3, 2008), 73 FR 40143 (July 11, 2008).

[4] *Id.*

[5] ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADV is calculated on a monthly basis.

policies, and procedures to enforce member compliance with both the rules of the exchange and federal securities laws.[6] In order to achieve this objective, the Exchange continuously invests in compliance, surveillance, technology, resources, and staff necessary to build and maintain such programs, policies, and procedures, some of which must be implemented in order to carry out industry-wide plans adopted by the Commission. For example, the Exchange's Regulatory Service Agreement (''RSA'') costs alone, which include funding for regulatory services in connection with market and financial surveillance, examinations, investigations, and disciplinary procedure, have increased 12.2% from 2016 to 2019. In addition to this, the Exchange's overall regulatory costs have grown 64% from 2016 to 2019. These costs have been incurred as a result of the allocation of increased regulatory resources and capabilities to implement and conduct regular surveillance for initiatives and programs such as regulatory software and infrastructure, alerts for various rules and initiatives, new and continued product listings, improvements to investigative processes, and so on. Therefore, the Exchange believes the proposed fee is appropriate to cover a portion of costs for the surveillance, technology, and vast resources necessary to ensure that the Exchange is effectively organized and has the capacity to be able to carry out the purposes of the Act.

The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange represents a small percentage of the overall market, and broker-dealers routinely choose among a number of different venues to execute their equity order flow. These venues include thirteen registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act. Broker-dealers are not compelled to be Members of the Exchange, and a significant proportion of broker-dealers that trade U.S. equity securities have, in fact, chosen not to apply for membership on the Exchange. The Exchange currently has 158 registered members. By contrast, the Nasdaq Stock Market LLC (''Nasdaq'') has approximately 337 current members,[7] which is more than twice as many as BZX. Indeed, broker-dealers even choose between affiliated exchanges in deciding where to become a member. Of the Exchange's affiliated exchanges, Cboe EDGX Exchange, Inc. (''EDGX'') currently has 135 members, Cboe EDGA Exchange, Inc. (''EDGA'') 116 members, and Cboe BYX Exchange, Inc. (''BYX'') 124 members. None of the Exchange's Members or members of any of the affiliated exchanges are required to hold memberships across the affiliated exchanges. The same is true for participation on the Exchange itself; Membership is not a requirement to participate on the Exchange. Indeed, a number of firms, including larger firms with significant daily trading volume, currently participate on the Exchange though sponsored access arrangements rather than by becoming a member.

The cost of membership on the Exchange, including the proposed Trading Rights Fees, is significantly lower than the cost of membership in a number of other SROs.[8] For example, the Exchange's proposed Trading Rights Fee at $500 a month is substantially lower than Nasdaq's analogous fee, which assesses a monthly Trading Rights Fee of $1,250 per member. In sum, the Exchange believes the fee is priced appropriately as it is competitive with other exchanges that offer membership to their exchanges while also helping to pay for the increased cost of regulation.

New Member Waiver

As stated above, the proposed fee would not apply to new Members for their first three months of Exchange Membership. The Exchange recognizes that new Members provide new and important sources of liquidity. As such, the Exchange proposes that new Exchange Members will not be charged the proposed Trading Rights Fee for their first three months of Membership. The Exchange believes that the proposed waiver will allow new firms the flexibility in resources needed to initially adjust to the Exchange's market-model and functionality. The Exchange notes that for any month in which a firm is approved for Membership with the Exchange, the monthly Trading Rights Fee will be pro-rated in accordance with the date on which Membership is approved. For example, if a firm's Membership is approved on August 15, 2019, then, as proposed, it would not be charged for its first three months of Membership. The month of November would then be pro-rated and the Trading Rights Fee would be assessed from November 15, 2019 through the end of the month. During any month in which a firm terminates Membership with the Exchange, the monthly Trading Rights Fee will not be pro-rated.

ADV Threshold Waiver

As stated above, the Exchange would also waive the monthly Trading Rights fee for Members with a monthly ADV[9] of less than 100,000 shares. The proposed waiver is designed to reduce the costs of smaller Members that transact on the Exchange. Smaller Members execute low volumes on the Exchange, and, as a result, consume few regulatory resources. In addition, allowing smaller Members to trade on the Exchange without incurring a Trading Rights Fee may encourage participation from such Members as they grow their business, and thereby contribute to a more diverse and competitive market for equity securities traded on the Exchange. The median ADV per firm per month on the Exchange is 475,591. Therefore, the Exchange believes that ADV of 100,000 serves as an appropriate threshold to capture firms that are truly smaller volume firm outliers as compared to the overall ADV across all firms.

Retail Order Threshold Waiver

Similar to that of the ADV threshold waiver, the Exchange would waive the monthly Trading Rights fee for Members if at least 90% of their order volume on the Exchange per month is Retail Order volume. The Exchange believes that this will serve to support individual investor order flow on the Exchange by ensuring that retail broker Members can continue to submit orders for individual investors

[6] *See* 15 U.S.C. 78f(b).

[7] *See NasdaqTrader.com* Symbol Lookup (July 31, 2019), available at *http://www.nasdaqtrader.com/trader.aspx?id=symbollookup.*

[8] *See* Nasdaq Stock Market Equity Rules, Equity 7, Sec. 10(a) (assessing a trading rights fee of $1,250 per month per each member); New York Stock Exchange Price List 2019, ''Trading Licenses'' (assessing an annual fee $50,000 for the first trading license held by a member, to which the Exchange notes that the Exchange assesses a $2,500 annual fee for membership, and that this annual fee coupled with 12 months of the proposed Trading Rights Fees remains substantially lower than NYSE's annual trading license fee); *see also* Securities Exchange Act Release No. 81133 (July 12, 2017), 82 FR 32904 (July 18, 2017) (The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Trading Rights Fee) (SR–NASDAQ–2017–065). The Exchange notes that this Nasdaq filing supports its implemented Trading Rights Fee without explanation as to why an increase in funding was necessary or as to specific items covered under the broad umbrella of a well-regulated market.

[9] ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADV is calculated on a monthly basis.

at a lower cost, thereby continuing to encourage retail investor participation on the Exchange. Like the small Member waiver, the Exchange believes this will contribute to a more diverse and competitive market for equity securities traded on the Exchange. Furthermore, the Exchange notes that continued liquidity in retail orders may incentivize other Members to send order flow to the Exchange to trade with such retail orders. Also, retail participation is more likely to reflect long-term investment intentions, and may therefore positively impact market quality. Retail order flow is highly competitive across trading venues, particularly as it relates to exchange versus off-exchange venues as many retail brokers route the majority of their retail orders to off-exchange venues. Accordingly, competitive forces compel the Exchange to use incentives to compete for retail order flow. The Exchange believes that the proposed 90% retail order volume threshold will capture broker-dealers that are primarily in the business of handling orders on behalf of retail investors rather than larger broker-dealers that may route retail orders on behalf of other broker-dealers but are also engaged in significant other activity that is not related to servicing retail investors. As such, the Exchange believes that the 90% retail order volume threshold will function to best capture those firms whose overall business and trading model focuses on the handling and execution of orders for retail clients.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[10] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[11] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed Trading Rights Fee is reasonable because the fee will assist in funding the overall regulation and maintenance of the Exchange. Effective regulation is central to the proper functioning of the securities markets. Recognizing the importance of such efforts, Congress decided to require national securities exchanges to register with the Commission as self-regulatory organizations to carry out the purposes of the Exchange Act. The Exchange therefore believes that it is critical to ensure that regulation is appropriately funded. While the proposed Trading Rights Fees are set at a modest level, and will fund only a relatively small portion of the Exchange's total regulatory costs, the Exchange believes that such fees will contribute appropriately to ensuring that adequate resources are devoted to regulation, as contemplated by Congress.

The proposed Trading Rights Fee is reasonable because it represents a modest charge to firms that have chosen to become members of the Exchange, and that therefore both consume more regulatory resources, and benefit from the Exchange's regulatory efforts by having access to a well-regulated market. As stated, the Exchange will apply a $500 Trading Rights charge to Members per month. Allocating the proposed Trading Rights Fee to fund a portion of the cost incurred by the Exchange in regulating and maintaining its equities market is reasonable because the costs incurred are necessary to maintain an efficient and well-regulated equities exchange. In order to successfully carry out the purposes of the Act and maintain fair, orderly, and efficient markets, and the protection of investors, the Exchange, like all SROs, continuously invests in robust programs, policies, and procedures to enforce member compliance with both the rules of the exchange and federal securities laws.[12] As discussed above, from 2016 to 2019, the Exchange's RSA costs alone, which cover regulatory services in connection with market and financial surveillance, examinations, investigations, and disciplinary procedure, have increased 12.2%, while the Exchange's overall regulatory costs have grown 64%. Such regulatory costs have been incurred as a result of the allocation of increased regulatory resources and capabilities to implement and conduct regular surveillance for initiatives and programs such as regulatory software and infrastructure, alerts for various rules and initiatives, new and continued product listings, improvements to investigative processes, and so on. It is reasonable to apply the proposed fee to contribute to a small portion of such costs that will help to fund surveillance, technology, and vast resources necessary to ensure that the Exchange is so organized and has the capacity to be able to carry out the purposes of the Act

Additionally, the Exchange believes the fee is reasonable because the cost of this membership fee is generally less than the analogous membership fees of other markets. As indicated above, the Exchange's proposed Trading Rights Fee at $500 a month is substantially lower than Nasdaq's analogous fee, which assesses a monthly Trading Rights Fee of $1,250 per member. Trading Rights Fees, like those proposed here, are not new in the equities markets. A number of national securities exchanges currently charge such fees to assist in funding their regulatory efforts. The Exchange believes that it is appropriate to institute a similar fee to fund its increasing regulatory costs.

The Exchange believes that not charging its new Members the proposed Trading Rights Fee for their first three months of Membership is reasonable because it provides an incentive for firms and other participants that are not currently Members of the Exchange to apply for Membership and bring additional liquidity to the market, thus greater trading opportunities, to the benefit of all market participants. The proposed waiver is also reasonable because it will allow new firms the flexibility in resources needed to initially adjust to the Exchange's market-model and functionality. The Exchange believes that not charging a Trading Rights Fee for new Members will incentivize firms to become Members of the Exchange. Furthermore, creating incentives for new Exchange Members protects investors and the public interest by increasing the competition and liquidity across the Exchange.

Similarly, the Exchange believes that not charging a Trading Rights Fee for Members that trade less than a monthly ADV of 100,000 shares is reasonable because it ensures that smaller Members who do not trade significant volume on the Exchange can continue to trade on the Exchange at a lower cost. Because

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] *See* 15 U.S.C. 78f(b).

smaller Members with lower volumes executed on the Exchange consume fewer regulatory resources the Exchange believes it is reasonable to apply a waiver to Members on the lower side of the ADV scale for all firms. Moreover, the Exchange believes that the proposed threshold is reasonable because the median ADV per firm per month on the Exchange is 475,591, therefore, an ADV threshold of 100,000 will serve as an appropriate threshold to capture firms which are true, smaller volume firm outliers as compared to the overall ADV across all firms.

The Exchange also believes that not charging a Trading Rights Fee for Members whose retail order volume comprises 90% or more of their order volume per month is reasonable because it ensures retail broker Members can continue to submit orders for individual investors at a lower cost, thereby continuing to encourage retail investor participation on the Exchange. Furthermore, encouraging continued retail broker Members to trade on the Exchange without incurring a Trading Rights Fee may encourage additional participation from such Members and thereby contribute to a more diverse and competitive market for equity securities traded on the Exchange. Furthermore, the Exchange notes that continued liquidity in retail orders would incentivize other Members to send order flow to the Exchange to trade with such retail orders; such increased liquidity provides more trading opportunities to the benefit of all market participants. In addition to this, retail participation is more likely to reflect long-term investment intentions, and may therefore positively impact market quality, also to the benefit of all market participants. In addition to this, the Exchange believes that the 90% or more retail order volume threshold is reasonable because it will serve to capture broker-dealers that are primarily in the business of handling orders on behalf of retail investors rather than larger broker-dealers that may route retail orders on behalf of other broker-dealers but are also engaged in significant other activity that is not related to servicing retail investors. Therefore, the 90% retail order volume threshold reasonably ensures that those firms whose overall business and trading model focuses on the handling and execution of orders for retail clients, are identified for the waiver to appropriately apply.

The Exchange believes that the proposed Trading Rights Fee is equitable and is not unfairly discriminatory because it will apply equally to all Members with an ADV of 100,000 shares or more traded per month, all Members in which less than 90% of their order volume is comprised of retail order volume per month,[13] and all Members that are not within their first three months of new Membership on the Exchange. As proposed, all members that do not qualify for a waiver would be charged the same, modest fee for their membership. The proposed fee is therefore charged on an equal and non-discriminatory basis for all such members. At the same time, the Exchange believes that it is important to continue to encourage participation from firms that represent ordinary investors, that have more limited trading activity, or that are new members.

Specifically, the Exchange believes that not charging the Trading Rights Fee for Members that do not meet the ADV threshold in a month is equitable and not unfairly discriminatory because it will apply equally to all such firms that meet this criteria and it considers the fact that smaller firms with significantly lower volume than most firms consume less regulatory resources, therefore, it ensures that disparate treatment does not exist for firms that are much smaller than the average firm on the Exchange. The Exchange believes that not charging the Trading Rights Fee for Members that do not meet the 90% retail order volume threshold is equitable and not unfairly discriminatory because it will apply equally to all such firms that meet this criteria. The waiver is equitable as it will encourage continued retail participation and liquidity on the Exchange which is more likely to reflect long-term investment intentions, and may therefore positively impact market quality, as well as incentivize other Members to send order flow to the Exchange to trade with such retail orders, which benefits all market participants by providing more trading opportunities. Finally, the Exchange believes that not charging a Trading Rights Fee for a new Member for the first three months of Membership is equitable and not unfairly discriminatory because the proposed waiver will be offered to all market participants that wish to become Members of the Exchange and is equitable because it will allow new firms the flexibility in resources needed to initially adjust to the Exchange's market-model and functionality. In addition to this, the proposed waiver intends to incentivize new Membership which will bring increased liquidity and competition to the benefit of all market participants.

The Exchange also notes that the proposed fee is equitable and not unfairly discriminatory because it will contribute to a portion of the costs incurred by the Exchange in providing its Members with an efficient and well-regulated market, which benefits all Members. As stated, as an SRO, it is necessary for the Exchange to continuously invest in robust programs, policies, and procedures to ensure its markets are well-regulated in order to successfully carry out the purposes of the Act and maintain fair, orderly, and efficient markets, and the protection of investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary in furtherance of the purposes of the Act because the proposed rule change will apply equally to all Members that reach an ADV of 100,000 shares traded or greater, those in which less than 90% of their order volume is retail order volume per month, and those that are not within their first three months of new Membership on the Exchange. Although smaller Members would be excluded from the proposed fee, the Exchange believes that this may increase competition by encouraging additional order flow from such smaller Members thereby contributing to a more diverse, vibrant, and competitive market. In addition to this, though true retail firms would be excluded from the proposed fee, the Exchange believes that encouraging retail order flow to the Exchange will benefit all market participants by providing more trading opportunities and encouraging other Members to send orders which will contribute to more robust levels of liquidity. While the proposed tier is only available for Retail Orders, the Exchange notes it is attempting to increase retail participation and that, as noted above, retail participation is more likely to reflect long-term investment intentions, and may therefore positively impact market quality. Finally, while the proposed three month waiver of the Trading Rights Fee only applies to new Members, this incentivizes new Members which can be an important source of liquidity and facilitate competition within the market.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition

[13] A Member will not be charged if it meets either one (or both) of the exceptions. To illustrate, if a Member executes 5% of its total order volume as retail order volume but only has an ADV of 90,000 shares traded, that Member will not be charged the proposed Trading Rights Fee.

that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market, including competition for exchange memberships. Members have numerous alternative venues that they may participate on, including 12 other equities exchanges, as well as off-exchange venues, including over 50 alternative trading systems.[14] The Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 20% market share, and no exchange group has more than 22% market share.[15] Indeed, while trade through and best execution obligations may require a firm to access the Exchange, no firm is compelled to be a Member of the Exchange in order to participate in the Exchange and may freely choose to participate on the Exchange without holding a Membership. If the proposed fee is unattractive to members, it is likely that the Exchange will lose membership and market share as a result. As a result, the Exchange carefully considers any increases to its fees in concert, balancing the utility in remaining competitive with other exchanges and with alternative trading systems exempted from compliance with the statutory standards applicable to exchanges, including the requirement to regulate their members, and in covering costs described in the filing that are associated with maintaining its equities market and its regulatory programs to ensure that the Exchange remains an efficient and well-regulated marketplace. In addition to this the Exchange notes that other exchanges currently have trading rights fees in place,[16] which have been previously filed with the Commission.

Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and paragraph (f) of Rule 19b–4[18] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2019–072 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2019–072. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2019–072 and should be submitted on or before September 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–17984 Filed 8–20–19; 8:45 am]

BILLING CODE 8011–01–P

[14] *See* U.S. Securities and Exchange Commission Alternative Trading Systems (''ATS'') List (June 30, 2019), available at *https://www.sec.gov/foia/docs/atslist.htm.*

[15] *See* Cboe Global Markets U.S. Equities Market Volume Summary (July 31, 2019), available at *https://markets.cboe.com/us/equities/market_share.*

[16] *See supra* note 5.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86687; File No. SR–NYSE–2019–35]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Supplementary Material .01(b)(5) to NYSE Rule 8.600 Relating to Generic Listing Standards for Managed Fund Shares

August 15, 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 August 1, 2019, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I 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 Supplementary Material .01(b)(5) to NYSE Rule 8.600 relating to generic listing standards for Managed Fund Shares applicable to holdings in fixed income securities. 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

Supplementary Material .01 to NYSE Rule 8.600 sets forth generic listing standards for Managed Fund Shares.[4] Managed Fund Shares may be listed on the Exchange or traded pursuant to unlisted trading privileges (''UTP''). The Exchange proposes to amend Supplementary Material .01(b)(5) to Rule 8.600, as described below. [5]

Proposed Amendment to Supplementary Material .01(b)(5) to Rule 8.600

Supplementary Material .01(b) to NYSE Rule 8.600 sets forth generic listing standards applicable to fixed income securities included in the portfolio of a series of Managed Fund Shares.[6] Supplementary Material .01(b)(5) provides that non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities (''ABS'' and, collectively, ''non-agency ABS'') components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio. The Exchange proposes to amend Supplementary Material .01(b)(5) by deleting the words ''fixed income portion'' to provide that such 20% limitation would apply to the entire portfolio rather than to only the fixed income portion of the portfolio. Thus, Supplementary Material .01(b)(5) would provide that non-agency, non-GSE and privately-issued mortgage-related and other ABS components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the portfolio.

The Exchange believes this amendment is appropriate because a fund's investment in non-agency, non-GSE and privately-issued mortgage-related and other ABS may provide a fund with benefits associated with increased diversification, as such investments may be less correlated to interest rates than many other fixed income securities. The Exchange notes that application of the 20% limitation only to the fixed income portion of a fund's portfolio may impose a much more restrictive percentage limit on permitted holdings of non-agency ABS for funds that have a more diversified investment portfolio than for funds that hold principally or exclusively fixed income securities. For example, a fund holding 100% of its assets in fixed income securities can hold 20% of its entire portfolio's weight in non-agency ABS. In contrast, a fund holding 25% of its assets in fixed income securities, 25% in U.S. Component Stocks, and 50% in cash and cash equivalents is limited to a 5% (25% * 20% = 5%) allocation to non-agency ABS. The Exchange, therefore, believes application of the 20% limitation to a fund's entire portfolio would be more equitable for Managed Fund Shares issuers with different investment objectives and holdings.

The Commission has previously approved a proposed rule change by NYSE Arca, Inc. that is substantively identical to the amendment to NYSE Rule 8.600, Supplementary Material .01(b)(5) proposed herein.[7] Therefore, the Exchange believes it is appropriate to apply the 20% limitation to a fund's investment in non-agency, non-GSE and privately-issued mortgage-related and other ABS components of a portfolio in Supplementary Material .01(b)(5) to a fund's total assets. Non-agency ABS would otherwise satisfy all generic listing requirements of Rule 8.600, Supplementary Material .01(b).

The Exchange believes the proposed amendments would provide issuers of Managed Fund Shares with additional investment choices for fund portfolios for issues permitted to list and trade on

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (the ''1940 Act'') organized as an open-end management investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end management investment company that issues Investment Company Units that may be traded on the Exchange under NYSE Rule 5.2(j)(3) seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] Managed Fund Shares are currently traded on the Exchange pursuant to UTP and are not listed on the Exchange. Therefore, this proposed rule change would only apply to Exchange-listed Managed Fund Shares in the event the Exchange determines to list such securities in the future.

[6] Supplementary Material .01(b) provides that fixed income securities are debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities (''Treasury Securities''), government-sponsored entity securities (''GSE Securities''), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof, investment grade and high yield corporate debt, bank loans, mortgage and asset backed securities, and commercial paper.

[7] Securities Exchange Act Release No. 86017 (June 3, 2019), 84 FR 26711 (June 7, 2019) (SR–NYSEArca–2019–06) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend Certain Generic Listing Standards for Managed Fund Shares Applicable to Holdings of Fixed Income Securities).

the Exchange pursuant to Rule 19b–4(e),[8] which would enhance competition among market participants, to the benefit of investors and the marketplace.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange has in place surveillance procedures that are adequate to properly monitor trading in series of Managed Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange notes that the Exchange or Financial Industry Regulatory Authority (''FINRA''), on behalf of the Exchange, or both, would communicate as needed regarding trading in Managed Fund Shares with other markets and other entities that are members of the Intermarket Surveillance Group, and the Exchange or FINRA, on behalf of the Exchange, or both, could obtain trading information regarding trading in Managed Fund Shares from such markets and other entities. In addition, the Exchange could obtain information regarding trading in Managed Fund Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

With respect to the proposed amendment to Supplementary Material .01(b)(5), the Exchange believes this amendment is appropriate because a fund's investment in non-agency, non-GSE and privately-issued mortgage-related and other ABS may provide a fund with benefits associated with increased diversification, as such investments may be less correlated to interest rates than many other fixed income securities. As noted above, application of the 20% limitation to only the fixed income portion of a fund's portfolio may impose a much lower percentage limit on permitted holdings of non-agency ABS for funds that have a more diversified investment portfolio than for funds that hold principally or exclusively fixed income securities. The Exchange, therefore, believes application of the 20% limitation to a fund's entire portfolio would be more equitable for Managed Fund Shares issuers with different investment objectives and holdings.

The Exchange notes that the Commission has previously approved a proposed rule change by NYSE Arca, Inc. that is substantively identical to the amendment to NYSE Rule 8.600, Supplementary Material .01(b)(5) proposed herein.[11] Therefore, the Exchange believes it is appropriate to apply the 20% limitation to a fund's investment in non-agency, non-GSE and privately-issued mortgage-related and other ABS components of a portfolio in Supplementary Material .01(b)(5) to a fund's total assets. Non-agency ABS would otherwise satisfy all generic listing requirements of Rule 8.600, Supplementary Material .01(b).

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of Managed Fund Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will facilitate the listing and trading of additional types of Managed Fund Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

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

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 prior to 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[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative upon filing, which would allow the Exchange to apply the proposed rule to Managed Fund Shares in the event the Exchange determines to list such securities before the end of the 30-day operative delay period. The Exchange also noted that the Commission has previously approved a substantively identical proposal by another national securities exchange.[17] The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the

[8] *See* note 5, *supra.*

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* note 7, *supra.*

[12] 15 U.S.C. 78f(b)(8).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 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.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] *See supra* note 7.

[18] 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).

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–NYSE–2019–35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2019–35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2019–35 and should be submitted on or before September 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–17986 Filed 8–20–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–86688; File No. SR–NYSEAMER–2019–24]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Supplementary Material .01(b)(5) to NYSE American Rule 8.600E Relating to Generic Listing Standards for Managed Fund Shares

August 15, 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 August 1, 2019, NYSE American LLC (''NYSE American'' 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 Supplementary Material .01(b)(5) to NYSE American Rule 8.600E relating to generic listing standards for Managed Fund Shares applicable to holdings in fixed income securities. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Supplementary Material .01 to NYSE American Rule 8.600E sets forth generic listing standards for Managed Fund Shares on the Exchange.[4] The Exchange proposes to amend Supplementary Material .01(b)(5) to Rule 8.600E, as described below. [5]

Proposed Amendment to Supplementary Material .01(b)(5) to Rule 8.600E

Supplementary Material .01(b) to NYSE American Rule 8.600E sets forth generic listing standards applicable to fixed income securities included in the portfolio of a series of Managed Fund Shares.[6] Supplementary Material .01(b)(5) provides that non-agency, non-

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (the ''1940 Act'') organized as an open-end management investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end management investment company that issues Investment Company Units that may be traded on the Exchange under NYSE American Rule 5.2E (j)(3) seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] Managed Fund Shares are currently traded on the Exchange pursuant to UTP and are not listed on the Exchange. NYSE American Rule 8E provides that the rule shall apply to the trading pursuant to UTP of Exchange Traded Products (which include Managed Fund Shares) on the Exchange and shall not apply to the Exchange listing of Exchange Traded Products. Therefore, this proposed rule change would only apply to Exchange-listed Managed Fund Shares in the event the Exchange determines to list such securities in the future. The Exchange will not list Managed Fund Shares prior to approval or effectiveness of an Exchange proposed rule change to amend Rule 8E to permit such listings.

[6] Supplementary Material .01(b) provides that fixed income securities are debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities (''Treasury Securities''), government-sponsored entity securities (''GSE Securities''), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof, investment grade and high yield corporate debt, bank loans, mortgage and asset backed securities, and commercial paper.

GSE and privately-issued mortgage-related and other asset-backed securities (''ABS'' and, collectively, ''non-agency ABS'') components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio. The Exchange proposes to amend Supplementary Material .01(b)(5) by deleting the words ''fixed income portion'' to provide that such 20% limitation would apply to the entire portfolio rather than to only the fixed income portion of the portfolio. Thus, Supplementary Material .01(b)(5) would provide that non-agency, non-GSE and privately-issued mortgage-related and other ABS components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the portfolio.

The Exchange believes this amendment is appropriate because a fund's investment in non-agency, non-GSE and privately-issued mortgage-related and other ABS may provide a fund with benefits associated with increased diversification, as such investments may be less correlated to interest rates than many other fixed income securities. The Exchange notes that application of the 20% limitation only to the fixed income portion of a fund's portfolio may impose a much more restrictive percentage limit on permitted holdings of non-agency ABS for funds that have a more diversified investment portfolio than for funds that hold principally or exclusively fixed income securities. For example, a fund holding 100% of its assets in fixed income securities can hold 20% of its entire portfolio's weight in non-agency ABS. In contrast, a fund holding 25% of its assets in fixed income securities, 25% in U.S Component Stocks, and 50% in cash and cash equivalents is limited to a 5% (25%*20% = 5%) allocation to non-agency ABS. The Exchange, therefore, believes application of the 20% limitation to a fund's entire portfolio would be more equitable for Managed Fund Shares issuers with different investment objectives and holdings.

The Commission has previously approved a proposed rule change by NYSE Arca, Inc. that is substantively identical to the amendment to NYSE American Rule 8.600E, Supplementary Material .01(b)(5) proposed herein.[7] Therefore, the Exchange believes it is appropriate to apply the 20% limitation to a fund's investment in non-agency, non-GSE and privately-issued mortgage-related and other ABS components of a portfolio in Supplementary Material .01(b)(5) to a fund's total assets. Non-agency ABS would otherwise satisfy all generic listing requirements of Rule 8.600E, Supplementary Material .01(b).

The Exchange believes the proposed amendments would provide issuers of Managed Fund Shares with additional investment choices for fund portfolios for issues permitted to list and trade on the Exchange pursuant to Rule 19b–4(e), which would enhance competition among market participants, to the benefit of investors and the marketplace.[8]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange has in place surveillance procedures that are adequate to properly monitor trading in series of Managed Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange notes that the Exchange or Financial Industry Regulatory Authority (''FINRA''), on behalf of the Exchange, or both, would communicate as needed regarding trading in Managed Fund Shares with other markets and other entities that are members of the Intermarket Surveillance Group, and the Exchange or FINRA, on behalf of the Exchange, or both, could obtain trading information regarding trading in Managed Fund Shares from such markets and other entities. In addition, the Exchange could obtain information regarding trading in Managed Fund Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

With respect to the proposed amendment to Supplementary Material .01(b)(5), the Exchange believes this amendment is appropriate because a fund's investment in non-agency, non-GSE and privately-issued mortgage-related and other ABS may provide a fund with benefits associated with increased diversification, as such investments may be less correlated to interest rates than many other fixed income securities. As noted above, application of the 20% limitation to only the fixed income portion of a fund's portfolio may impose a much lower percentage limit on permitted holdings of non-agency ABS for funds that have a more diversified investment portfolio than for funds that hold principally or exclusively fixed income securities. The Exchange, therefore, believes application of the 20% limitation to a fund's entire portfolio would be more equitable for Managed Fund Shares issuers with different investment objectives and holdings.

The Exchange notes that the Commission has previously approved a proposed rule change by NYSE Arca, Inc. that is substantively identical to the amendment to NYSE American Rule 8.600E, Supplementary Material .01(b)(5) proposed herein.[11] Therefore, the Exchange believes it is appropriate to apply the 20% limitation to a fund's investment in non-agency, non-GSE and privately-issued mortgage-related and other ABS components of a portfolio in Supplementary Material .01(b)(5) to a fund's total assets. Non-agency ABS would otherwise satisfy all generic listing requirements of Rule 8.600E, Supplementary Material .01(b).

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of Managed Fund Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.[12]

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[13] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance

[7] Securities Exchange Act Release No. 86017 (June 3, 2019), 84 FR 26711 (June 7, 2019) (SR–NYSEArca–2019–06) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend Certain Generic Listing Standards for Managed Fund Shares Applicable to Holdings of Fixed Income Securities).

[8] *See* note 5, *supra.*

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* note 7, *supra.*

[12] *See* note 5, *supra.*

[13] 15 U.S.C. 78f(b)(8).

of the purposes of the Act. The proposed rule change will facilitate the listing and trading of additional types of Managed Fund Shares that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

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

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 prior to 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[14] and Rule 19b–4(f)(6) thereunder.[15]

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–NYSEAMER–2019–24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2019–24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/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–NYSEAMER–2019–24 and should be submitted on or before September 11, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019–17985 Filed 8–20–19; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires 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.

[16] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 10859]

Notice of Receipt of Request From the Government of the Kingdom of Morocco Under Article 9 of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

SUMMARY: Notice of receipt of request from Morocco for cultural property protection.

FOR FURTHER INFORMATION CONTACT: Catherine Foster, Cultural Heritage Center, Bureau of Educational and Cultural Affairs: 202–632–6301; *culprop@state.gov.*

SUPPLEMENTARY INFORMATION: The Government of the Kingdom of Morocco has made a request to the Government of the United States under Article 9 of the 1970 UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.* The United States Department of State received this request on June 12, 2019. Morocco's request seeks U.S. import restrictions on archaeological and ethnological material representing Morocco's cultural patrimony. Pursuant to the authority vested in the Assistant Secretary of State for Educational and Cultural Affairs, and pursuant to 19 U.S.C. 2602(f)(1), notification of the request is hereby published. A public summary of Morocco's request and information about U.S. implementation of the 1970 UNESCO Convention will be available at the Cultural Heritage Center website: *http://culturalheritage.state.gov.*

Marie Therese Porter Royce,

Assistant Secretary, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2019–18049 Filed 8–20–19; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36300]

Leavenworth, Lawrence and Galveston Railroad d/b/a Baldwin City & Southern Railroad Company—Operation Exemption—Midland Railway Company

Leavenworth, Lawrence and Galveston Railroad d/b/a Baldwin City & Southern Railroad Company (Leavenworth), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate approximately

11.09 miles of rail line (the Line) owned by its noncarrier corporate parent, Midland Railway Company (Midland). The Line extends between milepost 14.95 at Baldwin, Kan., and milepost 26.04 at Ottawa, Kan.

According to Leavenworth, Midland and Leavenworth have executed an agreement granting Leavenworth freight operating rights on the Line. Leavenworth states that it plans to provide service under the trade name Baldwin City & Southern Railroad Company.

Leavenworth certifies that, as a result of the proposed transaction, its projected revenue will not exceed $5 million annually and will not result in its becoming a Class I or Class II carrier. Leavenworth states that the operating agreement does not contain interchange commitments.

The proposed transaction may be consummated on or after September 4, 2019, the effective date of the exemption (30 days after the verified notice was filed).[1]

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than August 28, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36300, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Leavenworth's representative, A.J. Stevens, Baldwin City & Southern Railroad, 719 High Street, P.O. Box 5, Baldwin City, KS 66006.

According to Leavenworth, this action is exempt from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: August 16, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Regena Smith-Bernard,

Clearance Clerk.

[FR Doc. 2019–18021 Filed 8–20–19; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1288X]

Cedar River Railroad Company—Discontinuance of Service Exemption—in Freeborn County, Minn

Cedar River Railroad Company (CEDR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over approximately 9.3 miles of railroad line between milepost 85.0 in London Township (at the southwestern quadrant of the intersection of County Road 107 and Township Road 264) and milepost 94.32 at Glenville, in Freeborn County, Minn. (the Line). The Line traverses U.S. Postal Service Zip Code 56036.

CEDR has certified that: (1) No local has moved over the Line for at least two years; (2) overhead traffic (to the extent there is any) can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of 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.

Any employee of CEDR 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 September 20, 2019,[2] unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by August 30, 2019, and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2) [3] must be filed by September 3, 2019.[4] Petitions for reconsideration must be filed by September 10, 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 CEDR's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available at *www.stb.gov.*

Decided: August 15, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2019–17951 Filed 8–20–19; 8:45 am]

BILLING CODE 4915–01–P

TENNESSEE VALLEY AUTHORITY

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: 60-Day notice of submission of information collection approval and request for comments.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. The Tennessee Valley Authority is soliciting public comments on this proposed collection.

DATES: Comments should be sent to the Senior Privacy Program Manager no later than October 21, 2019.

ADDRESSES: Requests for information, including copies of the information collection proposed and supporting

[1] Leavenworth initially submitted its notice of exemption on May 3, 2019. However, by decision served May 31, 2019, this proceeding was held in abeyance pending Leavenworth's filing of supplemental information, which it filed on June 19, 2019. Leavenworth submitted additional supplements to correct a verification page on July 17 and August 5, 2019. As a result, August 5 is deemed the filing date of the verified notice.

[1] Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[2] CEDR states that it intends to consummate the discontinuance on or after September 1, 2019, but it may not do so prior to the effective date of this exemption.

[3] The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

[4] 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.

documentation, should be directed to the Senior Privacy Program Manager: Christopher A. Marsalis, Tennessee Valley Authority, 400 W Summit Hill Dr. (WT 5D), Knoxville, Tennessee 37902–1401; telephone (865) 632–2467 (this is not a toll-free number) or by email at *camarsalis@tva.gov.*

SUPPLEMENTARY INFORMATION:

Type of Request: Extension without change of a currently approved collection.

Title of Information Collection: Employment Application.

OMB Approval Number: 3316–0063.

Frequency of Use: On Occasion.

Type of Affected Public: Individuals.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 999.

Estimated Number of Annual Responses: 50,102.

Estimated Total Annual Burden Hours: 45,913.

Estimated Average Burden Hours per Response: .92.

Need For and Use of Information: Applications for employment are needed to collect information on qualifications, suitability for employment, and eligibility for veteran's preference. The information is used to make comparative appraisals and to assist in selections. The affected public consists of individuals who apply for TVA employment.

Andrea S. Brackett,

Director, TVA Cybersecurity.

[FR Doc. 2019–18038 Filed 8–20–19; 8:45 am]

BILLING CODE 8120–08–P

TENNESSEE VALLEY AUTHORITY

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: 60-Day notice of submission of information collection approval and request for comments.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995, the Tennessee Valley Authority (TVA) will be requesting from the Office of Management and Budget (OMB) reinstatement, without change, of TVA's Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery. This generic clearance will fast-track the process for TVA to seek feedback from the public, through surveys and similar feedback instruments, regarding TVA services and programs.

DATES: Comments should be sent to the Senior Privacy Program Manager no later than October 21, 2019.

ADDRESSES: Comments should be directed to the Senior Privacy Program Manager: Christopher A. Marsalis, Tennessee Valley Authority, 400 W Summit Hill Dr. (WT 5D), Knoxville, Tennessee 37902–1401; telephone (865) 632–2467 (this is not a toll-free number), or by email at *camarsalis@tva.gov.*

SUPPLEMENTARY INFORMATION:

Type of Request: Reinstatement, without change, of a previously approved information collection for which approval has expired.

Title of Information Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Approval Number: 3316–0114.

Abstract: Reinstatement of this information collection will enable TVA to obtain qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide TVA with insights into customer or stakeholder perceptions, experiences, and expectations; help TVA quickly identify actual or potential problems with how the agency provides services to the public; or focus attention on areas where communication, training, or changes in operations might improve TVA's delivery of its products or services. These collections will allow for ongoing, collaborative and actionable communications between TVA and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

TVA will solicit feedback in areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. TVA will use the responses to plan and inform its efforts to improve or maintain the quality of service and programs offered to the public. If this information is not collected, TVA will not have access to vital feedback from customers and stakeholders about the agency's services and programs.

TVA will only submit an information collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or who may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary, and is not retained;
- Information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency (if released, TVA will indicate the qualitative nature of the information);
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information, and the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Type of Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Governments.

Small Businesses or Organizations Affected: Yes.

Estimated Number of Annual Responses: 10,000.

Estimated Annual Frequency per Response: Once per information collection request.

Estimated Average Burden Hours per Response: 15 minutes.

Estimated Total Annual Burden Hours: 2,500 hours.

Request for Comments

TVA will make comments submitted in response to this notice, including names and addresses where provided, a matter of public record. TVA will summarize the comments and include them in the request for OMB approval. We are requesting comments on all aspects of this generic clearance request, including: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Andrea S. Brackett,

Director, TVA Cybersecurity.

[FR Doc. 2019–18037 Filed 8–20–19; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 2019–0640]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Air Taxi and Commercial Operator Airport Activity Survey

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves requesting that small on-demand operators voluntarily provide the number of revenue passengers that boarded their aircraft at each airport annually. This information is used in determining an airport's category and eligibility for federal funding on an annual basis. It is not available through any other federal data source.

DATES: Written comments should be submitted by October 21, 2019.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (2019–0640).

By mail: Luis Loarte, FAA, 800 Independence Avenue SW, Washington, DC 20591.

By fax: 202–267–5257.

FOR FURTHER INFORMATION CONTACT: Luis Loarte by email at: *Luis.Loarte@faa.gov;* phone: 202–267–9622.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0067.

Title: Air Taxi and Commercial Operator Airport Activity Survey.

Form Numbers: FAA Form 1800–31.

Type of Review: Clearance of a renewal of an information collection.

Background: The data collected through this survey is the only source of data for charter and nonscheduled passenger data by Part 135 operator (air taxis). The data received on the form (either paper or signed electronic copy) is then incorporated into the Air Carrier Activity Information System which is used to determine whether an airport is eligible for Airport Improvement Program funds and for calculating primary airport sponsor apportionment as specified by title 49 United Stated Code (U.S.C.), section 47114. The data collected on the form includes passenger enplanements by carrier and by airport. Passengers traveling on air taxis would be overlooked entirely if this passenger survey were not conducted. As a result, many airports would not receive their fair share of funds since there is currently no other source for this type of charter activity. On average, approximately 100 operators respond each year, reporting a total 1.1 million passengers. This data is important to those airports that struggle to meet the 2,500 and 10,000 passenger levels and could not do so without the reporting of the charter passengers.

Respondents: The voluntary survey is sent through the U.S. Postal Service to approximately 190 small on-demand operators (certificated under Federal Aviation Regulation Part 135) that have reported activity in the last three years. The form is also available on the FAA website. Beginning with the calendar year 2019 data, operators will be able to access the form, electronically sign and submit it to the FAA.

Frequency: Annually.

Estimated Average Burden per Response: 1.5 hours per respondent.

Estimated Total Annual Burden: On average, approximately 100 respondents submit an annual response. The cumulative total annual burden is estimated to be 150 hours.

Issued in Washington, DC, on August 16, 2019.

Luis Loarte,

Senior Airport Planner, Office of Airports/ Airport Planning and Environmental Division.

[FR Doc. 2019–18042 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2019–0004–N–13]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Requests (ICRs) abstracted below. Before submitting these ICRs to the Office of Management and Budget (OMB) for approval, FRA is soliciting public

comment on specific aspects of the activities identified below.

DATES: Interested persons are invited to submit comments on or before October 21, 2019.

ADDRESSES: Submit written comments on the ICRs activities by mail to either: Ms. Hodan Wells, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB Control Number 2130–XXXX,'' (the relevant OMB control number for each ICR is listed below) and should also include the title of the ICR. Alternatively, comments may be faxed to 202–493–6216 or 202–493–6497, or emailed to Ms. Wells at *hodan.wells@dot.gov,* or Ms. Toone at *kim.toone@dot.gov.* Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Ms. Hodan Wells, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: (202) 493–0440) or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: (202) 493–6132).

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICRs regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) Reduce reporting burdens; (2) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summaries below describe the ICRs that FRA will submit for OMB clearance as the PRA requires:

Title: Filing of Dedicated Cars.

OMB Control Number: 2130–0502.

Abstract: Title 49 CFR part 215 contains freight car safety standards, including conditions for freight cars in dedicated service. ''Dedicated service'' means the exclusive assignment of railroad cars to the transportation of freight between specified points under the conditions listed in 49 CFR 215.5(d), including stenciling, or otherwise displaying, in clear legible letters on each side of the car body, the words ''Dedicated Service.'' The railroad must notify FRA in writing that the cars are to be operated in dedicated service.

Type of Request: Extension without change of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Respondent Universe: 746 railroads.

Frequency of Submission: On occasion/monthly.

Reporting Burden:

CFR section	Respondent universe (railroads)	Total annual responses	Average time per responses	Total annual burden hours	Total cost equivalent [1]
215.5(d)(6)—Dedicated Service—Notification to FRA.	746 railroads	4 notifications	1 hour	4	$304

Total Estimated Annual Responses: 4.

Total Estimated Annual Burden: 4 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $304.

Title: Rear End Marking Devices.

OMB Control Number: 2130–0523.

Abstract: Title 49 CFR part 221 contains requirements for rear end marking devices. Railroads must give FRA a detailed description of the type of marking devices used for any locomotive operating singly or for cars or locomotives operating at the end of a train (trailing end) to ensure they meet minimum standards for visibility and display. Specifically, part 221 requires railroads to furnish a certification that each device has been tested in accordance with current ''Guidelines for Testing of Rear End Marking Devices.'' Additionally, part 221 requires railroads to furnish detailed test records, which include the names of testing organizations, description of tests, number of samples tested, and the test results, to demonstrate compliance with the performance standard.

Type of Request: Extension with change (revised estimates) of a currently approved collection.

Affected Public: Businesses (railroads).

Form(s): N/A.

Respondent Universe: 746 railroads + 24 manufacturers.

Frequency of Submission: On occasion.

Reporting Burden:

[1] Throughout the tables in this document, the dollar equivalent cost is derived from the Surface Transportation Board's Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes 75-percent overhead charges.

CFR section	Respondent universe	Total annual responses	Average time per responses	Total annual burden hours	Total cost equivalent
221.14 and Appendix A—Marking Devices, and Procedures for Approval of Rear End Marking.	746 railroads + 24 manufacturers.	2 requests/submissions	1 hour	2	$152

Total Estimated Annual Responses: 2.

Total Estimated Annual Burden: 2 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $152.

Title: System Safety Program.

OMB Control Number: 2130–0599.

Abstract: FRA uses the collection of information to ensure that commuter and intercity passenger railroads establish and implement System Safety Programs (SSPs) to improve the safety of their operations and to ensure compliance with the rule. Each railroad will use its SSP/SSP Plan to proactively identify and mitigate or eliminate hazards and the resulting risk on its system at an early stage to reduce the number of railroad accidents, incidents, and associated injuries, fatalities, and property damage. A railroad has the flexibility to tailor an SSP to its specific operations. An SSP will be implemented when FRA approves a railroad's submitted SSP Plan. Under this information collection, FRA will audit a railroad's compliance with its SSP Plan. FRA will use the information to ensure and enforce compliance with this new regulation.

Type of Request: Extension with change (revised estimates) of a currently approved collection.

Affected Public: Businesses (railroads).

Form(s): N/A.

Respondent Universe: 33 railroads.

Frequency of Submission: On occasion/monthly.

Reporting Burden:

CFR section/subject	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual dollar cost equivalent
270.103—System Safety Program Plan (SSP Plan)—Comprehensive written SSP Plan that meets all of this section's requirements.	33 railroads	9 plans	40 hours	360	$32,976
—Records of system safety training for employees/contractors/others.	33 railroads	495 records	15 seconds	2	152
—(q)(1) Performance of risk-based hazard analyses and furnishing of RR results of risk-based hazard analyses upon request of FRA/participating part 212 States.	33 railroads	33 analyses results	20 hours	660	50,160
—(q)(2) Identification and implementation of risk mitigation methods and furnishing of descriptions of RR's specific risk mitigation methods that address hazards upon request of FRA/participating part 212 States.	33 railroads	33 mitigation methods descriptions.	10 hours	330	25,080
—(r)(1) Performance of technology analysis and furnishing of results of railroad's technology analysis upon request of FRA/participating part 212 States.	33 railroads	33 results of technology analysis.	10 hours	330	25,080
270.107(a)—Consultation requirements—RR consultation with its directly affected employees on SSP Plan.	33 railroads	11 consults (w/labor union reps.).	1 hour	11	836
—(a)(3)(ii) RR notification to directly affected employees of preliminary meeting at least 60 days before being held.	33 railroads	11 notices	30 minutes	6	456
—(b) RR consultation statements that includes service list with name & contact information for labor organization chairpersons & non-union employees who participated in process.	33 railroads	11 statements	1 hour	11	836
—Copies of consultations statements by RR to service list individuals.	33 railroads	11 copies	1 minute	.18	14
270.201(b)—SSP Plan found deficient by FRA and requiring amendment.	33 railroads	4 amended plans	30 hours	120	9,120
—Review of amended SSP Plan found deficient and requiring further amendment.	33 railroads	1 further amended plan	20 hours	20	1,520
—Reopened review of initial SSP Plan approval for cause stated.	33 railroads	1 amended plan	30 hours	30	2,280
270.203—Retention of SSP Plans—Retained copies of SSP Plans.	33 railroads	15 copies	10 minutes	3	228
270.303—Annual internal SSP assessments/reports conducted by RRs.	33 railroads	16 evaluations/reports	2 hours	32	2,432
—Certification of results of RR internal assessment by chief safety official.	33 railroads	33 certification statements	2 hours	66	7,590
270.305—External safety audit—RR submission of improvement plans in response to results of FRA audit.	33 railroads	6 plans	12 hours	72	8,280
—Improvement plans found deficient by FRA and requiring amendment.	33 railroads	2 amended plans	10 hours	20	1,520
—RR status report to FRA of implementation of improvements set forth in the improvement plan.	33 railroads	2 reports	4 hours	8	608
Appendix B—Additional documents provided to FRA upon request.	33 railroads	4 documents	15 minutes	1	76

CFR section/subject	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual dollar cost equivalent
Appendix C—Written requests by RRs to file required submissions electronically.	33 railroads	7 written requests	15 minutes	2	152
Totals	33 railroads	738 replies/responses	N/A	2,084	169,396

Total Estimated Annual Responses: 738.

Total Estimated Annual Burden: 2,084 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $169,396.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,

Acting Chief Counsel.

[FR Doc. 2019–17995 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2019–0004–N–12]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Requests (ICRs) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the information collections and their expected burden. On June 14, 2019, FRA published a notice providing a 60-day period for public comment on the ICRs.

DATES: Interested persons are invited to submit comments on or before September 20, 2019.

ADDRESSES: Submit written comments on the ICRs to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Information Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W33–497, Washington, DC 20590 (telephone: (202) 493–6292); or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W34–212, Washington, DC 20590 (telephone: (202) 493–6132).

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On June 14, 2019, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICRs for which it is now seeking OMB approval. *See* 84 FR 27833. FRA received and reviewed the comments submitted in response to this notice.

On August 7, 2019, Ms. Sarah Yurasko, of the Association of American Railroads (AAR) sent a comment on behalf of its member railroads regarding FRA's Crossing Inventory renewal information collection (Part 234; OMB No. 2130–0017). Ms. Yurasko noted that AAR and its member railroads ''have worked diligently with FRA since the 2015 publication of the Highway-Rail Crossing Inventory Final Rule to ensure that the information reported via the U.S. Crossing Inventory forms is accurate.'' She noted that ''both railroads and State entities access the site to report information under their respective purviews, and unfortunately, there have been several instances in which a state has over-written railroad-provided information in one of the railroad fields.'' She observed that such errors lead to confusion, administrative burden to remediate, and ''potential FRA enforcement activity.'' AAR and its member railroads are urging FRA to amend its system to lock-off designated sections of the U.S. DOT Crossing Inventory Form to the railroad, and other designated sections to the state entity. Ms. Yurasko advocated that there are several sections of the Inventory Form which both the railroad and the state entity should be able to modify and that, in these instances, ''the form should allow all parties to see who made the most recent update to the information in the form.'' Ms. Yurasko included a color-coded copy of the Inventory Form (FRA F 6180.71) to illustrate the categorization of fields that railroads and the state entity would each complete.

The accuracy and reliability of the data that railroads and state entities provide on the FRA Inventory Form is vital to FRA and to its mission of promoting and enhancing national rail safety, particularly at grade crossings. Before FRA issued the Crossing Inventory final rule in 2015, FRA solicited comment and feedback on sections of the Inventory Form that the railroads and state entities would complete. Accordingly, in its March 29, 2013, comments on the proposed Crossing Inventory rule, AAR recommended FRA limit access to certain specified data fields to either the railroad or state entity to prevent submission of erroneous information by the other entity. The Crossing Inventory system is designed to allow users to view previously submitted Inventory Forms, which can then be used to determine when revised Inventory Forms were submitted and whether the railroad or state entity submitted them. However, FRA will consider Ms. Yurasko's recommendations on behalf of the AAR and its member railroads to lock certain sections of the Inventory Form to prevent over-writing by another entity.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995.

Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICRs regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summaries below describe the ICRs that FRA will submit for OMB clearance as the PRA requires:

Title: U.S. DOT Crossing Inventory.

OMB Control Number: 2130–0017.

Abstract: On January 6, 2015, FRA published in the **Federal Register** a final rule that requires railroads that operate one or more trains through highway-rail or pathway crossings to submit information to the U.S. DOT National Highway-Rail Crossing Inventory about the crossings through which they operate.[1] *See* 80 FR 746. These amendments, mandated by section 204 of the Rail Safety Improvement Act of 2008, require railroads to submit information about previously unreported and new highway-rail and pathway crossings to the U.S. DOT National Highway-Rail Crossing Inventory and to periodically update existing crossing data.

Type of Request: Extension with change (revised estimates) of a current information collection.

Affected Public: Businesses (railroads), States, and the District of Columbia (DC).

Form(s): FRA F 6180.71.

Respondent Universe: 692 railroads, 50 States and DC.

Frequency of Submission: On occasion/monthly.

Reporting Burden:[2]

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden hour dollar cost equivalent[3]
234.403(a), (b), (c), (e)(3)—Submission of data to the U.S. DOT Highway-Rail Crossing Inventory: Completion of inventory form.	51 States/DC & 692 railroads.	1,495 forms	30 minutes	748	$55,352
—Mass update lists of designated data submitted by railroads/states.	51 States/DC & 692 railroads.	67 lists (1,081 records)	30 minutes	34	2,516
—Excel lists of submitted data	51 States/DC & 692 railroads.	750 lists (110,238 records)	15 minutes	188	13,912
—Changes/corrections to Crossing Inventory data submitted via API computer program.	51 States/DC & 692 railroads.	134,719 records	3 minutes	6,736	498,464
—Written requests by states/railroads for FRA Crossing Inventory Guide.	51 States/DC & 692 railroads.	5 requests	15 minutes	1	74
(d)—Reporting Crossing Inventory data by state agencies on behalf of railroads: Written notices to FRA.	51 States/DC & 692 railroads.	15 notices	30 minutes	8	592
(e)(1)—Consolidated reporting by parent corporation on behalf of its subsidiary railroads: Written notice to FRA.	692 railroads	250 notices	30 minutes	125	9,625
(e)(2)—Immediate notification to FRA by parent corporation of any changes in the list of subsidiary railroads for which it reports.	692 railroads	75 notices	30 minutes	38	2,926
234.405(a)(1)—Initial submission of previously unreported highway-rail and pathway crossings through which they operate by primary operating railroads: Providing assigned crossing inventory number to each railroad that operates one or more trains through crossing.	692 railroads	300 provided assigned inventory numbers.	5 minutes	25	1,925
—Primary operating railroad providing assigned inventory number to other (2) railroads operating through crossing.	692 railroads	200 assigned numbers	5 minutes	17	1,309
(c)—Duty of all operating railroads: Notification to FRA of previously unreported crossing through which it operates.	692 railroads	200 assigned numbers	20 minutes	67	5,159
(d)—Primary operating railroad copy to FRA of its written request to State agency for State-maintained crossing data.	692 railroads	70 written requests	2 minutes	2	154
—Copies of primary operating railroad written request to other operating railroads.	692 railroads	75 written requests	2 minutes	3	231
234.407(a)—Submission of initial data to the Crossing Inventory for new Crossings: Primary operating railroad assignment of Inventory number to each new highway-rail or pathway crossing through which it operates.	692 railroads	50 assigned inventory numbers.	5 minutes	4	308
—Providing assigned inventory numbers for new highway-rail and pathway crossings through which they operate by primary operating railroads to each railroad that operates one or more trains through the crossing.	692 railroads	50 assigned inventory numbers.	5 minutes	4	308

[1] This final rule was subsequently amended on June 10, 2016, in response to a petition for reconsideration submitted by the Association of American Railroads. *See* 81 FR 37521.

[2] After an internal agency review, FRA updated the PRA estimates.

[3] Based on Bureau of Labor Statistics (BLS) data, FRA is using an average hourly wage rate of $74 per hour for State employees to determine the dollar equivalent cost of estimated burden hours. Based on the 2017 American Association publication, Railroad Facts, FRA is using an average hourly wage rate of $77 per hour for professional/administrative to determine the same dollar equivalent costs. All hourly wage rates included 75 percent overhead costs.

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden hour dollar cost equivalent [3]
234.411(a)(ii)—Notification/report by railroad to primary operating railroad of sale of all or part of a highway-rail or pathway on or after June 10, 2016.	692 railroads	400 notices/reports	15 minutes	100	7,700
234.413(a & b)—Recordkeeping—RR Duplicate copy of each inventory form submitted in hard copy to the Crossing Inventory.	692 railroads	350 duplicate copies	1 minute	6	462
—Copy of electronic confirmation received from FRA after electronic submission of crossing data to Crossing Inventory.	692 railroads	134,719 copies	5 seconds	187	14,399

Total Estimated Annual Responses: 384,292.

Total Estimated Annual Burden: 8,293 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $615,416.

Title: Special Notice for Repairs.

OMB Control Number: 2130–0504.

Abstract: Under 49 CFR part 216, FRA and State inspectors may issue a Special Notice for Repairs to notify a railroad in writing of an unsafe condition involving a locomotive, car, or track. The railroad must notify FRA in writing when the equipment is returned to service or the track is restored to a condition permitting operations at speeds authorized for a higher class, specifying the repairs completed. FRA and State inspectors use this information to remove from service freight cars, passenger cars, and locomotives until they can be restored to a serviceable condition. They also use this information to reduce the maximum authorized speed on a section of track until repairs can be made.

Type of Request: Extension with change (revised estimates) of a current information collection.

Affected Public: Businesses (railroads).

Form(s): FRA F 6180.8; FRA F 6180.8A.

Respondent Universe: 741 railroads.

Frequency of Submission: On occasion.

Total Estimated Annual Responses: 57.

Total Estimated Annual Burden: 16 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $1,232.

Title: Bridge Safety Standards.

OMB Control Number: 2130–0586.

Abstract: The Fixing America's Surface Transportation Act (FAST Act) (Pub. L. 114–94, Dec. 4, 2015), Section 11405, ''Bridge Inspection Reports,'' provides a means for a State or a political subdivision of a State to obtain a public version of a bridge inspection report generated by a railroad for a bridge located within its respective jurisdiction. While the FAST Act specifies that requests for such reports are to be filed with the Secretary of Transportation, the responsibility for fulfilling these requests is delegated to FRA. *See* 49 CFR 1.89.

FRA's currently approved information collection accounts for the burden that will be incurred by States and political subdivisions of States requesting a public version of a bridge inspection report generated by a railroad for a bridge located within their respective jurisdiction. FRA developed a Form titled ''Bridge Inspection Report Public Version Request Form'' to facilitate such requests by States and their political subdivisions. FRA accounts for the burden that will be incurred by railroads to provide the public version of a bridge inspection report upon agency request to FRA.

As background, FRA's final rule on bridge safety standards, 49 CFR part 237, normalized and established federal requirements for railroad bridges. *See* 75 FR 41281 (July 15, 2010). The final rule established minimum requirements to assure the structural integrity of railroad bridges and to protect the safe operation of trains over those bridges. The information collected is used by FRA to ensure that railroads/track owners meet Federal standards for bridge safety and comply with all the requirements of this regulation. In particular, the collection of information is used by FRA to confirm that railroads/track owners adopt and implement bridge management programs to properly inspect, maintain, modify, and repair all bridges that carry trains for which they are responsible. Railroads/track owners must conduct annual inspections of railroad bridges as well as special inspections, which must be carried out if natural or accidental events cause conditions that warrant such inspections. Further, railroads/track owners must incorporate provisions for internal audit into their bridge management programs and must conduct internal audits of bridge inspection reports. The internal audit information is used by railroads/track owners to verify that the inspection provisions of the bridge management program are being followed and to continually evaluate the effectiveness of their bridge management program and bridge inspection activities. FRA uses this information to ensure that railroads/track owners implement safe and effective bridge management and inspection programs.

Type of Request: Extension with change (revised estimates) of a current information collection.

Affected Public: Businesses (railroads) and States, DC, and political subdivisions).

Form(s): FRA F 6180.167.

Respondent Universe: 741 railroads/ 50 States and DC/200 political subdivisions.

Frequency of Submission: On occasion/monthly.

Total Estimated Annual Responses: 16,037.

Total Estimated Annual Burden: 4,857 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: $334,299.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Brett A. Jortland,

Acting Chief Counsel.

[FR Doc. 2019–18031 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0135]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel COPPELIA (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 September 20, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0135 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0135 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–2019–0135, 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 COPPELIA is:

—*Intended Commercial Use of Vessel:* ''Private Vessel Charters, Passengers Only''

—*Geographic Region Including Base of Operations:* ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York (excluding waters in New York Harbor), New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, East Coast of Florida, California, Oregon, Washington, and Alaska (excluding waters in Southeastern Alaska).'' (Base of Operations: Kaneohe, HI)

—*Vessel Length and Type:* 63′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0135 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–2019–0135 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: August 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–17966 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0133]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel Las Brisas (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no

more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 20, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0133 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0133 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–2019–0133, 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 LAS BRISAS is:

—*Intended Commercial Use of Vessel:* ''Day charters and overnight trips in the Florida keys.''
—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Key West, FL)
—*Vessel Length and Type:* 78′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0133 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–2019–0133 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: August 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.

Secretary, Maritime Administration.

[FR Doc. 2019–17969 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0131]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel RESPITE (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 20, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0131 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0131 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–2019–0131, 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 RESPITE is:

—*Intended Commercial Use of Vessel:* ''Local inland waters charter 6 passengers or less''

—*Geographic Region Including Base of Operations:* ''Washington State'' (Base of Operations: Seattle, WA)

—*Vessel Length and Type:* 40′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0131 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–2019–0131 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: August 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–17960 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0134]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel WHISKEY BUSINESS (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 September 20, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0134 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Search MARAD–2019–0134 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–2019–0134, 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 WHISKEY BUSINESS is:

—*Intended Commercial Use of Vessel:* ''Carrying passengers for hire.''
—*Geographic Region Including Base of Operations:* ''Delaware, California, Oregon, Washington, Hawaii'' (Base of Operations: Bear, DE)
—*Vessel Length and Type:* 44′ catamaran

The complete application is available for review identified in the DOT docket as MARAD–2019–0134 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–2019–0134 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: August 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–17962 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0128]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel YVONNE LOUISE (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 September 20, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0128 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0128 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–2019–0128, 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 YVONNE LOUISE is:

—*Intended Commercial Use of Vessel:* ''Charter, photo shoots, corporate events''
—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: San Diego, CA)
—*Vessel Length and Type:* 56′ sailboat

The complete application is available for review identified in the DOT docket as MARAD–2019–0128 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–2019–0128 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: August 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–17963 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0127]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel KATAR (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 20, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0127 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0127 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–2019–0127, 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 CHRISTY BLUE is:

—*Intended Commercial Use of Vessel:* ''Private Vessel Charters, Passengers Only''
—*Geographic Region Including Base of Operations:* ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York (excluding waters in New York Harbor), New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina,

South Carolina, Georgia, East Coast of Florida, California, Oregon, Washington, and Alaska (excluding waters in Southeastern Alaska).'' (Base of Operations: Tiburon, CA)

—*Vessel Length and Type:* 45′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0127 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–2019–0127 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: August 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–17967 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0129]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel Mandala (Catamaran Sail); 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 September 20, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0129 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0129 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–2019–0129, 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 MANDALA is:

—*Intended Commercial Use of Vessel:* ''Charter operation''

—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: San Diego, CA)

—*Vessel Length and Type:* 36′ catamaran sail

The complete application is available for review identified in the DOT docket as MARAD–2019–0129 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–2019–0129 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: August 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–17970 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0132]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel WARFISH (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 20, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0132 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0132 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–2019–0132, 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 WARFISH is:

—*Intended Commercial Use of Vessel:* ''Applicant intends to operate WARFISH as a research and expeditionary vessel specializing in underwater videography and photography for the study and observation of Pelagic wildlife. WARFISH intends to provide a safe platform from which recreational passengers, and scientists form research organizations may pursue research and recreational objectives.''

—*Geographic Region Including Base of Operations:* ''North Carolina, South Carolina, Georgia, and Florida'' (Base of Operations: South Kingstown, RI)

—*Vessel Length and Type:* 45′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0132 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–2019–0132 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: August 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–17961 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0130]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel KEANUENUE (Motor 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 September 20, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–2019–0130 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Search MARAD–2019–0130 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–2019–0130, 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 KEANUENUE is:

—*Intended Commercial Use of Vessel:* ''To carry passengers for coastal sightseeing cruises in the nearshore waters of Maunalua Bay.''

—*Geographic Region Including Base of Operations:* ''Hawaii'' (Base of Operations: Koko Marina, HI)

—*Vessel Length and Type:* 29' motor catamaran

The complete application is available for review identified in the DOT docket as MARAD–2019–0130 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–2019–0130 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: August 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.

Secretary, Maritime Administration.

[FR Doc. 2019–17968 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2019–0136]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel MEANT TO BE (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 20, 2019.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2019–0136 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2019–0136 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–2019–0136, 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 MEANT TO BE is:

—*Intended Commercial Use of Vessel:* ''Private Vessel Charters, Passengers Only''

—*Geographic Region Including Base of Operations:* ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York (excluding waters in New York Harbor), New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, East Coast of Florida, California, Oregon, Washington, and Alaska (excluding waters in Southeastern Alaska).'' (Base of Operations: Miami, FL)

—*Vessel Length and Type:* 72′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2019–0136 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–2019–0136 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: August 15, 2019.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2019–17971 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0030; Notice 1]

Volkswagen Group of America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Volkswagen Group of America, Inc., (Volkswagen) has determined that certain model year (MY) 2019 Audi A6 and Audi A7 motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 135, *Light Vehicle Brake Systems.* Volkswagen filed a noncompliance report dated March 27, 2019, and subsequently petitioned NHTSA on April 17, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Volkswagen's petition.

DATES: Send comments on or before September 20, 2019.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. Overview

Volkswagen has determined that certain MY 2019 Audi A6 and Audi A7 motor vehicles do not fully comply with the requirements of paragraph S5.4.3 of FMVSS No. 135, *Light Vehicle Brake Systems* (49 CFR 571.135). Volkswagen filed a noncompliance report dated March 27, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports,* and subsequently petitioned NHTSA on April 17, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Volkswagen's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved

Approximately 3,908 MY 2019 Audi A6 and Audi A7 vehicles manufactured between July 27, 2018, and November 6, 2018, are potentially involved.

III. Noncompliance

Volkswagen explains that the noncompliance is that a small number of the affected vehicles may have a European-specification brake fluid reservoir cap instead of the one required for the North American/United States market as required by paragraph S5.4.3 of FMVSS No. 135. Specifically, the subject brake fluid reservoir caps may not include the required warning label.

IV. Rule Requirements

Paragraph S5.4.3 of FMVSS 135, includes the requirements relevant to this petition. Each vehicle equipped with hydraulic brakes shall have a brake fluid warning statement that reads as follows, in letters at least 3.2 mm (⅛ inch) high: ''WARNING: Clean filler cap before removing. Use only _____fluid from a sealed container.'' (Inserting the recommended type of brake fluid as specified in 49 CFR 571.116, *e.g.,* ''DOT 3.'' The lettering shall be permanently affixed, engraved, or embossed, located so as to be visible by direct view, either on or within 100 mm (3.94 inches) of the brake fluid reservoir filler plug or cap, and of a color that contrasts with its background, if it is not engraved or embossed.

V. Summary of Petition

Volkswagen described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Volkswagen submitted the following reasoning:

1. The brake fluid cap shows clearly the specification of brake fluid required.

2. The brake fluid cap conforms to the requirements of ISO9128:2006, which is a requirement of UN–ECE Regulations 13 and 13h.

3. Volkswagen asserts that NHTSA has previously granted the following petitions to accept ISO symbols in the absence of FMVSS labelling.

(a) Jaguar Land Rover petition regarding light vehicle brake systems, re: Brake fluid cap (84 FR 13095,13098);

(b) Ford petition regarding controls and displays including brake system-related telltales (78 FR 69931, 69932); and

(c) Hyundai petition regarding lower anchorage identification (73 FR 38290, 38291).

4. Volkswagen states that the brake fluid cap provides clear symbols including one for caution and one for referring to owner manual instructions. The manual indicates the proper brake fluid specification for use in the vehicle.

5. Service to the brake system involving an exchange of the brake fluid is not a standard maintenance activity for an owner/user. Repairs to the brake system, which includes evacuating and refilling the brake fluid, requires basic technical knowledge regarding the brake system and should be performed by a trained technician.

6. Volkswagen has not received any field or customer complaints related to this condition.

7. Volkswagen has not received notification of any accidents or injuries resulting from this issue.

Volkswagen's complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov* and by following the online search instructions to locate the docket number as listed in the title of this notice.

Volkswagen concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Volkswagen no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Volkswagen notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8).

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2019–17948 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0040; Notice 1]

Kia Motors America, Inc, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Kia Motors America, Inc., and Kia Motors Corporation (collectively ''Kia''), has determined that certain Model year (MY) 2020 Kia Telluride motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less.* Kia filed a noncompliance report dated April 12, 2019, and subsequently petitioned NHTSA on April 18, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Kia's petition.

DATES: Send comments on or before September 20, 2019.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than

15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. Overview

Kia has determined that certain MY 2020 Kia Telluride motor vehicles do not fully comply with paragraphs S4.3.3 of FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less* (49 CFR 571.110). Kia filed a noncompliance report dated April 12, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports,* and subsequently petitioned NHTSA on April 18, 2019, for an exemption from the notification and remedy requirement of 49 U.S.C Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Kia's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved

Approximately 8,773 MY 2020 Kia Telluride motor vehicles manufactured between January 10, 2019, and March 27, 2019, are potentially involved.

III. Noncompliance

Kia explains that the noncompliance is that the subject vehicles are equipped with Part 567 certification labels that are missing the value for the rim size as required by paragraph S4.3.3 of FMVSS No. 110. Specifically, the subject vehicles are equipped with 7.5Jx20 or 7.5Jx18 rims, however, the part 567 certification labels are missing the ''20'' or ''18'' inches after the ''7.5Jx.'' The certification labels also contain a typo. The ''i'' in ''psi'' is missing in the section of the label, which identifies the corresponding tire inflation pressure.

IV. Rule Requirements

Paragraphs S4.3.3 of FMVSS No. 110 provide the requirements relevant to this petition. Each vehicle must show the size designation and, if applicable, the type designation of rims (not necessarily those on the vehicle) appropriate for the tire and appropriate for use on that vehicle, including the tire installed as original equipment on the vehicle by the vehicle manufacturer, after each GAWR listed on the certification label required by § 567.4 or § 567.5 of this chapter. This information should be in English, letters block capitals and numerals not less than 2.4 millimeters high and in the following format (*Truck Example- Suitable Tire-Rim Choice*):

GVWR: 2,441 kilograms (5381 pounds).

GAWR: Front-1,299 kilograms (2,864 pounds) with P265/70R16 tires, 16x8.0 rims at 248 kPa (36 psi) cold single.

GAWR: Rear-1,299 kilograms (2,864 pounds) with P265/70R16 tires, 16x8.00 rims at 248 kPa (36 psi) cold single.

V. Summary of Petition

Kia described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Kia contends that the information missing from the label is a minor omissions without adverse safety implications because the information is readily available from other sources.

1. Kia states that FMVSS No. 110 paragraph S4.3(d) requires that the tire and loading information placard state the tire size designations for the tires installed on the vehicle at the time of first purchase. On the affected vehicles, the FMVSS No. 110 tire and loading label (which is located directly adjacent to the certification label on the ''B'' pillar), contains the correct tire size dimensions, recommended cold tire inflation pressure, and vehicle capacity weight.

2. Kia also noted that FMVSS No. 110, paragraph S4.3(f), also requires the tire and loading placard to state ''See Owner's Manual for Additional Information.'' The Owner's Manual for the 2020 Telluride provides the wheel rim and tire information, which the owner can easily refer to confirm the correct tire pressure.

3. The consumer can also check the tire rims installed on the vehicle to determine the correct wheel rim size needed. Kia noted that FMVSS No. 110, paragraph S.4.4.2(b), requires each rim to be marked to identify the rim size. The affected vehicles meet the requirements of this section.

4. Kia is not aware of any accidents or injuries related to the omitted tire rim size information or typographical errors on the certification label, nor has it received contact from vehicle owners regarding this issue.

5. Kia says NHTSA has previously granted similar petitions for inconsequential noncompliance with FMVSS No. 110, paragraph S4.3.3, with respect to missing or incorrect information on the certification label. *See e.g., Hyundai-Ki America Technical Center, Inc., Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 38445 (June 26, 2013) [granting petition where certification labels on certain MY 2012 Hyundai Veracruz vehicles were missing tire size designation information entirely]; *Chrysler Group, LLC, Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 38443 (June 26, 2013) [granting petition where certification labels in certain MY 2011 Chrysler Town and Country and Dodge Grand Caravan vehicles incorrectly identified tire size]; and *BMW of North America, LLC., Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 76408 (December 17, 2013) [granting petition where certification labels in certain MGMT7099DMY 2012 X3 SAV vehicles contained incorrect tire and rim information for the tires and rims installed as original equipment].

Kia concludes that the subject noncompliance is inconsequential as it

relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Kia no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Kia 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. 2019–18030 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0029; NHTSA–2019–0030; Notice 1]

Mack Trucks, Inc., and Volvo Trucks North America, Receipt of Petitions for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petitions.

SUMMARY: Mack Trucks Inc., (Mack) and Volvo Trucks North America (Volvo) have determined that certain model year (MY) 2014–2019 Mack Trucks and certain MY 2014–2019 Volvo Trucks do not comply with Federal Motor Vehicle Safety Standard (FMVSS) 101, *Controls and Displays.* Both Mack and Volvo filed noncompliance reports dated August 16, 2018, and later amended them on August 23, 2018, and June 2, 2019. Both Mack and Volvo subsequently petitioned NHTSA on October 9, 2018, and later amended their petition on May 29, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of both Mack and Volvo's petitions.

DATES: Send comments on or before September 20, 2019.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. Overview

Mack and Volvo have determined that certain MY 2014–2019 Mack Trucks and MY 2014–2019 Volvo Trucks do not comply with Table 2 of FMVSS 101, *Controls and Displays* (49 CFR 571.101). Both Mack and Volvo filed noncompliance reports dated August 16, 2018, and later amended them on August 23, 2018, and June 2, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Both Mack and Volvo subsequently petitioned NHTSA on October 9, 2018, and later amended their petitions on May 29, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Mack's and Volvo's petitions is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of their petitions.

II. Vehicles Involved

Approximately 95,000 MY 2014–2019 Mack Anthem, Granite, LR, Pinnacle, TerraPro, and Titan Trucks, manufactured between September 1, 2013, and August 13, 2018, are potentially involved.

Approximately 130,000 MY 2014–2019 Volvo VAH, VHD, VNL, VNM, VNR, VNX, and VT Trucks, manufactured between September 1, 2013, and August 13, 2018, are potentially involved.

III. Noncompliance

Mack and Volvo explained that the noncompliance is that the Low Brake Air Pressure telltale for air brake

systems does not display the words ''Brake Air,'' as specified in Table 2 of FMVSS No. 101. The subject Mack vehicles include various combinations of low air telltales, pressure gauges, and available alerts, and the subject Volvo vehicles include both visual and audible warnings that are not an exact match to the ''Brake Air'' telltale requirement.

IV. Rule Requirements

Paragraphs S5 and S5.2.1 of FMVSS No. 101 includes 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 Petition

Mack and Volvo both described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of their petitions, Mack and Volvo submitted the following reasoning:

1. Both Mack and Volvo provide a visual and audible alarm along with an air pressure gauges and feel that their vehicles, even though non-compliant, meet the intent of the regulation to provide a clear and visible warning to the driver when the air pressure in the service reservoir system is below 60 psi.

2. For Mack Granite, Pinnacle, and Titan model vehicles that are 2018 and earlier, the display includes two gauges and a red low air pressure indicator lamp for each gauge. When a low air pressure situation occurs, the driver is warned through the gauge, a red indicator lamp in each gauge, and an audible warning.

3. For Mack LR model vehicles, two pressure gauges, a low air telltale, a popup in the display, and an audible alarm are provided.

4. For Mack TerraPro model vehicles, pressure gauges, a low air telltale, and an audible alarm are provided.

5. On 2019 and later Anthem, Pinnacle, and Granite model vehicles, pressure gauges, a low air pressure pop-up (System Air Pressure is Low), and an audible alarm are provided.

6. For Volvo, 2014–2019 models, the display includes two gauges and a red low air pressure indicator lamp for each gauge. When a low air pressure situation occurs, the driver is warned through the gauge, a red indicator lamp in each gauge, and an audible warning. On all models and model years, a pop-up (Low System Air Pressure) is provided in addition to the gauges, a low-pressure indicator, and an audible alarm.

Both Mack and Volvo concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that their petitions to be exempt from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

VI. NHTSA's Consideration

Any manufacturer that determines a noncompliance to exist and intends to petition the agency, pursuant to 49 CFR part 556.4(c), must submit their petition no later than 30 days after such determination. Both Mack and Volvo submitted their petitions 25 days past the 30-day requirement. However, due to the nature of the noncompliance and considering that the agency has previously granted similar untimely inconsequential noncompliance petitions, the agency has decided to accept both Mack and Volvo's petitions. Nonetheless, NHTSA cautions these petitioners, and all petitioners, that our discretionary acceptance of these petitions should not be viewed as precedential and that untimely petitions may be rejected in the future.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Mack and Volvo no longer controlled at the time they determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of noncompliant vehicles under their control after Mack and Volvo 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. 2019–17949 Filed 8–20–19; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for the 2019 American Legion 100th Anniversary Commemorative Coins and The American Legion Centennial Emblem Print

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUPPLEMENTARY INFORMATION: The United States Mint is announcing pricing for the 2019 American Legion 100th Anniversary Commemorative Coins and The American Legion Centennial Emblem Prints as follows:

Coin	Regular price
Proof Gold Coin w/Print	2019 Grid + $8.95.
Proof Silver Dollar w/ Print.	$68.90.
Proof Clad Half Dollar w/Print.	$41.90.

Products containing gold coins will be priced according to the Pricing of Numismatic and Commemorative Gold and Platinum Products Grid posted at *www.usmint.gov.*

FOR FURTHER INFORMATION CONTACT: Rosa Matos, Program Manager for Numismatic and Bullion; United States Mint; 801 9th Street NW, Washington, DC 20220; or call 202–354–7500.

Authority: Public Law 115–65.

Dated: August 16, 2019.

Patrick Hernandez,

Acting Deputy Director, United States Mint.

[FR Doc. 2019–18043 Filed 8–20–19; 8:45 am]

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DEPARTMENT OF THE TREASURY

United States Mint

Establish Pricing and Pricing Changes for 2019 United States Mint Numismatic Products

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUPPLEMENTARY INFORMATION: The United States Mint is establishing a

price for a new United States Mint numismatic product in accordance with the table below:

Product	2019 Retail price
United States Mint Youth Coin and Currency Set™	$29.95

FOR FURTHER INFORMATION CONTACT: Kara Murphy, Marketing Specialist, Sales and Marketing Directorate; United States Mint; 801 9th Street NW, Washington, DC 20220; or call 202–354–7871.

Authority: 31 U.S.C. 5111, 5112, 5132, & 9701.

Dated: August 16, 2019.

Patrick Hernandez,

Acting Deputy Director, United States Mint.

[FR Doc. 2019–18040 Filed 8–20–19; 8:45 am]

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Federal Register

Vol. 84, No. 162

Wednesday, August 21, 2019

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