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Contents

Federal Register

Vol. 85, No. 101

Tuesday, May 26, 2020

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Administrative Orders:

Memorandums:

Memorandum of May 20, 2020 31665

13 CFR

120 31357

14 CFR

39 (2 documents) 31359, 31361

27 CFR

Proposed Rules:

9 31416

33 CFR

100 31363

165 31363

34 CFR

222 31372

300 31374

40 CFR

52 31378

81 31378

180 (2 documents) 31383, 31386

300 31389

Proposed Rules:

52 31421

60 31423

300 31427

47 CFR

0 31390

15 31390

Proposed Rules:

1 31616

54 31616

50 CFR

635 31414

Rules and Regulations

Federal Register
Vol. 85, No. 101
Tuesday, May 26, 2020

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

[Docket Number SBA–2020–0031]

RIN 3245–AH45

Business Loan Program Temporary Changes; Paycheck Protection Program—Second Extension of Limited Safe Harbor With Respect to Certification Concerning Need for PPP Loan and Lender Reporting

AGENCY: U.S. Small Business Administration.

ACTION: Interim final rule.

SUMMARY: On May 8, 2020, the U.S. Small Business Administration (SBA) posted an interim final rule relating to the extension of a safe harbor with respect to a certification required by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act or the Act) in connection with the implementation of a temporary new program, titled the ''Paycheck Protection Program.'' This interim final rule revises the interim final rule posted on May 8, 2020, and published in the **Federal Register** on May 19, 2020, by extending the date by which certain Paycheck Protection Program (PPP) borrowers may repay their loans from May 14, 2020 to May 18, 2020, in order to avail themselves of a safe harbor with respect to the certification required by the Act, and by extending the timeframe for submission of the initial SBA Form 1502 report for PPP loans. This interim final rule supplements SBA's implementation of the Act and requests public comment.

DATES:

Effective date: This rule is effective May 26, 2020.

Comment date: Comments must be received on or before June 25, 2020.

ADDRESSES: You may submit comments, identified by number SBA–2020–0031 through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. SBA will post all comments on *www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *www.regulations.gov,* please send an email to *ppp-ifr@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: A Call Center Representative at 833–572–0502, or the local SBA Field Office; the list of offices can be found at *https://www.sba.gov/tools/local-assistance/districtoffices.*

SUPPLEMENTARY INFORMATION:

I. Background Information

On March 13, 2020, President Trump declared the ongoing Coronavirus Disease 2019 (COVID–19) pandemic of sufficient severity and magnitude to warrant an emergency declaration for all States, territories, and the District of Columbia. With the COVID–19 emergency, many small businesses nationwide are experiencing economic hardship as a direct result of the Federal, State, tribal, and local public health measures that are being taken to minimize the public's exposure to the virus. These measures, some of which are government-mandated, are being implemented nationwide and include the closures of restaurants, bars, and gyms. In addition, based on the advice of public health officials, other measures, such as keeping a safe distance from others or even stay-at-home orders, are being implemented, resulting in a dramatic decrease in economic activity as the public avoids malls, retail stores, and other businesses.

On March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act or the Act) (Pub. L. 116–136) to provide emergency assistance and health care response for individuals, families, and businesses affected by the coronavirus pandemic. The Small Business Administration (SBA) received funding and authority through the Act to modify existing loan programs and establish a new loan program to assist small businesses nationwide adversely impacted by the COVID–19 emergency. Section 1102 of the Act temporarily permits SBA to guarantee 100 percent of 7(a) loans under a new program titled the ''Paycheck Protection Program.'' Section 1106 of the Act provides for forgiveness of up to the full principal amount of qualifying loans guaranteed under the Paycheck Protection Program. On April 24, 2020, the President signed the Paycheck Protection Program and Health Care Enhancement Act (Pub. L. 116–139), which provided additional funding and authority for the PPP.

II. Comments and Immediate Effective Date

This interim final rule is effective without advance notice and public comment because section 1114 of the Act authorizes SBA to issue regulations to implement Title I of the Act without regard to notice requirements. In addition, SBA has determined that there is good cause for dispensing with advance public notice and comment on the ground that it would be contrary to the public interest. Specifically, SBA, in consultation with the Department of the Treasury, issued additional guidance with regard to the safe harbor posted on SBA's website on May 13, 2020. *See* FAQ 46 (posted May 13, 2020).[1] SBA, in consultation with the Department of the Treasury, determined that extending the safe harbor deadline from May 14, 2020 to May 18, 2020 would afford Paycheck Protection Program borrowers time to review SBA's May 13, 2020 guidance and decide whether to avail themselves of the safe harbor. SBA previously announced this intended extension in nonbinding guidance published on May 13, 2020. *See* FAQ 47 (posted on May 13, 2020).[2] SBA, in consultation with the Department of the Treasury, determined that the immediate effective date of this interim final rule would benefit lenders by allowing them to swiftly close and disburse loans to small businesses and fulfill associated reporting requirements. Advance notice and public comment would defeat the purpose of this interim final rule given the existing May 22, 2020 deadline for lenders to submit the initial SBA Form 1502 report for PPP loans, which this interim final rule extends to the later of (1) May 29, 2020; or (2) 10 calendar days

[1] *https://www.sba.gov/sites/default/files/2020-05/Paycheck-Protection-Program-Frequently-Asked-Questions_05%2013%2020_2.pdf.*

[2] *Id.*

after disbursement or cancellation of a PPP loan. These same reasons provide good cause for SBA to dispense with the 30-day delayed effective date provided in the Administrative Procedure Act.

Although this interim final rule is effective immediately, comments are solicited from interested members of the public on all aspects of the interim final rule, including section III below. These comments must be submitted on or before June 25, 2020. SBA will consider these comments and the need for making any revisions as a result of these comments.

III. Paycheck Protection Program Requirements for Second Extension of Limited Safe Harbor With Respect to Certification Concerning Need for PPP Loan Request and Lender Reporting

Overview

The CARES Act was enacted to provide immediate assistance to individuals, families, and organizations affected by the COVID–19 emergency. Among the provisions contained in the CARES Act are provisions authorizing SBA to temporarily guarantee loans under the Paycheck Protection Program (PPP). Loans under the PPP are 100 percent guaranteed by SBA, and the full principal amount of the loans and any accrued interest may qualify for loan forgiveness. Additional information about the PPP is available in interim final rules published by SBA and the Department of the Treasury in the **Federal Register** (85 FR 20811, 85 FR 20817, 85 FR 21747, 85 FR 23450, 85 FR 23917, 85 FR 26321, 85 FR 26324, 85 FR 27287, 85 FR 29845, 85 FR 29842, 85 FR 29847, and 85 FR 30835) (collectively, the PPP Interim Final Rules).

1. Second Extension of Limited Safe Harbor With Respect to Certification Concerning Need for PPP Loan Request

The Act requires each applicant applying for a PPP loan to certify in good faith ''that the uncertainty of current economic conditions makes necessary the loan request to support the ongoing obligations'' of the applicant. On April 24, 2020, SBA posted on its website an interim final rule (the Fourth PPP Interim Final Rule), which also was published in the **Federal Register** on April 28, 2020 (85 FR 23450), to provide relief to PPP borrowers that applied for and received PPP loans based on a misunderstanding or misapplication of the required good-faith certification standard. The Fourth PPP Interim Final Rule provides that any borrower that applied for a PPP loan and repays the loan in full by May 7, 2020, will be deemed by SBA to have made the required certification in good faith. On May 5, 2020, SBA, in consultation with the Department of the Treasury, issued additional guidance to extend the safe harbor deadline from May 7, 2020 to May 14, 2020. *See* FAQ 43 (posted May 5, 2020) and SBA's interim final rule on Extension of Limited Safe Harbor with Respect to Certification Concerning Need for PPP Loan Request, posted May 8, 2020, and published in the **Federal Register** on May 19, 2020 (85 FR 29845). SBA, in consultation with the Department of the Treasury, issued additional guidance on May 13, 2020 concerning how SBA will review the required good-faith certification to help PPP borrowers evaluate whether they may have misunderstood or misapplied the statutory certification standard. *See* FAQ 46 (posted May 13, 2020). This guidance included an additional safe harbor providing that any PPP borrower, together with its affiliates, that received PPP loans with an original principal amount of less than $2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith. Based on this guidance, SBA, in consultation with the Department of the Treasury, determined that it is necessary and appropriate to further extend the safe harbor deadline for repaying PPP loans from May 14, 2020 to May 18, 2020. *See* FAQ 47 (posted May 13, 2020).

Second Extension of Limited Safe Harbor with Respect to Good-Faith Certification Concerning Need for PPP Loan Request. Consistent with section 1102 of the CARES Act, the Borrower Application Form requires PPP applicants to certify in good faith that ''[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant.'' Any borrower that applied for a PPP loan and repays the loan in full by May 18, 2020 will be deemed by SBA to have made the required certification in good faith. The Administrator, in consultation with the Secretary, determined that this safe harbor is necessary and appropriate to ensure that borrowers promptly repay PPP loan funds that the borrower obtained based on a misunderstanding or misapplication of the statutory certification standard.

2. Lender Reporting

The extension of the safe harbor and administrative convenience necessitate a corresponding date change to the interim final rule that SBA posted on its website on April 28, 2020, which was published in the **Federal Register** on May 4, 2020 (85 FR 26321), regarding PPP loan disbursements (the May 4 Interim Final Rule), as amended by the interim final rule that SBA posted on its website on May 8, 2020 (the May 8 Interim Final Rule). Specifically, Part III.1.b. of the May 4 Interim Final Rule provided that lenders must electronically upload SBA Form 1502 reporting information within 20 calendar days after a PPP loan is approved or, for loans approved before the availability of the updated SBA Form 1502 reporting process, by May 18, 2020. 85 FR 26321, 26323. The May 8 Interim Final Rule extended the deadline for the submission of the initial SBA Form 1502 reporting information from May 18, 2020 to May 22, 2020 because of the extension of the safe harbor deadline to May 14, 2020. Because of the extension of the safe harbor deadline from May 14, 2020 to May 18, 2020 and to promote the administrability of the PPP, SBA is further extending the timelines for reporting Form 1502 information, such that lenders must electronically upload SBA Form 1502 reporting information by the later of: (1) May 29, 2020, or (2) 10 calendar days after disbursement or cancellation of a PPP loan.

As noted in the May 4 Interim Final Rule, lenders must disburse PPP loans within 10 calendar days of loan approval; a loan is considered approved when the loan is assigned a loan number by the SBA. Loans for which funds have not been disbursed because a borrower has not submitted required loan documentation within 20 calendar days of loan approval shall be cancelled by the lender. These two requirements remain unchanged.

The extension of the safe harbor and administrative convenience also require an identical corresponding date change to the interim final rule that SBA posted on May 13, 2020, regarding PPP loan increases. Specifically, that interim final rule states, in Parts III and III.2.b., that SBA Form 1502 reporting information is required to be submitted within 20 calendar days after a PPP loan is approved or, for loans approved before availability of the updated SBA Form 1502 reporting process, by May 22, 2020. As described above, SBA is further extending timelines for reporting Form 1502 information, such that lenders must electronically upload SBA Form 1502 reporting information by the later of: (1) May 29, 2020, or (2) 10 calendar days after disbursement or cancellation of a PPP loan.

The Administrator, in consultation with the Secretary, believes that clarifying timelines for lender reporting will enable lenders to swiftly close and disburse loans and will enhance the

administrability of key program components by enabling lenders and SBA to process data regarding loan disbursements and cancelations in a streamlined manner.

Additional Information

SBA may provide further guidance, if needed, through SBA notices that will be posted on SBA's website at *www.sba.gov.* Questions on the Paycheck Protection Program may be directed to the Lender Relations Specialist in the local SBA Field Office. The local SBA Field Office may be found at *https://www.sba.gov/tools/local-assistance/districtoffices.*

Compliance With Executive Orders 12866, 12988, 13132, 13563, and 13771, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Orders 12866, 13563, and 13771

This interim final rule is economically significant for the purposes of Executive Orders 12866 and 13563, and is considered a major rule under the Congressional Review Act. SBA, however, is proceeding under the emergency provision at Executive Order 12866 Section 6(a)(3)(D), and the good cause exemption under 5 U.S.C. 809(2), based on the need to move expeditiously to mitigate the current economic conditions arising from the COVID–19 emergency. This rule's designation under Executive Order 13771 will be informed by public comment.

Executive Order 12988

SBA has drafted this rule, to the extent practicable, in accordance with the standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988, to minimize litigation, eliminate ambiguity, and reduce burden. The rule has no preemptive or retroactive effect.

Executive Order 13132

SBA has determined that this rule 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 layers of government. Therefore, SBA has determined that this rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act, 44 U.S.C. Chapter 35

SBA has determined that this rule will not impose new or modify existing recordkeeping or reporting requirements under the Paperwork Reduction Act.

Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the APA or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604. Specifically, the RFA normally requires agencies to describe the impact of a rulemaking on small entities by providing a regulatory impact analysis. Such analysis must address the consideration of regulatory options that would lessen the economic effect of the rule on small entities. The RFA defines a ''small entity'' as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA); (2) a nonprofit organization that is not dominant in its field; or (3) a small government jurisdiction with a population of less than 50,000. 5 U.S.C. 601(3)–(6). Except for such small government jurisdictions, neither State nor local governments are ''small entities.'' Similarly, for purposes of the RFA, individual persons are not small entities. The requirement to conduct a regulatory impact analysis does not apply if the head of the agency ''certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b). The agency must, however, publish the certification in the **Federal Register** at the time of publication of the rule, ''along with a statement providing the factual basis for such certification.'' If the agency head has not waived the requirements for a regulatory flexibility analysis in accordance with the RFA's waiver provision, and no other RFA exception applies, the agency must prepare the regulatory flexibility analysis and publish it in the **Federal Register** at the time of promulgation or, if the rule is promulgated in response to an emergency that makes timely compliance impracticable, within 180 days of publication of the final rule. 5 U.S.C. 604(a), 608(b). Rules that are exempt from notice and comment are also exempt from the RFA requirements, including conducting a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. SBA Office of Advocacy guide: How to Comply with the Regulatory Flexibility Act, Ch. 1. p. 9. Accordingly, SBA is not required to conduct a regulatory flexibility analysis.

Jovita Carranza,

Administrator.

[FR Doc. 2020–11292 Filed 5–22–20; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0064; Project Identifier 2019–SW–096–AD; Amendment 39–21132; AD 2020–11–07]

RIN 2120–AA64

Airworthiness Directives; MD Helicopter Inc., Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for MD Helicopters Inc., (MDHI) Model 369D, 369E, 369FF, 369H, 369HE, 369HM, 369HS, 500N, and 600N helicopters. This AD was prompted by a report of non-conforming main rotor (M/R) hub lead-lag bolts (bolts). This AD requires removing certain bolts from service. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 30, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 30, 2020.

ADDRESSES: For service information identified in this final rule, contact MD Helicopters, Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615, Mesa, AZ 85215–9734; telephone 1–800–388–3378; fax 480–346–6813; or at *https://www.mdhelicopters.com.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0064.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–

0064; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is Docket Operations, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Payman Soltani, Aerospace Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone 562–627–5313; email *payman.soltani@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to MDHI Model 369D, 369E, 369FF, 369H, 369HE, 369HM, 369HS, 500N, and 600N helicopters, with certain serial-numbered bolts part number (P/N) 369D21220 installed. The NPRM published in the **Federal Register** on February 7, 2020 (85 FR 7256). The NPRM was prompted by a report of non-conforming bolts. Certain serial-numbered bolts had an unauthorized repair of their cadmium plating performed between April 2004 and October 2018. Analysis has shown that these bolts have a lower fatigue life compared to bolts used during manufacturing batch testing. The NPRM proposed to require removing the affected bolts from service.

This condition, if not addressed, could result in loss of an M/R blade and subsequent loss of control of the helicopter. The FAA is issuing this AD to address the unsafe condition on these products.

Comments

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

Request

The commenter stated that the labor hours provided in the NPRM to replace a bolt are underestimated because bolt replacement cannot be performed while the M/R is installed on the rotorcraft. The cost estimation should include removal of the M/R blades, M/R driveshaft, and M/R head.

The FAA agrees and has updated the Costs of Compliance for this AD.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed except for adjusting the labor hours to replace a bolt. The FAA has determined that this change:

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed MD Helicopters Service Bulletin No. SB369D–223 for Model 369D helicopters, No. SB369E–122 for Model 369E helicopters, No. SB369F–110 for Model 369FF helicopters, No. SB369H–259 for Model 369H, 369HE, 369HS, and 369HM helicopters, No. SB500N–060 for Model 500N helicopters, and No. SB600N–073 for Model 600N helicopters, each dated April 19, 2019. These service bulletins are co-published as one document. This service information specifies determining the serial number of bolt P/N 369D21220, and if certain serial-numbered bolts are installed on a helicopter, contacting MDHI to schedule replacement of each affected bolt and reporting information. This service information also specifies returning removed parts to MDHI along with a completed Service Operation Report.

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

Differences Between This AD and the Service Information

The service information specifies reporting information and returning removed parts to MDHI, whereas this AD does not require either of those actions. The service information specifies replacing the affected bolts within 12 months, whereas this AD requires replacing the affected bolts within three months of the effective date of this AD.

Costs of Compliance

The FAA estimates that this AD affects 767 helicopters of U.S. registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Replacing a bolt takes about 1.75 work-hours and parts cost about $178 for an estimated cost of $327 per bolt.

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

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–11–07 MD Helicopter Inc. (MDHI): Amendment 39–21132; Docket No. FAA–2020–0064; Project Identifier 2019–SW–096–AD.

(a) Effective Date

This AD is effective June 30, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to MDHI Model 369D, 369E, 369FF, 369H, 369HE, 369HM, 369HS, 500N, and 600N helicopters, certificated in any category, with a main rotor (M/R) hub lead-lag bolt (bolt) part number (P/N) 369D21220 with a serial number (S/N) listed in paragraph 1.B. of MD Helicopters Service Bulletin No. SB369D–223, SB369E–122, SB369F–110, SB369H–259, SB500N–060, or SB600N–073, each dated April 19, 2019, installed.

(d) Subject

Joint Aircraft System Component (JASC): 6200, Main Rotor System.

(e) Unsafe Condition

This AD was prompted by a report of non-conforming bolts. The FAA is issuing this AD to prevent failure of a bolt. The unsafe condition, if not addressed, could result in loss of an M/R blade and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

(1) At the next overhaul of the M/R assembly or within 3 months, whichever occurs first, remove from service each bolt with a P/N and S/N listed in paragraph (c) of this AD.

(2) After the effective date of this AD, do not install on any helicopter a bolt with a P/N and S/N listed in paragraph (c) of this AD.

(h) Special Flight Permit

A special flight permit may be permitted for a one-time ferry flight to an authorized repair facility.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

For more information about this AD, contact Payman Soltani, Aerospace Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone 562–627–5313; email *payman.soltani@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) MD Helicopters Service Bulletin (SB) No. SB369D–223, dated April 19, 2019.

(ii) MD Helicopters SB No. SB369E–122, dated April 19, 2019.

(iii) MD Helicopters SB No. SB369F–110, dated April 19, 2019.

(iv) MD Helicopters SB No. SB369H–259, dated April 19, 2019.

(v) MD Helicopters SB No. SB500N–060, dated April 19, 2019.

(vi) MD Helicopters SB No. SB600N–073, dated April 19, 2019.

Note 1 to paragraph (k)(2): MD Helicopters SB No. SB369D–223, No. SB369E–122, No. SB369F–110, No. SB369H–259, No. SB500N–060, and No. SB600N–073, each dated April 19, 2019, are co-published as one document.

(3) For MD Helicopters service information identified in this AD, contact MD Helicopters, Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615, Mesa, AZ 85215–9734; telephone 1–800–388–3378; fax 480–346–6813; or at *https://www.mdhelicopters.com.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. (5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on May 19, 2020.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–11157 Filed 5–22–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0240; Product Identifier 2018–CE–057–AD; Amendment 39–21131; AD 2020–11–06]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Pilatus Aircraft Ltd. Model PC–6, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, PC–6/C1–H2, PC–6–H1, and PC–6–H2 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as flap actuator taper pins that were not swaged during the manufacturing process. The FAA is issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective June 30, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 30, 2020.

ADDRESSES: For service information identified in this final rule, contact PILATUS Aircraft Ltd., Customer Technical Support (MCC), P.O. Box 992, CH–6371 Stans, Switzerland; phone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: *techsupport@pilatus-aircraft.com*; internet: *https://www.pilatus-aircraft.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0240.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for

and locating Docket No. FAA–2019–0240; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Pilatus Aircraft Ltd. Models PC–6, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, PC–6/C1–H2, PC–6–H1, and PC–6–H2 airplanes. The NPRM was published in the **Federal Register** on April 5, 2019 (84 FR 13571). The NPRM proposed to correct an unsafe condition for the specified products and was based on MCAI AD No. 2018–0235, dated November 5, 2018, issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community. The MCAI states:

> During a recent overhaul, two new flap actuators were found to have taper pins installed that, apparently, had not been swaged. Investigation results identified that the taper pins had been incorrectly swaged during the manufacturing process.
>
> This condition, if not detected and corrected, could lead to loss of one or both taper pins, consequent asymmetric flap deployment or flap surface flutter, possibly resulting in loss of control of the aeroplane.
>
> To address this potential unsafe condition, Pilatus issued the [service bulletin] SB to provide inspection instructions.
>
> For the reason described above, this [EASA] AD requires a one-time inspection of the taper pins of the affected parts for correct installation and, depending on findings, accomplishment of applicable corrective action(s). This [EASA] AD also requires inspection of, and, depending on findings, corrective action(s) on, affected parts held as spare, prior to installation.

The MCAI can be found in the AD docket on the internet at: *https://www.regulations.gov/docket?D=FAA-2019-0240.*

Comments

The FAA gave the public the opportunity to participate in developing this AD. The FAA received one comment from Richart Ruddie, who supported the NPRM.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD as proposed.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–005, dated July 2, 2018. The service information contains procedures for removing and inspecting the flap actuator assemblies and pushrod assemblies, modifying or replacing the taper pins if necessary, and reinstalling the assemblies. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD will affect 30 products of U.S. registry. The FAA also estimates that it would take about 12 work-hours per product to comply with the basic inspection requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, the FAA estimates the cost of this AD on U.S. operators to be $30,600, or $1,020 per product.

In addition, the FAA estimates that any necessary follow-on modification or replacement actions would require parts costing $30,000, for a cost of $1,000 per product. The FAA has no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–11–06 Pilatus Aircraft Ltd.: Amendment 39–21131; Docket No. FAA–2019–0240; Product Identifier 2018–CE–057–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective June 30, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. Models PC–6, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, PC–6/C1–H2, PC–6–H1, and PC–6–H2 airplanes, all serial numbers, certificated in any category, with a

left-hand or right-hand flap actuator assembly part number (P/N) 6132.0039.51 or P/N 6132.0039.52 or pushrod assembly P/N 6132.0040.00 installed, except those assemblies supplied by Pilatus Aircraft Ltd. with a European Aviation Safety Agency (EASA) form 1 tag dated July 2, 2018 or later.

Note 1 to paragraph (c) of this AD: These airplanes may also be identified as Fairchild Republic Company airplanes, Fairchild Industries airplanes, Fairchild Heli Porter airplanes, or Fairchild-Hiller Corporation airplanes.

(d) Subject

Air Transport Association of America (ATA) Code 27: Flight Controls.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as flap actuator taper pins that were not swaged during the manufacturing process. The FAA is issuing this AD to prevent loss of one or both taper pins that could lead to asymmetric flap deployment or flap surface flutter and result in loss of control of the airplane.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) and (2) of this AD:

(1) Within the next 100 hours time-in-service after June 30, 2020 (the effective date of this AD) or within the next 12 months after June 30, 2020 (the effective date of this AD), whichever occurs first, prepare the airplane and inspect each flap actuator taper pin for correct installation by following the Accomplishment Instructions-Part 1-On Aircraft, paragraphs 3.A through 3.B(2), of Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–005, dated July 2, 2018 (Pilatus SB No. 27–005).

(i) If a taper pin has any damage, before further flight, replace and swage the taper pin and reinstall the pushrod assembly by following the Accomplishment Instructions-Part 1-On Aircraft, paragraphs 3.C and 3.D of Pilatus SB No. 27–005.

(ii) If a taper pin is incorrectly swaged or is not swaged, before further flight, swage the taper pin and reinstall the pushrod assembly by following the Accomplishment Instructions-Part 1-On Aircraft, paragraphs 3.C and 3.D of Pilatus SB No. 27–005.

(2) After June 30, 2020 (the effective date of this AD), do not install a flap actuator assembly, P/N 6132.0039.51 or P/N 6132.0039.52, or pushrod assembly P/N 6132.0040.00 on any airplane unless the part was supplied by Pilatus Aircraft Ltd. with an EASA form 1 tag dated July 2, 2018 or later, or the part has been inspected in accordance with paragraphs (f)(1)(i) and (ii) of this AD.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Small Airplane Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must instead be accomplished using a method approved by the Manager, Small Airplane Standards Branch, FAA, or EASA.

(h) Related Information

Refer to MCAI EASA AD No. 2018–0235, dated November 5, 2018, for related information. The MCAI can be found in the AD docket on the internet at: *https://www.regulations.gov/docket?D=FAA-2019-0240.*

(i) Material Incorporated by Reference

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

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

(i) Pilatus Aircraft Ltd. PC–6 Service Bulletin No. 27–005, dated July 2, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact PILATUS Aircraft Ltd., Customer Technical Support (MCC), P.O. Box 992, CH–6371 Stans, Switzerland; phone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: *techsupport@pilatus-aircraft.com;* internet: *https://www.pilatus-aircraft.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0240.

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

Issued on May 15, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–11204 Filed 5–22–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100 and 165

[Docket Number USCG–2019–0951]

RIN 1625–AA08; 1625–AA00

Special Local Regulations and Safety Zones; Recurring Marine Events and Fireworks Displays and Swim Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is adding, deleting, and modifying the special local regulations for annual recurring marine events, safety zones for firework displays, and swim events in the Coast Guard Sector Northern New England Captain of the Port Zone. When enforced, these special local regulations and safety zones will restrict vessels from transiting regulated areas during certain annually recurring events. The special local regulations and safety zones are intended to expedite public notification and ensure the protection of the maritime public and event participants from the hazards associated with certain marine events.

DATES: This rule is effective June 25, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0951 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 Chief Marine Science Technician Thomas Watts, Sector Northern New England Waterways Management Division, U.S. Coast Guard; telephone 207–347–5003, email *Thomas.F.Watts@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

Swim events, fireworks displays, and marine events are held on an annual

recurring basis on the navigable waters within the Coast Guard Sector Northern New England Captain of the Port (COTP) Zone. The Coast Guard has established special local regulations and safety zones for some of these annual recurring events on a case by case basis to ensure the protection of the maritime public and event participants from potential hazards. In the past, the Coast Guard has not received public comments or concerns regarding the impact to waterway traffic from regulations associated with these annually recurring events. Events were either added or deleted to the table of annual events based on their likelihood to recur in subsequent years. Additionally, minor changes to existing events such as position, date, or title, were made to ensure the accuracy of event details.

On February 26, 2020 the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulations and Safety Zones; Recurring Marine Events and Fireworks Displays and Swim Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone (85 FR 11031). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action. During the comment period that ended on March 27, 2020, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard issues this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The proposed rule updates the terminology, definitions, and tables of annual recurring events in the existing regulations for the Coast Guard Sector Northern New England COTP Zone. The tables provide the event name, sponsor, and type, as well as approximate times, dates, and locations of the events. The tables provide the event name, sponsor, and type, as well as approximate times, dates, and locations of the events. Advanced public notification of specific times, dates, regulated areas, and enforcement periods for each event will be provided through appropriate means, which may include the Local Notice to Mariners, Broadcast Notice to Mariners, and a Notice of Enforcement published in the **Federal Register** at least 30 days prior to the event date. If an event does not have a date and time listed in this regulation, then the precise dates and times of the enforcement period for that event will be announced through a Local Notice to Mariners and, if time permits, a Notice of Enforcement in the **Federal Register**.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published Febuary 26, 2020. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

The Coast Guard amends 33 CFR 100.120 ''Special Local Regulations; Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone'' by replacing language referencing ''Patrol Commander'' to ''Designated Representative'' and adding language clarifying only event sponsors, designated participants, and official patrol vessels will be allowed to enter regulated areas. Spectators and other vessels not registered as event participants may not enter the safety zones without the permission of the COTP or the Designated Representative. Additionally, the Coast Guard amends 33 CFR 100.120 ''Special Local Regulations; Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone'' by updating the details of two events, deleting two events, and adding two events to Table 1 to § 100.120. This rule updates Table 1 to § 100.120: (1) 8.1 Eggemoggin Reach Regatta regulated area will be updated to reflect only the event start location; (2) 8.7 Multiple Sclerosis Harborfest Lobster Boat/ Tugboat Races location will be corrected. The events deleted from Table 1 to § 100.120 will be: (1) 8.2 Southport Rowgatta Rowing and Paddling Boat Race and (2) 7.5 Mayor's Cup Regatta. The two events added to the table are the (1) 8.8 Eastport Pirates Festival Invasion of Lubec Lobster Boat Race and (2) 6.5 Portland's Tallship Parade of Ships Event.

The Coast Guard amends 33 CFR 165.171 ''Safety Zones for fireworks displays and swim events held in Coast Guard Sector Northern New England Captain of the Port Zone'' by adding language clarifying only event sponsors, designated participants, and official patrol vessels will be allowed to enter regulated areas. Spectators and other vessels not registered as event participants may not enter the safety zones without the permission of the COTP or the Designated Representative. Additionally, the Coast Guard amends 33 CFR 165.171 ''Safety Zones for fireworks displays and swim events held in Coast Guard Sector Northern New England Captain of the Port Zone'' by updating the details of one event and deleting 20 events from Table 1 to § 165.171. This rule updates Table 1 to § 165.171: Corrected location for 8.2 Islesboro Crossing Swim. Events removed are obsolete events which have not been held for the past three years or which the sponsor's indicate they have no intention to continue, and events that have been determined to ''not present an extra or unusual hazard on the waterway.'' The events deleted from Table 1 to § 165.171 will be: (1) 6.1 Waterfront Days Fireworks; (2) 6.2 LaKermesse Fireworks; (3) 7.1 Vinalhaven 4th of July Fireworks; (4) 7.3 The Great Race; (5) 7.4 Bangor 4th of July Fireworks; (6) Eastport 4th of July Fireworks; (7) 7.8 Ellis Short Sand Park Trustee Fireworks; (8) 7.9 Hampton Beach 4th of July Fireworks; (9) 7.12 Main Street Heritage Days 4th of July Fireworks; (10) 7.14 St. Albans Day Fireworks; (11) 7.17 Shelburne Triathlons; (12) 7.18 St. George Days Fireworks; (13) 7.20 Richmond Days Fireworks; (14) 7.24 Bucksport Festival and Fireworks; (15) 7.26 Paul Coulombe Anniversary Fireworks; (16) 8.1 Westerlund's Landing Party Fireworks; (17) 8.2 York Beach Fire Department Fireworks; (18) 8.5 Paul Columbe Party Fireworks; (19) 9.2 Eastport Pirate Festival Fireworks; (20) 9.4 Eliot Festival Day Fireworks..

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of each regulated area. We are not adding any new special local regulations, rather we are updating existing regulations and removing obsolete events which have not been held for the past three years or which the sponsors indicate they have no intention to continue. Dates and coordinates have been updated to more

accurately reflect the event. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. 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 would 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 call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

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, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have 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 special local regulations for various one-day marine events and safety zones for fireworks displays and one day swimming events. Normally such actions are categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Memorandum For Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and record-keeping requirements, Waterways.

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 parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority*:* 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Revise § 100.120, to read as follows:

§ 100.120 Special Local Regulations; Marine Events Held in the Coast Guard Sector Northern New England Captain of the Port Zone.

The regulations in this section apply to the marine events listed in table 1 of this section. The regulations in this section will be enforced for the duration of each event, on or about the dates indicated. Actual notice of the exact dates and times of the effective period of the regulations with respect to each event, the geographical area, and details concerning the nature of the event and the number of participants and type(s) of vessels involved will be published in a Local Notices to Mariners and broadcast over VHF–FM radio. First Coast Guard District Local Notice to Mariners can be found at: *http://www.navcen.uscg.gov/.* Although listed in the Code of Federal Regulations, sponsors of events listed in table 1 of this section are still required to submit marine event applications in accordance with 33 CFR 100.15.

(a) The following definitions apply to this section:

(1) *Designated Representative.* A ''Designated Representative'' is any

Coast Guard Commissioned, Warrant or Petty Officer who has been designated by the Captain of the Port, Sector Northern New England (COTP), to act on his or her behalf. The Designated Representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) *Official patrol vessels.* Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(3) *Spectators.* All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(b) Vessels may not transit the regulated areas without the COTP or Designated Representative approval. Vessels permitted to transit must operate at a no wake speed, in a manner which will not endanger participants or other crafts in the event.

(c) Vessel operators desiring to enter or operate within the regulated areas shall contact the COTP or the Designated Representative via VHF channel 16 or (207) 741–5465 (Coast Guard Sector Northern New England Command Center) to obtain permission to do so.

(d) Spectators or other vessels shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated areas during the effective dates and times, unless authorized by COTP or Designated Representative.

(e) The COTP or Designated Representative may control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the lawful directions issued. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(f) The COTP or Designated Representative may delay or terminate any marine event in this section at any time it is deemed necessary to ensure the safety of life or property.

(g) For all power boat races listed, vessels not participating in this event, swimmers, and personal watercraft of any nature are prohibited from entering or moving within the regulated area unless authorized by the COTP or Designated Representative. Vessels within the regulated area must be at anchor within a designated spectator area or moored to a waterfront facility in a way that will not interfere with the progress of the event.

(h) For all regattas and boat parades listed, spectator vessels operating within the regulated area shall maintain a separation of at least 50 yards from the participants.

(i) For all rowing and paddling boat races listed, vessels not associated with the event shall maintain a separation of at least 50 yards from the participants.

(j) The specific calendar date upon which the listed event falls will be published through a Notice of Enforcement in the **Federal Register**.

TABLE 1 TO § 100.120

5.0	**MAY**
5.1 Tall Ships Visiting Portsmouth	• Event Type: Regatta and Boat Parade. • Date: A multiday event in May.[1] • Time (Approximate): 9:00 a.m. to 8:00 p.m. • Location: The regulated area includes all waters of Portsmouth Harbor, New Hampshire, in the vicinity of Castle Island within the following points (NAD 83): 43°03′11″ N, 070°42′26″ W. 43°03′18″ N, 070°41′51″ W. 43°04′42″ N, 070°42′11″ W. 43°04′28″ N, 070°44′12″ W. 43°05′36″ N, 070°45′56″ W. 43°05′29″ N, 070°46′09″ W. 43°04′19″ N, 070°44′16″ W. 43°04′22″ N, 070°42′33″ W.
6.0	**JUNE**
6.1 Charlie Begin Memorial Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one-day event in June.[1] • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Boothbay Harbor, Maine, in the vicinity of John's Island within the following points (NAD 83): 43°50′04″ N, 069°38′37″ W. 43°50′54″ N, 069°38′06″ W. 43°50′49″ N, 069°37′50″ W. 43°50′00″ N, 069°38′20″ W.
6.2 Rockland Harbor Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one-day event in June.[1] • Time (Approximate): 9:00 a.m. to 5:00 p.m. • Location: The regulated area includes all waters of Rockland Harbor, Maine, in the vicinity of the Rockland Breakwater Light within the following points (NAD 83): 44°05′59″ N, 069°04′53″ W. 44°06′43″ N, 069°05′25″ W. 44°06′50″ N, 069°05′05″ W. 44°06′05″ N, 069°04′34″ W.
6.3 Gathering of the Fleet	• Event Type: Tall Ship Parade. • Date: A one-day event in June.[1] • Time (Approximate): 12:00 p.m. to 5:00 p.m.

TABLE 1 TO § 100.120—Continued

	• Location: The regulated area includes all waters of Boothbay Harbor, Maine, in the vicinity of Tumbler's Island within the following points (NAD 83): 43°51′02″ N, 069°37′33″ W. 43°50′47″ N, 069°37′31″ W. 43°50′23″ N, 069°37′57″ W. 43°50′01″ N, 069°37′45″ W. 43°50′01″ N, 069°38′31″ W. 43°50′25″ N, 069°38′25″ W. 43°50′49″ N, 069°37′45″ W.
6.4 Bass Harbor Blessing of the Fleet Lobster Boat Race	• Event Type: Power Boat Race. • Date: A one-day event in June.[1] • Time (Approximate): 10:00 a.m. to 2:00 p.m. • Location: The regulated area includes all waters of Bass Harbor, Maine, in the vicinity of Lopaus Point within the following points (NAD 83): 44°13′28″ N, 068°21′59″ W. 44°13′20″ N, 068°21′40″ W. 44°14′05″ N, 068°20′55″ W. 44°14′12″ N, 068°21′14″ W.
6.5 Portland's Tallship Parade of Ships Event	• Event Type: Regatta and Boat Parade. • Date: A multiday event in June/July.[1] • Time (Approximate): 8:00 a.m. to 8:00 p.m. • Location: The regulated area includes all waters of Casco Bay and the Fore River in the vicinity of Portland, Maine, within the following points (NAD 83): 43°37′44.25″ N, 070°12′37.64″ W. 43°38′28.11″ N, 070°12′37.64″ W. 43°39′08.52″ N, 070°13′20.17″ W. 43°39′28.58″ N, 070°13′25.24″ W. 43°39′07.70″ N, 070°13′59.62″ W. 43°38′55.05″ N, 070°14′41.91″ W. 43°39′00.94″ N, 070°15′01.55″ W. 43°39′45.05″ N, 070°15′09.11″ W. 43°39′38.10″ N, 070°14′13.03″ W. 43°39′04.06″ N, 070°13′29.75″ W. 43°37′57.21″ N, 070°12′56.69″ W.
7.0	**JULY**
7.1 Burlington 3rd of July Air Show	• Event Type: Air Show. • Date: A one-day event held near July 4th.[1] • Time (Approximate): 8:30 p.m. to 9:00 p.m. • Location: The regulated area includes all waters of Lake Champlain, Burlington, VT, within the following points (NAD 83): 44°28′51″ N, 073°14′21″ W. 44°28′57″ N, 073°13′41″ W. 44°28′05″ N, 073°13′26″ W. 44°27′59″ N, 073°14′03″ W.
7.2 Moosabec Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one-day event held near July 4th.[1] • Time (Approximate): 10:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters of Jonesport, Maine, within the following points (NAD 83): 44°31′21″ N, 067°36′44″ W. 44°31′36″ N, 067°36′47″ W. 44°31′44″ N, 067°35′36″ W. 44°31′29″ N, 067°35′33″ W.
7.3 Stonington Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one-day event in July.[1] • Time (Approximate): 8:00 a.m. to 3:30 p.m. • Location: The regulated area includes all waters of Stonington, Maine, within the following points (NAD 83): 44°09′06″ N, 068°39′08″ W. 44°08′60″ N, 068°40′05″ W. 44°09′06″ N, 068°40′05″ W. 44°09′12″ N, 068°39′08″ W.
7.4 The Challenge Race	• Event Type: Rowing and Paddling Boat Race. • Date: A one-day event in July.[1] • Time (Approximate): 11:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Button Bay State Park within the following points (NAD 83): 44°12′25″ N, 073°22′32″ W.

TABLE 1 TO § 100.120—Continued

	44°12′00″ N, 073°21′42″ W. 44°12′19″ N, 073°21′25″ W. 44°13′16″ N, 073°21′36″ W.
7.5 Friendship Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one-day event in July.[1] • Time (Approximate): 9:30 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Friendship Harbor, Maine, within the following points (NAD 83): 43°57′51″ N, 069°20′46″ W. 43°58′14″ N, 069°19′53″ W. 43°58′19″ N, 069°20′01″ W. 43°58′00″ N, 069°20′46″ W.
7.6 Harpswell Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one-day event during in July.[1] • Time (Approximate): 9:30 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Potts Harbor, Maine, within the following points (NAD 83): 43°44′14″ N, 070°02′14″ W. 43°44′31″ N, 070°01′47″ W. 43°44′27″ N, 070°01′40″ W. 43°44′10″ N, 070°02′08″ W.
8.0	**AUGUST**
8.1 Eggemoggin Reach Regatta	• Event Type: Wooden Boat Parade. • Date: A one-day event on a Saturday between the 15th of July and the 15th of August.[1] • Time (Approximate): 11:00 a.m. to 7:00 p.m. • Location: The regulated area includes all waters of Eggemoggin Reach, Maine, within the following points (NAD 83): 44°14′22″ N, 068°36′26″ W. 44°13′58″ N, 068°35′16″ W. 44°14′24″ N, 068°34′24″ W. 44°14′50″ N, 068°35′04″ W. 44°14′54″ N, 068°35′38″ W. 44°14′57″ N, 068°34′24″ W.
8.2 Winter Harbor Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one-day event in August.[1] • Time (Approximate): 9:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Winter Harbor, Maine, within the following points (NAD 83): 44°22′06″ N, 068°05′13″ W. 44°23′06″ N, 068°05′08″ W. 44°23′04″ N, 068°04′37″ W. 44°22′05″ N, 068°04′44″ W.
8.3 Lake Champlain Dragon Boat Festival	• Event Type: Rowing and Paddling Boat Race. • Date: A multiday day event in August.[1] • Time (Approximate): 7:00 a.m. to 5:00 p.m. • Location: The regulated area includes all waters of Burlington Bay within the following points (NAD 83): 44°28′49″ N, 073°13′22″ W. 44°28′41″ N, 073°13′36″ W. 44°28′28″ N, 073°13′31″ W. 44°28′38″ N, 073°13′18″ W.
8.4 Merritt Brackett Lobster Boat Races	• Event Type: Power Boat Race. • Date: A one-day event in August.[1] • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Pemaquid Harbor, Maine, within the following points (NAD 83): 43°52′16″ N, 069°32′10″ W. 43°52′41″ N, 069°31′43″ W. 43°52′35″ N, 069°31′29″ W. 43°52′09″ N, 069°31′56″ W.
8.5 Multiple Sclerosis Regatta	• Event Type: Regatta and Sailboat Race. • Date: A one-day event in August.[1] • Time (Approximate): 10:00 a.m. to 4:00 p.m. • Location: The regulated area for the start of the race includes all waters of Casco Bay, Maine, in the vicinity of Peaks Island within the following points (NAD 83): 43°40′25″ N, 070°14′21″ W. 43°40′36″ N, 070°13′56″ W. 43°39′58″ N, 070°13′21″ W. 43°39′46″ N, 070°13′51″ W.
8.6 Multiple Sclerosis Harborfest Lobster Boat/Tugboat Races	• Event Type: Power Boat Race.

TABLE 1 TO § 100.120—Continued

8.7 Long Island Lobster Boat Race	• Date: A one-day event in August.[1] • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Portland Harbor, Maine, in the vicinity of Maine State Pier within the following points (NAD 83): 43°40′09″ N, 070°13′41″ W. 43°40′03″ N, 070°13′31″ W. 43°39′37″ N, 070°14′01″ W. 43°39′42″ N, 070°14′11″ W.
8.8 Eastport Pirates Festival Invasion of Lubec Lobster Boat Race	• Event Type: Power Boat Race. • Date: A one-day event in August.[1] • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Casco Bay, Maine, in the vicinity of Great Ledge Cove and Dorseys Cove off the north west coast of Long Island, Maine, within the following points (NAD 83): 43°41′59″ N, 070°08′59″ W. 43°42′04″ N, 070°09′10″ W. 43°41′41″ N, 070°09′38″ W. 43°41′36″ N, 070°09′30″ W.
	• Event Type: Power Boat Race. • Date: A one-day event in August.[1] • Time (Approximate): 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Johnson Bay, Maine, within the following points (NAD 83): 43°41′59″ N, 070°08′59″ W. 43°42′04″ N, 070°09′10″ W. 43°41′41″ N, 070°09′38″ W. 43°41′36″ N, 070°09′30″ W.

[1] Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 3. 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.

■ 4. Revise § 165.171, to read as follows:

§ 165.171 Safety Zones for fireworks displays and swim events held in Coast Guard Sector Northern New England Captain of the Port Zone.

(a) The general regulations contained in 33 CFR 165.23, as well as the regulations in this section, apply to the fireworks displays and swim events listed in table1 of this section. These regulations will be enforced for the duration of each event. Notifications will be made to the local maritime community through the Local Notice to Mariners and Broadcast Notice to Mariners well in advance of the events. If the event does not have a date listed, then exact dates and times of the enforcement period will be announced through a Notice of Enforcement in the **Federal Register**. Mariners should consult the **Federal Register** or their Local Notice to Mariners to remain apprised of schedule or event changes. First Coast Guard District Local Notice to Mariners can be found at *http://www.navcen.uscg.gov/.* Although listed in the Code of Federal Regulations, sponsors of events listed the Table 1 to § 165.171 are still required to submit marine event applications in accordance with 33 CFR 100.15.

(b) The following definitions apply to this section:

(1) *Designated Representative.* A ''Designated Representative'' is any Coast Guard Commissioned, Warrant or Petty Officer designated by the Captain of the Port, Sector Northern New England (COTP), to act on his or her behalf. The Designated Representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) *Official patrol vessels.* Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(3) *Spectators.* All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) Spectators or other vessels shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated areas during the effective dates and times, or dates and times as modified through the Local Notice to Mariners, unless authorized by COTP or Designated Representative.

(d) Vessel operators desiring to enter or operate within the regulated areas shall contact the COTP or the Designated Representative via VHF channel 16 or (207) 741–5465 (Coast Guard Sector Northern New England Command Center) to obtain permission to do so.

(e) Upon being hailed by a U.S. Coast Guard vessel or the Designated Representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(f) The COTP or Designated Representative may delay or terminate any marine event in this section at any time it is deemed necessary to ensure the safety of life or property.

(g) The regulated area for all fireworks displays listed in the table 1 of this sction is that area of navigable waters within a 200-yard radius of the launch platform or launch site for each fireworks display, unless otherwise noted in the Table 1 to § 165.171 or modified in USCG First District Local Notice to Mariners at: *http://www.navcen.uscg.gov/.*

(h) For all swim events listed in the Table 1 to § 165.171, vessels not associated with the event shall maintain

a separation of at least 200 feet from the participants.

(i) The specific calendar date upon which the listed event falls will be published Notice of Enforcement in the **Federal Register**.

TABLE 1 TO § 165.171

6.0	JUNE
6.1 Windjammer Days Fireworks	• Event Type: Fireworks Display. • Date: One-night event in June.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine, in approximate position: 43°50′38″ N, 069°37′57″ W (NAD 83).
7.0	**JULY**
7.1 Burlington Independence Day Fireworks	• Event Type: Firework Display. • Date: One-night event in July.[1] • Time (Approximate): 9:00 p.m. to 11:00 p.m. • Location: From a barge in the vicinity of Burlington Harbor, Burlington, Vermont, in approximate position: 44°28′31″ N, 073°13′31″ W (NAD 83).
7.2 Camden 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One-night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of Camden Harbor, Maine, in approximate position: 44°12′32″ N, 069°02′58″ W (NAD 83).
7.3 Bar Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One-night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Bar Harbor Town Pier, Bar Harbor, Maine, in approximate position: 44°23′31″ N, 068°12′15″ W (NAD 83).
7.4 Boothbay Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One-night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine, in approximate position: 43°50′38″ N, 069°37′57″ W (NAD 83).
7.5 Moosabec 4th of July Committee Fireworks	• Event Type: Fireworks Display. • Date: One-night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Beals Island, Jonesport, Maine, in approximate position: 44°31′18″ N, 067°36′43″ W (NAD 83).
7.6 Lubec 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One-night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Lubec Public Boat Launch in approximate position: 44°51′52″ N, 066°59′06″ W (NAD 83).
7.7 Portland Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One-night event in July.[1] • Time (Approximate): 8:30 p.m. to 10:30 p.m. • Location: In the vicinity of East End Beach, Portland, Maine, in approximate position: 43°40′15″ N, 070°14′42″ W (NAD 83).
7.8 Stonington 4th of July Fireworks	• Event Type: Fireworks Display • Date: One-night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Two Bush Island, Stonington, Maine, in approximate position: 44°08′57″ N, 068°39′54″ W (NAD 83).
7.9 Southwest Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One-night event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: Southwest Harbor, Maine, in approximate position: 44°16′25″ N, 068°19′21″ W (NAD 83).
7.10 Tri for a Cure Swim Clinics and Triathlon	• Event Type: Swim Event. • Date: A multi-day event held throughout July.[1] • Time (Approximate): 8:30 a.m. to 11:30 a.m. • Location: The regulated area includes all waters of Portland Harbor, Maine, in the vicinity of Spring Point Light within the following points (NAD 83): 43°39′01″ N, 070°13′32″ W.

TABLE 1 TO § 165.171—Continued

	43°39′07″ N, 070°13′29″ W. 43°39′06″ N, 070°13′41″ W. 43°39′01″ N, 070°13′36″ W.
7.11 Colchester Triathlon	• Event Type: Swim Event. • Date: A one-day event in July.[1] • Time (Approximate): 7:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters of Malletts Bay on Lake Champlain, Vermont, within the following points (NAD 83): 44°32′57″ N, 073°12′38″ W. 44°32′46″ N, 073°13′00″ W. 44°33′24″ N, 073°11′43″ W. 44°33′14″ N, 073°11′35″ W.
7.12 Peaks to Portland Swim	• Event Type: Swim Event. • Date: A one-day event in July.[1] • Time (Approximate): 5:00 a.m. to 1:00 p.m. • Location: The regulated area includes all waters of Portland Harbor between Peaks Island and East End Beach in Portland, Maine, within the following points (NAD 83): 43°39′20″ N, 070°11′58″ W. 43°39′45″ N, 070°13′19″ W. 43°40′11″ N, 070°14′13″ W. 43°40′08″ N, 070°14′29″ W. 43°40′00″ N, 070°14′23″ W. 43°39′34″ N, 070°13′31″ W. 43°39′13″ N, 070°11′59″ W.
7.13 Friendship Days Fireworks	• Event Type: Fireworks Display. • Date: A one-day event in July.[1] • Time (Approximate): 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Town Pier, Friendship Harbor, Maine, at position: 43°58′23″ N, 069°20′12″ W (NAD83).
7.14 Nubble Light Swim Challenge	• Event Type: Swim Event. • Date: A one-day event in July.[1] • Time (Approximate): 9:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters around Cape Neddick, Maine, and within the following coordinates (NAD83) 43°10′28″ N, 070°36′26″ W. 43°10′34″ N, 070°36′06″ W, 43°10′30″ N, 070°35′45″ W. 43°10′17″ N, 070°35′24″ W. 43°09′54″ N, 070°35′18″ W. 43°09′42″ N, 070°35′37″ W. 43°09′51″ N, 070°37′05″ W.
7.15 Castine 4th of July Fireworks	• Event Type: Fireworks Display. • Date: One-night event in July.[1] • Time (Approximate): 9:00 p.m. to 10:30 p.m. • Location: In the vicinity of the town dock in the Castine Harbor, Castine, Maine, in approximate position: 44°23′10″ N, 068°47′28″ W (NAD 83).
8.0	**AUGUST**
8.1 North Hero Air Show	• Event Type: Air Show. • Date: A one-day event in August.[1] • Time (Approximate): 10:00 a.m. to 5:00 p.m. • Location: In the vicinity of Shore Acres Dock, North Hero, Vermont, in approximate position (NAD83): 44°48′24″ N, 073°17′02″ W. 44°48′22″ N, 073°16′46″ W. 44°47′53″ N, 073°16′54″ W. 44°47′54″ N, 073°17′09″ W.
8.2 Islesboro Crossing Swim	• Event Type: Swim Event. • Date: A one-day event in August.[1] • Time: (Approximate): 6:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters of West Penobscot Bay from Ducktrap Beach, Lincolnville, ME, to Grindel Point, Islesboro, ME, within the following points (NAD83): 44°17′44″ N, 069°00′11″ W. 44°16′58″ N, 068°56′35″ W. 44°17′31″ N, 068°56′40″ W.
8.3 Casco Bay Island Swim/Run	• Event Type: Swim/Run Event. • Date: A one-day event in August.[1] • Time (Approximate): 7:30 a.m. to 1:00 p.m.

TABLE 1 TO § 165.171—Continued

8.4 Port Mile Swim	• Location: All waters of Casco Bay, Maine, in the vicinity of Casco Bay Island archipelago and within the following coordinates (NAD 83): 43°42′47″ N, 070°07′07″ W. 43°38′09″ N, 070°11′57″ W. 43°34′57″ N, 070°12′55″ W. 43°41′31″ N, 070°11′37″ W. 43°43′25″ N, 070°08′25″ W. • Event Type: Swim Event. • Date: A one-day event August.[1] • Time (Approximate): 7:00 a.m. to 9:00 a.m. • Location: All waters of Casco Bay, Maine, in the vicinity of East End Beach within the following points (NAD 83): 43°40′09″ N, 070°14′27″ W. 43°40′05″ N, 070°14′01″ W. 43°40′21″ N, 070°14′09″ W.
8.5 Ironman 70.3 Maine	• Event Type: Swim Event. • Date: A one-day event August.[1] • Time (Approximate): 6:00 a.m. to 08:30 a.m. • Location: All waters of Saco Bay, Maine, in the vicinity of Old Orchard Beach within the following points (NAD 83): 43°30′54″ N, 070°22′24″ W. 43°31′14″ N, 070°22′08″ W. 43°30′39″ N, 070°21′46″ W. 43°31′00″ N, 070°21′30″ W.
8.6 Lake Champlain Swimming Race	• Event Type: Swim Event. • Date: A one-day event in August.[1] • Time (Approximate): 9:00 a.m. to 3 p.m. • Location: Essex Beggs Point Park, Essex, NY, to Charlotte Beach, Charlotte, VT (NAD83). 44°18′32″ N, 073°20′52″ W. 44°20′03″ N, 073°16′53″ W.
9.0	**SEPTEMBER**
9.1 Camden Windjammer Festival Fireworks	• Event Type: Fireworks Display. • Date: A one-night event in September.[1] • Time (Approximate): 8:00 p.m. to 9:30 p.m. • Location: From a barge in the vicinity of Northeast Point, Camden Harbor, Maine. in approximate position: 44°12′18″ N, 069°03′11″ W (NAD 83).
9.2 The Lobsterman Triathlon	• Event Type: Swim Event. • Date: A one-day event in September.[1] • Time (Approximate): 8:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters in the vicinity of Winslow Park in South Freeport, Maine, within the following points (NAD 83): 43°47′59″ N, 070°06′56″ W. 43°47′44″ N, 070°06′56″ W. 43°47′44″ N, 070°07′27″ W. 43°47′57″ N, 070°07′27″ W.

[1] Date subject to change. Exact date will be posted in Notice of Enforcement and Local Notice to Mariners.

Dated: April 27, 2020.

B.J. LeFebvre,

Captain, U.S. Coast Guard, Captain of the Port, Sector Northern New England.

[FR Doc. 2020–09284 Filed 5–22–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Part 222

[Docket ID ED–2015–OESE–0109]

RIN 1810–AB24

Impact Aid Program; Extension of the Application Amendment Deadline

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Final rule; Extension of the application amendment deadline.

SUMMARY: The Department of Education (Department) extends the Fiscal Year (FY) 2021 application amendment period for Impact Aid program (IAP) applications, CFDA number 84.041, under sections 7002 and 7003 of the Elementary and Secondary Education Act of 1965, as amended (ESEA). We extend the application amendment deadline from June 30, 2020, to August 31, 2020, by 11:59:59 p.m., to allow local educational agencies (LEAs) impacted by the extraordinary circumstances related to the COVID–19 pandemic additional time to submit their amended applications.

DATES: Effective Date of Extension: May 26, 2020.

FOR FURTHER INFORMATION CONTACT: Katherine Cox, U.S. Department of Education, 400 Maryland Avenue SW, Room 3e207, Washington, DC 20202. Telephone: (202)453–6886. Email: *Impact.Aid@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On September 20, 2016, the Department published final regulations in the **Federal Register** to amend the IAP regulations issued under title VII of the ESEA (84 FR 64727), which govern Impact Aid payments to LEAs. The program, in general, provides assistance to LEAs that are affected by Federal activities.

Under 34 CFR 222.5(a), LEAs must submit any amendments to their FY 2021 IAP applications by June 30, 2020. This document announces that the Department is extending the June 30, 2020, deadline for submitting amendments to the FY 2021 applications to August 31, 2020. The Department is extending this deadline to allow LEAs impacted by the extraordinary circumstances related to the COVID–19 pandemic additional time to submit their amended applications. Applicants submitting amendments under 34 CFR 222.5(b) are not required to submit a written request prior to submitting their application amendments, nor are they required to submit a copy to their State educational agency, through August 31, 2020.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, it must be determined whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f)(1) of Executive Order 12866.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866 and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because this final rule is not a significant regulatory action, Executive Order 13771 does not apply.

We have also reviewed this regulation under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things, and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this final regulation only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this final regulation is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with the Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. This extension of the application amendment deadline is not expected to have any costs because it is designed to merely allow additional time for LEAs to submit their FY 2021 application amendments to their Impact Aid applications under 34 CFR 222.5 in light of the extraordinary circumstances related to the COVID–19 pandemic. This extension relates to the procedure we use for administering the Impact Aid program; there is no additional burden on our stakeholders but rather a benefit, and the additional burden on the Department, if any, is minor.

Waiver of Rulemaking

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations. However, the APA provides that an agency is not required to conduct notice and comment rulemaking when the agency for good cause finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Here, there is good cause to waive rulemaking under the public interest exception of the APA.

''The public interest prong of the good cause exception to the APA notice and comment requirement is met only in the rare circumstance when ordinary procedures—generally presumed to serve the public interest—would in fact harm that interest.'' *Mack Trucks Inc.* v. *E.P.A.,* 682 F.3d 87, (D.C. App. 2012) (*citing Util. Solid Waste Activities Grp.,* 236 F.3d, 749, 755 (D.C. Cir. 2001). ''It is appropriately invoked when the

timing and disclosure requirements of the usual procedures would defeat the purpose of the proposal—if, for example, announcement of a proposed rule would enable the sort of financial manipulation the rule sought to prevent, and in such a circumstance, notice and comment could be dispensed with in order to prevent the amended rule from being evaded.'' *Id. at 95.* The COVID–19 pandemic has resulted in extraordinary circumstances including widespread school closures. The IAP regulations govern Impact Aid payments to LEAs that are affected by Federal activities; these payments are designed to help replace local tax revenue. LEAs rely on Impact Aid for maintenance and operations costs. Many LEAs are experiencing great difficulties and delays in conducting normal operations, and we have had numerous requests for an extension of the amendment deadline. There is not time for public notice and comment prior to the existing June 30 deadline. By extending the date for LEAs to amend their IAP applications under 34 CFR 222.5, this final regulation ensures that the LEAs are not cut off from IAP funding, which would be contrary to the public interest.

The APA also authorizes agencies to make a rule effective immediately, upon a showing of good cause, instead of imposing a 30-day delay. 5 U.S.C. 553(d)(3). For the reasons stated above, the Department has concluded it has good cause, under the public interest exception, to make this rule effective immediately.

Regulatory Flexibility Act Certification

The Regulatory Flexibility Act does not apply to this rulemaking because there is good cause to waive notice and comment under 5 U.S.C. 553.

Paperwork Reduction Act of 1995

The final regulations do not create any new information collection requirements.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer disk) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

List of Subjects in 34 CFR Part 222

Administrative practice and procedure, Education of individuals with disabilities, Elementary and secondary education, Federally affected areas, Grant programs-education, Indians-education, Reporting and recordkeeping requirements, School construction.

Betsy DeVos,

Secretary of Education.

[FR Doc. 2020–10147 Filed 5–22–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

34 CFR Part 300

[Docket ID ED–2019–OSERS–0111]

Assistance to States for the Education of Children With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final notice of interpretation.

SUMMARY: The Individuals with Disabilities Education Act (IDEA) established the National Instructional Materials Access Center (NIMAC) in 2004 to assist State educational agencies (SEAs) and local educational agencies (LEAs) with producing accessible instructional materials for students with print disabilities. The U.S. Department of Education (Department) issues this final notice of interpretation to clarify that the definition of ''print instructional materials'' in IDEA includes digital instructional materials.

DATES: This final interpretation is effective May 26, 2020.

FOR FURTHER INFORMATION CONTACT: Tara Courchaine, U.S. Department of Education, 400 Maryland Avenue SW, Room 5054E, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6462. Email: *Tara.Courchaine@ed.gov.*

SUPPLEMENTARY INFORMATION:

Background

The NIMAC was established under IDEA in 2004 to assist SEAs and LEAs in the production of accessible instructional materials for students with print disabilities. While discussing proposed changes to IDEA in the Senate, Senator Dodd, a co-sponsor of the bill, commented on the reason for establishing NIMAC, stating ''these important provisions will greatly aid blind and print disabled students by ensuring they receive their textbooks and other instructional materials in the formats they require, such as Braille, at the same time as their sighted peers.'' 108 Cong. Rec. S11, 656 (April 29, 2003). Similarly, the House report noted that ''the provision is intended to provide students who are blind or have other print disabilities with more timely access to instructional materials used in elementary and secondary schools.'' H.R. Rep. No. 108–77, at 98 (April 29, 2003). Within the legislation, the scope and duties of the NIMAC as the searchable online national file repository of K–12 print textbooks in the extensible markup language (XML)-based National Instructional Materials Accessibility Standard (NIMAS) format are clearly defined, as are the key definitions framing its operations.

These duties are:

1. To receive and maintain a catalog of print instructional materials prepared in the NIMAS, as established by the Secretary, made available to such center by the textbook publishing industry, SEAs, and LEAs.

2. To provide access to print instructional materials, including textbooks, in accessible media, free of charge, to blind or other persons with print disabilities in elementary schools and secondary schools, in accordance with such terms and procedures as the NIMAC may prescribe.

3. To develop, adopt, and publish procedures to protect against copyright infringement, with respect to the print instructional materials provided in sections 612(a)(23) and 613(a)(6) of IDEA. (Section 674(e)(2)(A)–(C) of IDEA; 20 U.S.C. 1474(e)(2)(A)–(C)).

Under section 674(e)(3)(C) of IDEA (20 U.S.C. 1474(e)(3)(C)), the term ''print instructional materials'' means ''printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a State educational agency or local educational agency for use by students in the classroom.'' During the 15 years since the NIMAS was created, the use of digital educational materials [1] as a core component of elementary and secondary

[1] For the purpose of this notice of interpretation, the Department views ''digital educational materials'' as ''digital instructional materials.''

curriculum has grown significantly. Currently, the majority of States have digital learning plans and digital learning standards. In addition, State leaders have demonstrated a commitment to digital learning and the use of digital materials and to support personalized learning that meets the needs of all students.[2] In fact, in 2014, Florida developed a five-year plan that requires all schools to move to digital classrooms.[3] In a recent United States survey, 75 percent of classroom teachers expected digital content to replace traditional print textbooks by 2026.[4]

IDEA, however, does not specifically address the inclusion or use of digital instructional materials, which were not as common when the law was originally enacted. At this time, NIMAC does not accept digital instructional materials. This exclusion limits access to digital materials for students who are blind or visually impaired. The exclusion also forces teachers to retrofit materials or provide alternate materials that are not equivalent to those available to students without disabilities. Additionally, these retrofitted materials may not be provided to students in a timely manner or are of inconsistent quality. Consequently, students who are blind or visually impaired are potentially denied equal educational opportunity, comparable access to materials, and access to information in a timely manner. This is especially true for students in Pre-K–3, who require embossed braille to ensure a solid foundation in early literacy, as well as for older students who use braille (embossed or digital).

Digitally formatted materials accompanied by technology have the potential to facilitate learning for all students. However, these materials will benefit students who are blind, visually impaired, or have other print disabilities only if they are available in accessible formats.[5]

On October 21, 2019, the Department published a notice in the **Federal Register** (84 FR 56154) proposing to interpret ''print instructional materials'' in section 674(e)(3)(C) of IDEA (20 U.S.C. 1474(e)(3)(C)) to include digital instructional materials. There are no significant differences between the proposed interpretation and this final interpretation.

Other than statutory and regulatory requirements included in the document, the contents of this final notice of interpretation do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Public Comment: In response to our invitation in the notice of proposed interpretation, 48 parties submitted comments.

Analysis of Comments and Changes: An analysis of the comments and any changes in the interpretation since publication of the proposed interpretation follows. We do not address comments that raised concerns not directly related to the proposed interpretation.

Comments: Most of the comments received were in favor of the proposed interpretation. A large majority of the commenters were in full support of the proposed interpretation with no questions or concerns.

Discussion: The Department appreciates the positive feedback and responses regarding this interpretation.

Changes: None.

Comments: Commenters generally agreed that the proposed interpretation meets the original congressional intent, responds to the increase in digital materials used for instruction, and is in line with the current educational paradigm. A few commenters provided data to support this comment. One commenter noted that the absence of digital materials from the definition of ''print materials'' was unintentional.

Discussion: The Department agrees that the interpretation is in line with congressional intent and is responsive to current educational needs of students with disabilities.

Changes: None.

Comments: The majority of commenters agreed that our proposed interpretation is a timely decision and will ensure timely access to high-quality digital instructional materials. They noted that given the high cost of new technologies, the proposed interpretation will be an efficient and low-cost solution to create accessible materials that allow students with disabilities to participate and use the same educational materials available to their non-disabled peers. They said that the proposed interpretation will also help to increase equity and elevate learning for all students.

Discussion: The Department agrees that this final interpretation helps to ensure access to high-quality digital instructional materials. The Department believes that students who are blind or visually impaired and other students with print disabilities must have equal educational opportunities, comparable access to materials, and access to information in a timely manner.

Changes: None.

Comments: Several commenters noted that ''digital'' does not mean ''accessible'' and that digital materials may not work with specialized screen readers such as the DAISY audio player, electronic publication file (EPUB) readers, or refreshable braille displays. According to these commenters, allowing digital materials in the NIMAC would streamline the process of making materials accessible, provide greater access, help to improve the procurement and delivery of accessible instructional materials, and help SEAs and LEAs meet their obligations with respect to a free appropriate public education. They noted that students should be able to access educational materials in the format they require. In addition, a few commenters stated that every child learns differently and that allowing the NIMAC to accept digital educational materials will remove barriers. Also, one State noted that this change matched their current administrative code, which requires a publisher to provide NIMAS file sets to the NIMAC if an electronic textbook is not fully accessible on current computer platforms, or is not available as a print instructional material.

Discussion: The Department appreciates the positive feedback and agrees that ''digital'' does not necessarily mean ''accessible.'' Students must receive high-quality digital materials in the format they require.

Changes: None.

Comments: One commenter posed five questions about the proposed interpretation: (1) Whether it applies to materials that are exclusively digital; (2) whether it applies to print materials that already comply with the NIMAS format; (3) whether the intent is for every digital element to be converted to the NIMAS format; (4) whether, if the technology of a file already meets Web Content Accessibility Guidelines (WCAG) 2.0 AA, it still needs to go to the NIMAC; and (5) whether students with other types of disabilities[6] will be able to access the files.

[2] State Educational Technology Directors Association (SETDA). (2019). State K12 Instructional Materials Leadership Trends Snapshot. *www.setda.org/master/wp-content/uploads/2019/03/DMAPS_snapshot_3.26.19.pdf.*

[3] Florida's Digital Classrooms Program. *www.fldoe.org/core/fileparse.php/5658/urlt/0097843-fdoedigitalclassroomsplan.pdf.*

[4] Harpur, P. (2017). Discrimination, copyright, and equality: Opening the e-book for the print disabled. *https://ssrn.com/abstract=2977629.*

[5] Harpur, P. (2017). Discrimination, copyright, and equality: Opening the e-book for the print disabled. *https://ssrn.com/abstract=2977629.*

[6] The NIMAC currently serves students who meet the current National Library Service definition of students who are blind, visually impaired, or have

Continued

Discussion: We appreciate the opportunity to clarify our interpretation in response to the commenter's questions.

First, digital materials submitted to the NIMAC must be submitted in a valid XML-based NIMAS format. Our interpretation does not impact print materials that have already complied with the NIMAS format. We do not intend for every digital element to be converted to the NIMAS format. Rather, the file must be able to be converted to a valid XML-based NIMAS format. If the digital technology meets WCAG 2.0 AA accessibility specifications, it will not need to be submitted to the NIMAC. Finally, for children to access NIMAS files, they will have to meet the eligibility requirements specified in IDEA. Specifically, they must be a child who is blind, visually impaired, or has a print disability.

Changes: None.

Comments: One commenter was concerned that the change would remove the current requirements for print instructional materials.

Discussion: The current requirements regarding print instructional materials are not changing and will remain in place. The interpretation means the NIMAC may continue to accept digital textbooks and related core materials that can conform to the NIMAS XML format.

Changes: None.

Comments: A few commenters emphasized the need to continue to promote the market models that encourage publishers to create accessible K–12 instructional materials. However, one commenter noted that publishers currently do not use the principles of Universal Design for Learning (UDL) or consider the unique needs of students with print disabilities in the development of their products.

Discussion: The Department fully supports the development of born-accessible digital materials. The Department encourages publishers to meet section 508 accessibility requirements that align to the WCAG 2.0 AA standards. If publishers are creating EPUBs, the Department agrees that they should conform to EPUB Accessibility 1.0 requirements. In addition, the Department encourages publishers to produce born-accessible materials that incorporate the principles of UDL. As the commenters noted, if digital materials are not created using these guidelines, some students will not have access to the high-quality materials necessary for learning.

Changes: None.

Comments: One commenter agreed that adding digital learning materials to the NIMAC would enhance learning experiences for both students and teachers and suggested that to ensure the best outcome, the Office of Special Education Programs (OSEP) should conduct a survey to determine the need for accessible digital instructional materials and ensure effective implementation, for which a second commenter was willing to assist with quantitative data collection. A third commenter wrote that the National Center on Accessible Educational Materials (AEM Center) is prepared to provide technical assistance and to develop models for the markup of digital materials in the NIMAS XML format.

Discussion: The Department appreciates the commenters' support. OSEP and the NIMAC will work with the AEM Center to develop and provide technical assistance on the final interpretation, and OSEP appreciates the AEM Center's offer to help with data. OSEP will consider gathering more information to determine the needs of the target population for technical assistance.

Changes: None.

Comments: A few commenters were concerned that this interpretation would be applied too broadly to digital instructional materials and that the materials would not meet the technical specifications of the NIMAS format. In addition, they expressed concern that the interpretation may be misconstrued as extending beyond simple textbooks and related core materials. These commenters also noted that the NIMAS is a source file and the NIMAC should not be accepting files that are intended to be distributed directly to the students. Finally, one commenter suggested that we more clearly specify in the interpretation that the materials must meet the requirements of the NIMAS specification.

Discussion: Although we do not think changes to our interpretation are necessary, we appreciate the opportunity to clarify this important point. Only digital instructional materials that can meet the requirements of the NIMAS specification are appropriate for the NIMAC. NIMAS files are not in a format that can be distributed directly to students. These include digital materials that fit a traditional book format with static print and images. This means that the NIMAC would accept valid NIMAS file sets derived from conforming digital instructional materials that were never produced in a traditional print format. This interpretation refers to the subset of digital instructional materials that are composed primarily of static images and text that can meet the requirements of the NIMAS specification. ''Conforming'' in this context means digital instructional materials that can be accurately rendered in NIMAS 1.1, including an XML content file using the Baseline Element Set. The Baseline Element Set contains an XML content file, a package file, a portable document format (PDF) copy of the title page (or whichever page(s) contain(s) the International Standard Book Number (ISBN) and copyright information), and a full set of the content's images. See *http://aem.cast.org/creating/nimas-technical-specification-annotated.html.* OSEP will work with AEM-related technical assistance centers to fully support the implementation of the interpretation.

Changes: None.

Comments: A few commenters noted that in applying the proposed interpretation to digital instructional materials, if a State chooses to coordinate with the NIMAC, it would not need to send materials already produced or rendered in accessible formats. In addition, one of these commenters noted that the NIMAC should only receive materials that are in a ''source file format.''

Discussion: The Department agrees. If digital instructional material is already in an accessible format, it would not need to be sent to the NIMAC. Digital instructional materials are accessible if they meet the standards set forth in section 508 of the Rehabilitation Act of 1973, as amended (Rehabilitation Act). In addition, the NIMAC can only accept materials in a valid NIMAS XML format, which is a source file format.

Changes: None.

Comments: A few commenters wanted to emphasize the continued need for braille instruction in elementary and secondary schools. They commented on the importance of embossed braille and noted that digital materials continue to remain inaccessible for the population of students that require it. They also noted the importance of embossed braille for teaching early literacy skills. One commenter wrote that allowing the NIMAC to accept digital materials would be a significant step forward in addressing accessibility needs and would allow eligible students to receive these materials in a timely manner.

Discussion: The Department agrees that braille instruction and embossed braille remain critical for teaching early

print disabilities. It should be noted that this definition was updated on December 20, 2019. The definition now aligns with section 121 of the Copyright Act of 1976, as amended by the Marrakesh Treaty Implementation Act (MTIA), Public Law 115–261.

literacy skills and instruction in K–12 settings for students who are blind and visually impaired. The Department believes that allowing the NIMAC to accept digital files that meet the NIMAS standard will provide a way for students to receive these materials in a timely manner in the format they require.

Changes: None.

Comments: One commenter noted that the Department's interpretation is consistent with the MTIA, which amended section 121 of the Copyright Act of 1976, as amended (Copyright Act), to comply with the terms of the Marrakesh Treaty. The commenter wrote that similar to the Department's interpretation to include digital instructional materials under the definition of ''print instructional materials,'' MTIA and the accompanying Senate report use the terms ''print'' and ''text'' interchangeably. A second commenter noted that the NIMAC Limitation of Use Agreement should be updated to reflect the changes to the Copyright Act enacted in MTIA.

Discussion: The Department appreciates the feedback and agrees that the interpretation is in line with both congressional intent and the updated definition in the Copyright Act. On December 20, 2019, the President signed legislation to align the National Library Service's definition of ''blind and other persons with disabilities'' with section 131 of the Copyright Act.[7] The NIMAC Limitation of Use Agreement will be updated to reflect the changes to the Copyright Act enacted in MTIA once the regulations are published by the National Library Service at the Library of Congress.

Changes: None.

Comments: One commenter wrote that the Association of American Publishers has supported the NIMAC and validated its mission since its inception and noted that this interpretation seems timely and sensible. However, the commenter was concerned that, with this change, current guidance will be out of date. The commenter suggested delaying the effective date of the notice of interpretation until guidance is updated.

Discussion: The Department agrees that the interpretation will supersede the current practice that is reflected in the ''Publishers and Conversion Houses FAQ'' on the NIMAC website. It is the Department's intent to update the FAQ, and we do not believe that it is necessary to delay the effective date of the notice.

Changes: None.

Comments: One commenter asked how the proposed interpretation applies when the purpose of converting digital instructional materials is the ability to create embossed braille. The commenter noted that interactive or adaptive programs do not easily translate to a static braille format.

Discussion: The Department has considered this issue. We agree that interactive and adaptive programs do not translate to a static braille format. Digital instructional materials intended for the NIMAC would be those materials that follow a traditional textbook format, consisting of static text and images. Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA), as amended, would require that interactive and adaptive digital materials be made accessible where needed to provide an equal educational opportunity to students with disabilities, as discussed further in the response to the next comment.

Changes: None.

Comments: One commenter asked how digital materials that are not part of the scope of the NIMAC will fit into the IDEA scheme for delivery to students with print disabilities in a timely manner.

Discussion: The current scope of the NIMAC is limited, but IDEA still requires the provision of free educational materials, including textbooks and instructional materials, in accessible formats to eligible children and students. SEAs and LEAs must provide materials in accessible formats in a timely manner (IDEA Part B, section 612(a)(23)(A) and section 613(a)(6)(B)) (20 U.S.C. 1412(a)(23)(A), 1413(a)(6)(B)).

Further, section 504 of the Rehabilitation Act and the Department's implementing regulations prohibit discrimination against individuals with disabilities by recipients of Federal financial assistance from the Department, and, among other things, require the provision of a free appropriate public education to elementary and secondary students with disabilities. (34 CFR 104.4, 104.33). The ADA also prohibits discrimination against individuals with disabilities, and the regulations implementing Title II of the ADA include a specific requirement that public entities ensure that communication with students with disabilities is as effective as communication with students without disabilities, through the provision, in a timely manner, of auxiliary aids and services. (28 CFR 35.130(a), 35.160). These laws require SEAs and LEAs to provide educational materials in accessible formats where needed to provide these students with an equal educational opportunity.

Changes: None.

Comments: One commenter noted that it would be useful to understand how the proposed interpretation fits into the broader world of accessibility efforts and what it means for the future of the NIMAS and NIMAC.

Discussion: The Department fully supports the ongoing work of the Web Accessibility Initiative of the World Wide Web consortium on the WCAG 2.0 AA and the EPUB3 accessibility specifications along with the updated section 508 standards in the Rehabilitation Act. However, even if materials are born-accessible, some students will still have needs that cannot be met by commercially available instructional materials, even if they meet WCAG 2.0 AA accessibility and section 508 standards. This is particularly true for students who access instruction through embossed braille and tactile graphics. When this is the case, NIMAS files provided to the NIMAC ensure that students will receive high-quality instructional materials in a timely manner.

Changes: None.

Final Interpretation

Given the purpose of NIMAC, the trend toward digital instructional materials and resources, and the silence of the statute on the acceptance of digital files, the Department interprets the phrase ''printed textbooks and related printed core materials'' referred to in the definition of ''print instructional materials'' in section 674(e)(3)(C) of IDEA (20 U.S.C. 1474(e)(3)(C)) to include digital instructional materials that comply with NIMAS, because that is the primary medium through which many textbooks and core materials are now produced. The Department considers digital materials submitted to NIMAC to be in digital print format, which falls under the larger category of ''print'' and is consistent with the statutory language of section 674(e)(3)(C) of IDEA (20 U.S.C. 1474(e)(3)(C)). The Department believes this interpretation to be aligned with the

[7] The IDEA uses the term ''blind or other persons with print disabilities'' in 20 U.S.C. 1412(a)(23)(E)(i) and 34 CFR 300.172(e)(1)(i). However, that term has been removed from the Copyright Act and replaced with the term ''eligible person.'' ''Eligible person'' means an individual who, regardless of any other disability—(A) is blind; (B) has a visual impairment or perceptual or reading disability that cannot be improved to give visual function substantially equivalent to that of a person who has no such impairment or disability and so is unable to read printed works to substantially the same degree as a person without an impairment or disability; or (C) is otherwise unable, through physical disability, to hold or manipulate a book or to focus or move the eyes to the extent that would be normally acceptable for reading.'' (17 U.S.C. 121(d)(3).)

purpose of the statute, which is to provide timely instructional materials to students who are blind or have other print disabilities. Therefore, under this interpretation, NIMAC would be able to accept digital instructional materials submitted in a valid XML-based NIMAS format.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark Schultz,

Commissioner, Rehabilitation Services Administration. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2020–09273 Filed 5–22–20; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2019–0330; FRL–10009–08–Region 5]

Air Plan Approval; Illinois; Redesignation of the Lemont and Pekin Sulfur Dioxide Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is redesignating the Lemont and Pekin sulfur dioxide (SO_2) areas from nonattainment to attainment of the 2010 SO_2 national ambient air quality standard (2010 SO_2 NAAQS). EPA is also approving Illinois' maintenance plan for these areas. Emissions of SO_2 in the two areas have been reduced, and the areas' monitored air quality is currently better than the 2010 SO_2 NAAQS. EPA proposed to approve this action on February 24, 2020 and received two public comment submissions.

DATES: This final rule is effective on May 26, 2020.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2019–0330. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID 19. We recommend that you telephone Mary Portanova, Environmental Engineer, at (312) 353–5954 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR 18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–5954, *portanova.mary@epa.gov.*

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

I. Background Information

On February 24, 2020 (85 FR 10360), EPA proposed to redesignate the Lemont and Pekin SO_2 nonattainment areas to attainment of the 2010 SO_2 NAAQS. The Lemont area is comprised of Lemont Township in Cook County and Lockport and DuPage Townships in Will County. The Pekin area is comprised of Hollis Township in Peoria County and Cincinnati and Pekin Townships in Tazewell County. An explanation of the Clean Air Act (CAA) requirements, a detailed analysis of Illinois' redesignation requests, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking (NPRM) and will not be restated here.[1] The public comment period for this NPRM ended on March 25, 2020. EPA received two comments on the proposal.

II. Public Comments

EPA received two public comments on the February 24, 2020 proposal to redesignate the Lemont and Pekin nonattainment areas. The comments are included in the docket for this action. One comment was not germane or relevant to this action and therefore not adverse to this action. The comment lacks the required specificity to the proposed action and the relevant requirements of the CAA. Moreover, the comment does not address a specific regulation or provision relevant to the NPRM or recommend a different action on the State's request from what EPA proposed. The second comment is addressed below.

Comment: The commenter stated that EPA should disapprove these areas' redesignation requests, asserting that the state's maintenance plan lacked any enforceable contingency measures. The commenter described the maintenance plan's contingency measures as an unacceptable ''wait and see'' approach. The commenter asserted that ''EPA's own requirements for contingency measures necessitate that the state already have measures developed and ready to go into effect upon a triggering mechanism.'' Moreover, the commenter argued that the maintenance plan does not specify a valid trigger for the contingency measures, and further asserts that violation of the NAAQS cannot itself serve as the trigger for a contingency measure. The commenter also disagreed that Illinois should be permitted to develop a contingency measure once a violation of the NAAQS occurs, rather than implementing a fully developed preset measure. The commenter concluded that EPA must send this maintenance plan back to the state and require an actual enforceable measure, fully developed and ready to be enforced and implemented, that would be held in reserve in case the areas violate a discrete, set contingency level based on measured air quality in the areas.

Response: CAA section 175A(d) requires that each maintenance plan submitted ''shall contain such contingency provisions *as the Administrator deems necessary* to

[1] The NPRM spoke of ''maintenance plans'' for the two areas, but in fact Illinois submitted a single maintenance plan which covers both the Lemont and Pekin SO_2 areas.

assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area'' (emphasis added). By this language Congress provided EPA the discretion to determine what contingency measures are necessary to promptly correct any violation of the NAAQS after an area is redesignated to attainment. EPA set forth the procedures for reviewing redesignation requests, including maintenance plan provisions, in the September 4, 1992 memorandum from the EPA Director of the Air Quality Management Division, John Calcagni, entitled *Procedures for Processing Requests to Redesignate Areas to Attainment* (the ''Calcagni Memorandum''). The Calcagni Memorandum set forth several provisions for states to consider in developing contingency measures, including the following: ''For the purposes of [CAA] section 175A, a State is not required to have fully adopted contingency measures that will take effect without further action by the State in order for the maintenance plan to be approved. However, the contingency plan is considered to be an enforceable part of the SIP and should ensure that the contingency measures are adopted expediently once they are triggered.'' Calcagni Memorandum at 12.

In its April 23, 2014 *Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions* (the ''2014 SO_2 Guidance''), EPA provided additional guidance, specific to SO_2 nonattainment areas, for states to develop maintenance plans to meet the requirements of CAA section 175A(d). In addition to affirming the requirements set forth in CAA section 175A(d) and the guidance in the Calcagni Memorandum, the 2014 SO_2 Guidance suggested that previous EPA guidance applicable to contingency measures for nonattainment plans under CAA section 172(c)(9) may also apply to CAA section 175A(d): For instance, where attainment revolves around compliance with a small set of sources with emission limits shown to provide for attainment, the EPA interprets ''contingency measures'' to mean that the state agency has a comprehensive program to identify sources of violations of the SO_2 NAAQS and to undertake an aggressive follow-up for compliance and enforcement. *See* 57 FR 13498, 13547 (Apr. 16, 1992).

With this background in mind, we turn to the commenter's specific criticisms of the proposed rulemaking. The commenter claims that Illinois' maintenance plan has no enforceable contingency measures and is a ''wait and see approach,'' declaring that ''EPA's own requirements for contingency measures necessitate that the state already have measures developed and ready to go into effect upon a triggering mechanism.'' That Illinois' plan may look like a ''wait-and-see'' approach is expected to some extent for any contingency plan, as contingency measures under the CAA are not intended to come into effect until an area encounters difficulty maintaining the NAAQS. Illinois must keep track of SO_2 monitor data and emissions in the Lemont and Pekin areas in order to determine when to activate its contingency plan. The contingency plan and commitments in the maintenance plan are enforceable as part of the Illinois SIP. However, as the Calcagni Memorandum makes clear, there is no requirement under CAA section 175A for Illinois to fully adopt specific additional controls or limitations as contingency measures that will take effect without further action by Illinois before EPA may approve the maintenance plan. A requirement for a SIP to include specific contingency measures that can take effect without further action by the state appears in section 172(c)(9) of the CAA, pertaining specifically to the required elements for nonattainment plans intended to bring a nonattainment area into attainment of an air quality standard. The 2014 SO_2 Guidance explains on page 41 that SO_2 presents special considerations and cites EPA's February 1994 ''SO_2 Guideline Document'' regarding these considerations. The guidance indicates that pre-planned contingency measures may be useful for augmenting certain criteria pollutant strategies which involve controlling pollutant precursors from widespread small sources that can have uncertain control efficiencies and complex atmospheric interactions with other precursor emissions, but as there is much less uncertainty in the effectiveness of control strategies for directly-emitted pollutants such as SO_2, such prescriptive additional measures are typically not necessary to reach attainment. Because SO_2 implementation plans contain emission limits that are directly and quantifiably shown through air dispersion modeling to be necessary and sufficient to attain the SO_2 NAAQS, it would be unlikely for an area to implement its plan and yet fail to attain the NAAQS. Therefore, the 2014 SO_2 Guidance states that for SO_2 programs, contingency measures can mean that the air agency has a comprehensive program to enforce emission limits and to identify and address sources of violations of the SO_2 NAAQS, and that EPA believes that this approach continues to be valid for the 2010 SO_2 NAAQS. The 2014 SO_2 Guidance, as noted above, expects the implementation and enforcement of the area's nonattainment plan emission controls and limits to address this CAA requirement for SO_2 areas. The contingency measures pursuant to CAA section 172(c)(9) for the Lemont and Pekin areas were addressed at 82 FR 46434, October 5, 2017. Now that Illinois has requested redesignation to attainment for the Lemont and Pekin areas, the requirements of CAA section 175A apply. As mentioned above, CAA section 175A does not require states to provide a set of fully adopted additional control measures as contingency measures in a redesignated area's maintenance plan.

The commenter also suggests that the Lemont and Pekin areas' contingency plan has either no triggering event or mechanism, or that the only triggering event is a violation of the 2010 SO_2 NAAQS, and it is incorrect for the trigger to be a violation. The commenter is correct that a maintenance plan must identify ''specific indicators, or triggers, which will be used to determine when the contingency measures need to be implemented.'' *See* Calcagni Memorandum at 12. There is no requirement that the triggering event for a contingency measure be set below the level of the NAAQS; the CAA states that contingency measures are intended to address violations that occur. States often include earlier triggers as a practical matter to assist in maintaining the NAAQS, and Illinois has in fact done so. Two of Illinois' triggering events are mentioned in the NPRM: Illinois will activate its contingency plan if the 99th percentile of maximum daily one-hour average SO_2 concentrations for any year exceeds 75 ppb, or if total SO_2 emissions increase more than five percent above the attainment year inventory. Neither case represents a violation of the 2010 SO_2 NAAQS, and both cases would be expected to allow Illinois adequate lead time to prepare and implement appropriate actions to avoid progressing to a violation of the 2010 SO_2 NAAQS. In the event of a violation, Illinois' planned action commitments follow a tighter schedule than the commitments triggered by the non-violating scenarios.

Illinois' contingency plan contains two action levels. Level I is intended to prevent violations from occurring. Level II is used when a violation does occur, and it provides for a faster response. A Level I response is triggered when the 99th percentile of maximum daily one-hour average SO_2 concentrations

exceeds 75 ppb in any year at any monitor in the Lemont or Pekin areas, or if total SO_2 emissions in the Lemont or Pekin maintenance areas increase more than five percent above the levels contained in the area's attainment year emission inventory. (Facilities in Illinois are required to report their actual emissions annually, under 35 Illinois Administrative Code 254.) Illinois will conduct a study to evaluate air quality and emission trends and determine the level of emission reductions needed and where such controls may be required. Illinois commits to implement such controls as expeditiously as practicable, formally adopting measures within 18 months of selection. A Level II response is triggered when a violation of the 2010 SO_2 NAAQS is measured at any monitor in the Lemont or Pekin maintenance areas. A violation occurs when the three-year average of annual 99th percentile daily maximum 1-hour values is greater than 75 ppb, in accordance with 40 CFR part 50, appendix T. Illinois commits to analyzing the cause of the violation and identifying effective measures to address it, on a tighter schedule than in Level I. Control measures will be adopted and implemented within 18 months of the certification of monitoring data indicating violation of the 2010 SO_2 NAAQS. Illinois' choice to use the occurrence of actual violations of the 2010 SO_2 NAAQS as a contingency triggering event does not indicate that Illinois contemplates delaying reasonable action for three years, or waiting to act until air quality is unhealthy, but instead anticipates a situation in which a sudden serious malfunction or drastic failure of compliance causes an impact large enough to mathematically raise the three-year design value over 75 ppb, constituting a violation, without warning.

Finally, as to the commenter's assertion that EPA should not allow Illinois to determine what measures will be implemented should a violation occur, and should instead require predetermined measures, EPA has explained above that predetermined contingency measures are not required or necessary for SO_2 maintenance plans. EPA expects that, if needed, appropriate additional pollution control actions must be chosen based on the circumstances, *i.e.,* the specific source culpability, that led to the contingency plan being triggered. Selecting and implementing emission controls sufficient to re-attain the NAAQS is a typical function of the state. Illinois has the authority and resources to investigate increased ambient concentrations or source emissions, determine the cause, and develop new or revised source-specific control measures or emission limits to address the situation. As stated above, the contingency plan for the Lemont and Pekin areas is federally enforceable once approved into the SIP, so EPA can assure that Illinois will take prompt action as necessary per its commitment.

As shown by the Calcagni Memorandum and the 2014 SO_2 Guidance, EPA's longstanding interpretation of the CAA contingency measure requirements for SO_2 is that neither a state's SO_2 nonattainment plan nor its maintenance plan must include a set of fully adopted SO_2 control measures separate from, and in addition to, the SO_2 control measures and emission limits that have been adopted into the state's nonattainment SIP and are demonstrated to provide for attainment of the SO_2 NAAQS. In addition, triggers for contingency plans may include monitored NAAQS violations. EPA believes that Illinois' contingency plan for the Lemont and Pekin areas meets EPA's guidance for redesignating SO_2 nonattainment areas. EPA does not agree with the commenter that the Lemont and Pekin maintenance plan should be returned to the State or that the redesignations of the Lemont and Pekin areas should be disapproved. Therefore, EPA is finalizing the February 24, 2020 action as proposed.

III. Final Action

EPA is redesignating the Lemont and Pekin areas to attainment of the 2010 SO_2 NAAQS. EPA is also approving Illinois' maintenance plan, which is designed to ensure that the Lemont and Pekin areas will continue to maintain the 2010 SO_2 NAAQS.

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 areas from certain CAA requirements that would otherwise apply to them. 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 these SO_2 nonattainment areas. 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 the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of the geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application 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 these reasons, 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 this action 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 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications 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 the NAAQS 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 July 27, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

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

Dated: April 29, 2020.

Kurt Thiede,

Regional Administrator.

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 § 52.720, the table in paragraph (e) is amended under ''Attainment and Maintenance Plans'' by adding an entry for ''Sulfur dioxide (2010) maintenance plan'' after the entry ''Sulfur dioxide maintenance plan'' to read as follows:

§ 52.720 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED ILLINOIS NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Comments
* *	* *	*	* *	*
Sulfur dioxide (2010) maintenance plan.	Lemont and Pekin	5/24/2019	5/26/2020, [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 81.314 is amended in the table entitled ''Illinois—2010 Sulfur Dioxide NAAQS [Primary]'' by revising the entries ''Lemont, IL'' and ''Pekin, IL'' and adding the entry ''Rest of State'' at the end of the table to read as follows:

§ 81.314 Illinois.

* * * * *

ILLINOIS—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area [1] [2]	Designation	
	Date [3]	Type
* * * * *	*	*
Lemont, IL	5/26/2020	Attainment.
Cook County (part)		
Lemont Township		
Will County (part)		
DuPage Township and Lockport Township		
Pekin, IL	5/26/2020	Attainment.
Tazewell County (part)		
Cincinnati Township and Pekin Township		
Peoria County (part)		
Hollis Township		
Rest of State:		
Adams County		Attainment/Unclassifiable.
Alexander County		Attainment/Unclassifiable.
Bond County		Attainment/Unclassifiable/
Boone County		Attainment/Unclassifiable.
Brown County		Attainment/Unclassifiable.
Bureau County	9/12/16	Attainment/Unclassifiable.
Calhoun County		Attainment/Unclassifiable.
Carroll County		Attainment/Unclassifiable.
Cass County		Attainment/Unclassifiable.
Champaign County		Attainment/Unclassifiable.
Christian County		Attainment/Unclassifiable.
Clark County		Attainment/Unclassifiable.
Clay County		Attainment/Unclassifiable.
Clinton County		Attainment/Unclassifiable.
Coles County		Attainment/Unclassifiable.
Cook County (part) (remainder)		Attainment/Unclassifiable.
Crawford County		Attainment/Unclassifiable.
Cumberland County		Attainment/Unclassifiable.
De Kalb County		Attainment/Unclassifiable.
De Witt County		Attainment/Unclassifiable.
Douglas County		Attainment/Unclassifiable.
Du Page County		Attainment/Unclassifiable.
Edgar County		Attainment/Unclassifiable.
Edwards County		Attainment/Unclassifiable.
Effingham County		Attainment/Unclassifiable.
Fayette County		Attainment/Unclassifiable.
Ford County		Attainment/Unclassifiable
Franklin County		Attainment/Unclassifiable.
Fulton County		Attainment/Unclassifiable.
Gallatin County		Attainment/Unclassifiable.
Greene County		Attainment/Unclassifiable.
Grundy County		Attainment/Unclassifiable.
Hamilton County		Attainment/Unclassifiable.
Hancock County		Attainment/Unclassifiable.
Hardin County		Attainment/Unclassifiable.
Henderson County		Attainment/Unclassifiable.
Henry County		Attainment/Unclassifiable.
Iroquois County		Attainment/Unclassifiable.
Jackson County		Attainment/Unclassifiable.
Jasper County	9/12/16	Attainment/Unclassifiable.
Jefferson County		Attainment/Unclassifiable.
Jersey County		Attainment/Unclassifiable.
Jo Daviess County		Attainment/Unclassifiable.
Johnson County		Attainment/Unclassifiable.
Kane County		Attainment/Unclassifiable.
Kankakee County		Attainment/Unclassifiable.
Kendall County		Attainment/Unclassifiable.
Knox County		Attainment/Unclassifiable.
Lake County		Attainment/Unclassifiable.
La Salle County		Attainment/Unclassifiable.
Lawrence County		Attainment/Unclassifiable.
Lee County		Attainment/Unclassifiable.
Livingston County		Attainment/Unclassifiable.
Logan County		Attainment/Unclassifiable.
McDonough County		Attainment/Unclassifiable.
McHenry County		Attainment/Unclassifiable.

ILLINOIS—2010 SULFUR DIOXIDE NAAQS—Continued

[Primary]

Designated area [1] [2]	Designation	
	Date [3]	Type
McLean County		Attainment/Unclassifiable.
Macoupin County		Attainment/Unclassifiable.
Madison County (part) (remainder) [5]		Attainment/Unclassifiable.
Marion County		Attainment/Unclassifiable.
Marshall County		Attainment/Unclassifiable.
Mason County		Attainment/Unclassifiable.
Massac County	9/12/16	Attainment/Unclassifiable.
Menard County		Attainment/Unclassifiable.
Mercer County		Attainment/Unclassifiable.
Monroe County		Attainment/Unclassifiable.
Montgomery County		Attainment/Unclassifiable.
Morgan County		Attainment/Unclassifiable.
Moultrie County		Attainment/Unclassifiable.
Ogle County		Attainment/Unclassifiable.
Peoria County (part) (remainder)		Attainment/Unclassifiable.
Perry County		Attainment/Unclassifiable.
Piatt County		Attainment/Unclassifiable.
Pike County		Attainment/Unclassifiable.
Pope County		Attainment/Unclassifiable.
Pulaski County		Attainment/Unclassifiable.
Putnam County	9/12/16	Attainment/Unclassifiable.
Randolph County		Attainment/Unclassifiable.
Richland County		Attainment/Unclassifiable.
Rock Island County		Attainment/Unclassifiable.
St. Clair County		Attainment/Unclassifiable.
Saline County		Attainment/Unclassifiable.
Sangamon County		Attainment/Unclassifiable.
Schuyler County		Attainment/Unclassifiable.
Scott County		Attainment/Unclassifiable.
Shelby County		Attainment/Unclassifiable.
Stark County		Attainment/Unclassifiable.
Stephenson County		Attainment/Unclassifiable.
Tazewell County (part) (remainder)		Attainment/Unclassifiable.
Union County		Attainment/Unclassifiable.
Vermilion County		Attainment/Unclassifiable.
Wabash County		Attainment/Unclassifiable.
Warren County		Attainment/Unclassifiable.
Washington County		Attainment/Unclassifiable.
Wayne County		Attainment/Unclassifiable.
White County		Attainment/Unclassifiable.
Whiteside County		Attainment/Unclassifiable.
Will County (part) (remainder)		Attainment/Unclassifiable.
Williamson County	[4] 10/15/19	Attainment/Unclassifiable.
Winnebago County		Attainment/Unclassifiable.
Woodford County		Attainment/Unclassifiable.

[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] Macon County will be designated by December 31, 2020.

[3] This date is April 9, 2018, unless otherwise noted.

[4] Williamson County was initially designated on September 12, 2016. The initial designation was reconsidered and modified on October 15, 2019.

[5] A portion of Madison County, specifically all of Wood River Township, and the area in Chouteau Township north of Cahokia Diversion Channel, was designated attainment/unclassifiable on September 12, 2016.

* * * * *

[FR Doc. 2020–09549 Filed 5–22–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2019–0297; FRL–10008–50]

Chlormequat Chloride; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends a tolerance for residues of chlormequat chloride in or on oat grain. Taminco US LLC, a subsidiary of Eastman Chemical Company, requested this amendment under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective May 26, 2020. Objections and requests for

hearings must be received on or before July 27, 2020, 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–2019–0297, 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 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 EPA's tolerance regulations at 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–2019–0297 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 July 27, 2020. 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–2019–0297, 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. Summary of Petitioned-For Tolerance

In the **Federal Register** of June 28, 2019 (84 FR 30976) (FRL–9995–27), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 9F8758) by Taminco US LLC, a subsidiary of Eastman Chemical Company, 200 S Wilcox Drive, Kingsport, TN 37660–5147. The petition requested that 40 CFR 180.698 be amended by modifying the tolerance for residues of the plant regulator, chlormequat chloride, in or on the raw agricultural commodity oat, grain from 10 parts per million (ppm) to 30.0 ppm. That document referenced a summary of the petition prepared by Taminco US LLC, the registrant, which is available in the docket, *http://www.regulations.gov.* A comment was received in response to the notice of filing. EPA's response to this comment is discussed in Unit IV.C.

Based upon review of the data supporting the petition, EPA has modified the level to which the tolerance is being amended. The reason for this change is explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish 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. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), 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 chlormequat chloride including exposure resulting from the tolerance modified by this action. EPA's assessment of exposures and risks associated with chlormequat chloride follows.

On April 25, 2018, EPA published in the **Federal Register** a final rule establishing tolerances for residues of chlormequat chloride in or on barley, grain; cattle, meat byproduct; cattle, meat; egg; goat, meat byproduct; goat, meat; hog, meat byproduct; hog, meat;

milk; oat, grain; poultry, meat byproduct; poultry, meat; sheep, meat byproduct; sheep, meat; and wheat, grain based on the Agency's conclusion that aggregate exposure to chlormequat chloride is safe for the general population, including infants and children. *See* 83 FR 17925 (FRL–9974–42). That document contains a summary of the toxicological profile and points of departure, assumptions for exposure assessment, and the Agency's determination regarding the children's safety factor, which have not changed.

EPA's dietary exposure assessments have been updated to include the potential additional exposure from the increased tolerance of chlormequat chloride on oat grain, *i.e.,* reliance on tolerance-level residues for all crops, and an assumption of 100 percent crop treated (PCT). EPA's aggregate exposure assessment incorporated this additional assumed dietary exposure, as well as exposure in drinking water and from residential sources, although those latter exposures are not impacted by the increased tolerance on oat grain and thus have not changed since the last assessment. Further information about EPA's risk assessment and determination of safety supporting the tolerances established in the April 25, 2018 **Federal Register** action, as well as the amended chlormequat chloride tolerance, can be found at *http://www.regulations.gov* in the document titled, ''Chlormequat Chloride. Human-Health Risk Assessment to Support Establishment of a Tolerance Without U.S. Registration on Wheat, Barley, and Oats,'' dated February 27, 2018 in docket ID number EPA–HQ–OPP–2016–0661 and the document titled, ''Chlormequat Chloride. Human Health Risk Assessment to Support Tolerance Amendment for Residues in/on Imported Oat Grains,'' dated April 14, 2020 in docket ID number EPA–HQ–OPP–2019–0297.

Acute aggregate dietary risks (food and water) are below the Agency's level of concern of 100% of the acute population adjusted dose: 52% of the aPAD at the 95th percentile of exposure for all infants less than 1-year old, the population subgroup with the highest exposure estimate. Chronic dietary risks are below the Agency's level of concern of 100% of the chronic population adjusted dose (cPAD): 72% of the cPAD for children 1 to 2 years old, the population subgroup with the highest exposure estimate. There are no residential uses for chlormequat chloride; therefore, no aggregate short- or intermediate-term assessment was necessary.

Therefore, based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to chlormequat chloride residues. More detailed information on the subject action to modify the oat grain tolerance can be found in the document entitled, ''Chlormequat Chloride. Human Health Risk Assessment to Support Tolerance Amendment for Residues in/on Imported Oat Grains'' by going to *http://www.regulations.gov.* The referenced document is available in the docket established by this action, which is described under **ADDRESSES**. Locate and click on the hyperlink for docket ID number EPA–HQ–OPP–2019–0297.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate high-performance liquid chromatography method with tandem mass spectrometry detection (HPLC/MS/MS), BASF Method No. 530/0, is available for the determination of residues of chlormequat chloride in/on plant commodities. An adequate LC/MS/MS method, BASF Method No. 397/0 is available for the determination of residues of chlormequat chloride in livestock commodities for enforcement purposes.

The methods may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There is an established Codex MRL for chlormequat chloride in/on oat grains at 4 ppm. Based on the oat grain residue from the field trials (40 ppm), harmonization with the Codex MRL is not possible.

C. Response to Comments

One comment was received to the notice of filing that stated in part that ''this shoudl [sic] be denied. it shudl [sic] be disapproved.''

Although the Agency recognizes that some individuals believe that pesticides should be banned on agricultural crops, the existing legal framework provided by section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) authorizes EPA to establish tolerances when it determines that the tolerance is safe. Upon consideration of the validity, completeness, and reliability of the available data as well as other factors the FFDCA requires EPA to consider, EPA has determined that this chlormequat chloride tolerance is safe. The commenter has provided no information supporting a contrary conclusion.

D. Revisions to Petitioned-For Tolerances

The petitioner requested the oat, grain tolerance be amended from 10 ppm to 30.0 ppm. The analytical method detected chlormequat cation; therefore, the residues were converted to chlormequat chloride equivalents using a molecular weight conversion factor (MWCF) of 1.29. The petitioner-proposed tolerances on oat grains are without the MWCF; therefore, the Agency has determined that the tolerance needs to be higher. Additionally, the Agency is harmonizing the tolerance level with the MRL that is currently being established by Canada.

V. Conclusion

Therefore, the tolerance for residues of chlormequat chloride in or on oat, grain is amended from 10 ppm to 40 ppm.

VI. Statutory and Executive Order Reviews

This action amends a tolerance 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).

VII. 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: May 6, 2020.

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 § 180.698, revise the entry for ''Oat, grain'' and the footnote in paragraph (a) to read as follows:

§ 180.698 Chlormequat chloride; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Oat, grain [2]	40
* * * * *	

[2] There are no U.S. registrations for this commodity.

* * * * *

[FR Doc. 2020–10331 Filed 5–22–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2019–0384; FRL–9995–89]

Indoxacarb; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of the insecticide indoxacarb in or on corn, pop, grain at 0.02 parts per million (ppm) and corn, pop, stover at 15 ppm. FMC Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective May 26, 2020. Objections and requests for hearings must be received on or before July 27, 2020, 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–2019–0384 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. 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, Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue 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 EPA's tolerance regulations at 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–2019–0384 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 July 27, 2020. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b). 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–2019–0384, 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. Summary of Petitioned-For Tolerance

In the **Federal Register** of February 25, 2020 (85 FR 10642) (FRL–10000–85), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a revised pesticide petition (PP 8F8708) by FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104. The petition requested that 40 CFR 180.564 be amended by establishing tolerances for residues of the insecticide indoxacarb, [(S)-methyl 7-chloro-2,5-dihydro-2-[[(methoxycarbonyl)[4-(trifluoromethoxy)-phenyl]amino]carbonyl]indeno [1,2e][1,3,4]oxadiazine-4a(3H)-carboxylate], and its R-enantiomer [(R)-methyl 7 chloro-2,5-dihydro-2[[(methoxycarbonyl)[4-(trifluoromethoxy)phenyl] amino]carbonyl]indeno [1,2-e][1,3,4]oxadiazine-4a(3H)-carboxylate], in or on corn, pop, grain at 0.02 parts per million (ppm) and corn, pop, stover at 15 ppm. That document referenced a corrected summary of the petition prepared by FMC Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.*

EPA published this document in response to a comment received from FMC Corporation in response to a previously published notice of filing of August 2, 2019. In a comment submitted in response to that August 2, 2019 document, FMC Corporation noted that the August 2, 2019 notice indicated that E.I. du Pont de Nemours had filed the petition and that the incorrect petition summary was contained in the docket. EPA also noticed that the originally submitted petition did not actually request tolerances for residues of indoxacarb in or on popcorn commodities, despite the intent to do so. As a result, FMC Corporation submitted a revised petition, including a corrected summary of the petition, to correct the original notice error. One public comment was received in response to the corrected notice of filing. EPA's response to this comment is discussed in Unit IV.C.

Based upon review of the data supporting the referenced petition, EPA is establishing a tolerance for residues of indoxacarb in or on corn, pop, grain and corn, pop, stover.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish 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. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), 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 indoxacarb in or on corn, pop, grain and corn, pop, stover.

In the **Federal Register** on December 8, 2017 (82 FR 57860) (FRL–9970–39), EPA published a final rule establishing a tolerance for residues of the insecticide indoxacarb in or on corn, field, forage; corn, field, grain; and corn, field, stover based on the Agency's determination that aggregate exposure to indoxacarb is safe for the U.S. general population, including infants and children. Because the toxicity profile for indoxacarb has not changed since that last rule was published, EPA is incorporating the discussion of that profile (Unit III.A.) and the identified toxicological endpoints (Unit III.B.) as part of this rulemaking.

EPA's 2017 exposure assessment remains current in providing an up-to-date assessment of indoxacarb, as that assessment included exposures to indoxacarb in or on popcorn commodities as reflected in this document. Based on the current and newly proposed uses of indoxacarb in or on corn, pop, grain and corn, pop, stover, exposures can occur both from dietary sources (food + water) and in residential settings. For aggregate risk assessment, risk estimates resulting from food, drinking water, and residential uses are combined. Acute, short-and intermediate-term, and long-term (chronic) aggregate assessments were performed for indoxacarb. Further information about EPA's risk assessment and determination of safety supporting the tolerances established in the

December 8, 2017 **Federal Register** action, as well as the new indoxacarb tolerances can be found at *http://www.regulations.gov* in the documents entitled ''Indoxacarb: Human Health Risk Assessment for Indoxacarb to Support the Proposed New Uses on Corn (Field, Pop, and Grown for Seed),'' dated October 24, 2017 (docket ID EPA–HQ–OPP–2017–0095), and ''Indoxacarb. Section 3 Registration for the New Use of Indoxacarb on Popcorn. Abbreviated Residue Chemistry Review,'' dated September 16, 2019 (docket ID EPA–HQ–OPP–2019–0384), respectively.

The acute dietary risk estimates determined for indoxacarb (food + water) were found not to be of concern at the 99.9th exposure percentile for the U.S. general population and all population subgroups and are below the Agency's LOC (<100% of the acute population adjusted dose (aPAD)). In addition, the chronic dietary risk estimates determined for indoxacarb (food + water) were found not to be of concern for the U.S. general population and all population subgroups and are below the Agency's LOC (<100% of the chronic population adjusted dose (cPAD)). As indicated in the supporting documents, the acute and chronic dietary risks are below the Agency's level of concern: 56% of the aPAD for children 1–2 years old, the group with the highest exposure level; 35% of the cPAD for all infants (less than 1 year old), the group with the highest exposure level.

The acute aggregate assessment is based on food + drinking water exposures only, because there are no acute residential exposures expected. For the short-, intermediate- and long-term (chronic) aggregates, the highest non-dietary exposure scenarios were selected as being protective of all other potential exposure scenarios—these were from spot treatments to carpets [coarse and pin stream] for short-term exposures, and from spot-on treatments of dogs for intermediate- and long-term exposures. There are no acute, short-term, intermediate-term, or long-term (chronic) aggregate risk estimates of concern for adult or child aggregate exposure to indoxacarb as a result of the current and proposed uses (short-term aggregate margin of exposure (MOE) = 120; intermediate-/long-term aggregate MOE = 260) because EPA considers MOEs of less than 100 to be of concern for aggregate risk.

Therefore, based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the U.S. general population, or to infants and children, from aggregate exposure to indoxacarb residues. More detailed information on the subject action to establish tolerances in or on corn, pop, grain and corn, pop, stover can be found at *http://www.regulations.gov* in the document entitled ''Indoxacarb. Section 3 Registration for the New Use of Indoxacarb on Popcorn. Abbreviated Residue Chemistry Review.'' This document can be found in docket ID number EPA–HQ–OPP–2019–0384.

IV. Other Considerations

A. Analytical Enforcement Methodology

For the enforcement of tolerances established on crops, two High Performance Liquid Chromatograph/Ultraviolet Detection (HPLC/UV) methods, DuPont protocols AMR 2712–93 and DuPont–11978, are available for use. The limits of quantitation (LOQs) for these methods range from 0.01 to 0.05 ppm for a variety of plant commodities. A third procedure, Gas Chromatograph/Mass-Selective Detection (GC/MSD), DuPont method AMR 3493–95 Supplement No. 4, is also available for the confirmation of residues in plants.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established MRLs in corn, pop, grain and corn, pop, stover for indoxacarb.

C. Response to Comments

EPA received one public comment in response to the corrected notice of filing, generally opposed to any indoxacarb residues in or on corn, pop, grain and corn, pop, stover. Although the Agency recognizes that some individuals believe that pesticides should be banned on agricultural crops, the existing legal framework provided by section 408 of the FFDCA states that tolerances may be set when persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute. This comment appears to be directed at the underlying statute and not EPA's implementation of it; the comment provides no information relevant to the Agency's safety determination.

V. Conclusion

Therefore, tolerances are established for residues of the insecticide indoxacarb in or on corn, pop, grain at 0.02 parts per million (ppm) and corn, pop, stover at 15 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances 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).

VII. 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: May 7, 2020.

Michael L. 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 § 180.564, add alphabetically the entries ''Corn, pop, grain'' and ''Corn, pop, stover'' to the table in paragraph (a) to read as follows:

§ 180.564 Indoxacarb; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * * * *	
Corn, pop, grain	0.02
Corn, pop, stover	15
* * * * *	

* * * * *

[FR Doc. 2020–10483 Filed 5–22–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2002–0008; FRL–10008–19–Region 8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Libby Asbestos Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Final rule; partial deletion.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 announces the deletion of the Operable Unit 1 (OU1), Former Export Plant of the Libby Asbestos Superfund Site (Site) located in Lincoln County, Montana, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This partial deletion pertains to OU1. Operable Unit 2 (OU2), Former Screening Plant, was deleted from the NPL on April 10, 2019. Operable Unit 3 (OU3), Former Vermiculite Mine; Operable Unit 4 and Operable Unit 7 (OU4/OU7), Residential/Commercial Properties of Libby and Troy; Operable Unit 5 (OU5), Former Stimson Lumber Mill; Operable Unit 6 (OU6), BNSF Rail Corridor; and Operable Unit 8 (OU8), Highways and Roadways, are not being considered for deletion as part of this proposed action and will remain on the NPL. The EPA and the State of Montana, through the Montana Department of Environmental Quality, have determined that all appropriate response actions under CERCLA, other than operation and maintenance, monitoring and five-year reviews, have been completed. However, the deletion of these parcels does not preclude future actions under Superfund.

DATES: This action is effective May 26, 2020.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–HQ–SFUND–2002–0008. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically in *http://www.regulations.gov;* by calling EPA Region 8 at (303) 312–7279 and leaving a message; and at the EPA Info Center, 108 E 9th Street, Libby, MT 59923, (406) 293–6194, Monday through Thursday from 8:00 a.m.–4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dania Zinner, Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Mailcode: 8SEM–RB, Denver, CO 80202–1129, email: *zinner.dania@epa.gov.*

SUPPLEMENTARY INFORMATION: The portion of the site to be deleted from the NPL is: OU1, Lincoln County, MT. A Notice of Intent for Partial Deletion for this Site was published in the **Federal Register** (85 FR 4249) on January 24, 2020.

The closing date for comments on the Notice of Intent for Partial Deletion was February 24, 2020. Two public comments were received. The comments did not object to the deletion; they highlighted management of institutional controls and updating the operations and maintenance plan as appropriate in the future. EPA believes the partial deletion action is appropriate. A responsiveness summary was prepared and placed in both the docket, EPA–HQ–SFUND–2002–0008, on *www.regulations.gov,* and in the local repositories listed above.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion of a site from the

NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of portions of a site from the NPL does not affect responsible party liability, in the unlikely event that future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: April 29, 2020.

Gregory Sopkin,

Regional Administrator, EPA Region 8.

[FR Doc. 2020–09563 Filed 5–22–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 15

[ET Docket No. 18–295 and GN Docket No. 17–183; FCC 20–51; FRS 16729]

Unlicensed Use of the 6 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts rules designed to optimize unlicensed access by authorizing two types of unlicensed operations in the 6 GHz band while also protecting incumbent services so that they continue to thrive in the band. The Commission is authorizing unlicensed standard-power access points that will operate under the control of an automated frequency coordination system in portions of the 6 GHz band. The Commission is also opening the entire 6 GHz band for unlicensed indoor low power access points. In addition, the Commission will permit unlicensed client devices to communicate with both the standard-power and low-power access points. These rules will provide opportunities for unlicensed operations to use up to 320-megahertz channels to expand capacity and increase performance. This forward-looking action anticipates the next generation of the unlicensed devices and advances the U.S.'s role as an innovator and global spectrum policy leader.

DATES: Effective July 27, 2020.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Nicholas Oros of the Office of Engineering and Technology, Policy and Rules Division, at (202) 418–0636, or *Nicholas.Oros@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* ET Docket No. 18–295 and GN Docket No. 17–183, FCC 20–51, adopted April 23, 2020 and released April 24, 2020. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW, Washington, DC 20554, or by downloading the text from the Commission's website at *https://www.fcc.gov/document/fcc-opens-6-ghz-band-wi-fi-and-other-unlicensed-uses-0.* Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

Unlicensed Use of the 6 GHz Band

1. The Commission adopts rules designed to optimize unlicensed access to the 6 GHz band while also protecting incumbent services so that they continue to thrive in the band. In doing so, the Commission accounts for the concerns raised by parties representing the various incumbent services that operate in the 6 GHz band, weighs the various technical studies presented by proponents of unlicensed operations as well as representatives of incumbent services, and addresses how the rules the Commission adopts will enable unlicensed operations to operate in the 6 GHz band and protect the various incumbent services that operate in the band.

Standard-Power Operations in U–NII–5 and U–NII–7 Bands

2. The Commission adopts rules to permit standard power unlicensed operations in the U–NII–5 (5.925–6.425 GHz) and U–NII–7 (6.525–6.875 GHz) bands to operate outdoors or indoors with similar power levels as permitted for unlicensed portions of the 5 GHz band through use of an automated frequency coordination (AFC) system to protect incumbent fixed microwave operations from harmful interference. Specifically, the Commission authorizes standard-power access points to operate in these bands at power levels up to 36 dBm EIRP (PSD of 23 dBm/MHz EIRP), and client devices to operate at up to 30 dBm EIRP (PSD of 17 dBm/MHz EIRP). The rules the Commission adopts for these unlicensed device operations will protect incumbent fixed microwave, radio astronomy, and fixed-satellite operations, add much needed capacity to meet the rapidly increasing demands of the wireless industry, and promote innovation and investment in new wireless unlicensed technologies. To protect incumbent fixed microwave operations from harmful interference, unlicensed access to these bands is only permitted on frequencies and locations determined by an AFC system based on the exclusion zones that it establishes. The Commission also protects certain radio astronomy observatories through the AFC system. Finally, in affirming the Commission's tentative conclusion that the AFC system is not necessary to protect incumbent fixed satellite service operations, the Commission also adopts a restriction on unlicensed standard-power access point to prevent them from pointing toward the space station receivers.

AFC-Based Access To Protect Fixed Microwave Services

3. Consistent with the framework proposed in the Notice, the AFC mechanism, combined with the technical and operational rules that the Commission adopts, will protect incumbent fixed microwave operations from the potential of harmful interference from unlicensed standard-power operations in the U–NII–5 and U–NII–7 bands. As noted by the Commission, the use of an automated system to control access to spectrum is not new. The Commission has previously used this approach to protect television reception from unlicensed white space devices in the TV bands and to protect satellite earth stations and government radars from devices of the Citizens Broadband Radio Service in the 3550–3700 MHz band. A properly designed AFC system in the U–NII–5 and U–NII–7 bands will protect incumbent operations, though they often differ on particular design and features of that system.

4. The AFC-based system for permitting unlicensed standard power operations in the 6 GHz bands will consist of several components which, when taken together, will determine the specific exclusion zones that will protect incumbent operations. These

components include (1) the framework, design, and operation of AFC system; (2) the operational requirements that the Commission establishes regarding standard-power access points (*e.g.,* geolocation capabilities, antenna-related restrictions); and (3) the interference protection parameters that protect the incumbent fixed service operations.

The AFC System Framework and Database

5. *Centralized approach.* The Commission requires the AFC to use a centralized model where each standard-power access point remotely accesses an AFC to obtain a list of available frequency ranges in which it is permitted to operate and the maximum permissible power in each frequency range. This is consistent with the centralized model the Commission has employed in other contexts, will facilitate Commission oversight of AFC operations, and reduces design complexity. Because the Commission is concerned that allowing both architectures (centralized and de-centralized) could create problematic or unforeseen complications in operational management of AFC systems and devices and thereby could delay unlicensed deployment in this band, it declines to permit use of a dual AFC architecture as some parties have suggested.

6. *Use of ULS for information on incumbent operations.* the Commission requires that the AFC system rely on the Commission's Universal Licensing System (ULS) for fixed microwave link data when calculating and establishing the exclusion zones to protect those microwave links from harmful interference. The ULS is the official licensing database for microwave links in the U–NII–5 and U–NII–7 bands and contains extensive technical data for site-based licenses including transmitter and receiver locations, frequencies, bandwidths, polarizations, transmitter EIRP, antenna height, and the make and model of the antenna and equipment used. Thus, the ULS contains the information necessary for AFC systems to protect fixed service links. To ensure that AFC systems have the most recent information on fixed service links, the Commission requires AFC systems to download the database on a daily basis.

7. The Commission recognizes the concerns of some parties that information used by the AFC systems must be accurate and up-to-date, and notes that there may currently be some inaccurate or incomplete data in the ULS database. Because ULS is the official Commission compendium of license records, licensees are obligated under the terms of their licenses to keep their information filed with the Commission current and complete. Thus, licensees have the responsibility, as well as significant incentive, to maintain the continued accuracy of data in the ULS to ensure that they are protected from harmful interference not only from new unlicensed devices, but also from new fixed microwave links that may access the band. To the extent licensees determine that their actual operations differ from the Commission's licensing records, they should modify those records to ensure they are properly protected from harmful interference from any other spectrum users, and the Commission directs the Wireless Telecommunications Bureau to issue a public notice reminding such licensees of the importance of maintaining accurate information in that system.

8. Microwave links may begin operation prior to obtaining a license so long as certain criteria are met, such as completing successful frequency coordination and filing an application that appears in the ULS as pending. Because such a filing may indicate that a new station is operational, or soon will be, the Commission requires the AFC system to protect pending as well as granted facilities. In addition, temporary fixed microwave links may be authorized by a blanket authorization, in which case the licensee is not required to obtain approval from the Commission prior to operating at specific locations or report the technical details of their operation to the Commission. Because the AFC system must have knowledge of the location of temporary fixed links in order to protect them from harmful interference, the Commission requires the operators of temporary fixed stations to register the details of their operations (transmitter and receiver location, antenna height, antenna azimuth, antenna make and model, etc.) in the ULS prior to transmission if they desire to be protected from potentially receiving harmful interference from standard-power access points in the U–NII–5 and U–NII–7 bands. The capability to register temporary fixed links does not currently exist in the ULS. That functionality will be announced by Public Notice once developed. Because temporary fixed links are not mobile and intended to operate at a specified location for up to a year, the Commission does not believe this registration requirement poses a significant burden on licensees.

9. *Information on microwave operations in border areas near Canada and Mexico.* As required by international agreements, and consistent with actions regarding white spaces and the CBRS, the Commission requires the AFC to protect microwave operations in Canada and Mexico near the United States border. The Commission recognizes that the ULS does not contain information on microwave operations in these countries. The Commission therefore intends to work with the governments of Canada and Mexico to obtain information on microwave systems in those countries and a method for providing it to AFC operators for incorporation into their systems.

10. *Information on location and antenna height of standard-power access points.* The AFC system also will make use of data concerning the location and antenna height of standard-power access points when calculating the availability of frequencies and channels of operations. The Commission establishes particular operational requirements for access points that ensure the accuracy of this data.

11. *Use of specified interference protection parameters.* The AFC system will apply the specified interference protection parameters established in this Order to protect fixed microwave operations from harmful interference. These include use of specified propagation models and a conservative interference protection criterion when calculating exclusion zones, and the methodology for addressing adjacent channel operations.

12. *Determining frequency and channel availability based on unlicensed device power levels.* The Commission requires that the AFC have the capability to determine frequency availability at the maximum permissible power of 36 dBm for standard-power access points, as well as at lower power levels. Because the minimum required separation distance from a fixed service receiver, among other factors, is a function of the access point power, lower power devices do not have to meet as large a separation distance to provide the same level of protection as higher power devices. This means that more spectrum may be available for access points that operate with power levels below the maximum, especially in congested areas where spectrum is more heavily used by the fixed microwave services. This action is consistent with the Commission's white space rules in which white space devices operating at power levels less than the maximum have shorter required separation distances from protected services, and the white space database provides devices with a list of

available frequencies and the maximum permissible power on each.

13. The Commission requires that the AFC system be capable of determining frequency availability in steps of no greater than 3 dB below the maximum 36 dBm permissible EIRP, down to a minimum level of 21 dBm. The Commission believes 3 dB is an appropriate step size because it is large enough to be significant (*i.e.* a factor of two) and will allow the AFC to determine frequency availability at multiple power levels so a device can select its optimum frequency and power level combination. The Commission's requirement that an AFC only consider power levels as low as 21 dBm is predicated on the expectation that outdoor access points will generally operate at the higher power levels to maximize coverage area or throughput or both. However, because certain situations or applications may not need that much power, there may be a need for AFCs to evaluate additional power levels. The Commission will not preclude AFC operators from determining frequency availability at additional power levels, *e.g.,* below 21 dBm or in smaller step sizes; it simply establishes minimum AFC performance requirements. Consistent with the white space rules, the AFC will provide a list of available frequencies and power levels to standard-power access points but will not select the frequency or control the power level of a device. Rather, each access point will select its operating frequency and power level from the list provided by the AFC.

Operational Requirements for Access Points

14. The AFC system requires a device's geographic coordinates—along with the accuracy of those coordinates—and the device's antenna height above ground, in order to determine which frequencies are available for use at its location.

15. *Incorporated geo-location.* The Commission requires all standard-power access points to include a geo-location capability to determine their geographic coordinates, rather than relying on a professional installer to determine them. Additionally, an incorporated geo-location capability provides a means for a device to automatically re-establish its coordinates if they are lost or altered due to a power outage or equipment reboot.

16. The Commission requires a device's geo-location capability to determine its location uncertainty and report it to the AFC system, which will use this information to determine the minimum required separation distances from fixed service receivers. The Commission also requires that it be determined, in meters, with 95% confidence level, which is consistent with the rules for white space devices which operate with similar geo-location requirements to those the Commission adopts for AFC controlled standard-power access points. The Commission's experiences with this rule confirms that it reliably ensures protection against harmful interference, at reasonable cost.

17. The Commission recognizes that geo-location technologies such as GPS do not work at locations where satellite signals are blocked by obstructions such as tall buildings and trees, or deep within buildings. To ensure that standard power access points can accurately determine their coordinates and provide them to the AFC in these situations, without the need for professional installation, the Commission provides additional flexibility for manufacturers and device operators by making provisions for standard-power access points that operate in locations where an incorporated geo-location capability may not work. The Commission allows standard-power access points to obtain their geographic coordinates through an external geo-location source when they are used at locations where an internal geo-location capability does not function. The Commission also allows an external geo-location source to be connected to an access point through either a wired or a wireless connection and will allow a single geo-location source to provide location information to multiple access points. The Commission requires that an external geo-location source be connected to an access point using a secure connection to ensure that only an external geo-location source approved for use with a device provides geographic coordinates to that device. Additionally, the Commission allows the use of extender cables to connect a remote receive antenna to a geo-location receiver within a fixed device. In cases where equipment uses a remote geo-location source, the separation distance between the access point transmit antenna and geo-location source must be included in the location uncertainty reported to the AFC system. This requirement will be enforced through the equipment certification process. Based on the Commission's experience, it believes these provisions will increase the manufacturers' flexibility to develop devices that can be used in a wide variety of locations while ensuring that devices accurately determine their location and report it to the AFC to prevent harmful interference to protected services.

18. Considering the geo-location requirements, the Commission is not requiring professional installation. It is not necessary because manufacturers can incorporate a variety of location technologies into their devices; many of these, such as GPS, are widely available at low cost. Further, requiring professional installation of all standard-power access points would be burdensome and that requiring devices to incorporate automatic geo-location will ensure that the information provided to the AFC system is accurate.

19. *Antenna height above ground.* For the AFC to accurately calculate exclusion zones to protect fixed service receivers, it requires the antenna height above ground of a standard-power access point. Consistent with the rules for white space devices, the Commission permits this information to be provided to the AFC either automatically by the device, or manually by the installer or operator of the device but does not require it to be determined by a professional installer.

20. Because automated geo-location methods such as GPS may not accurately provide height information in all cases, the Commission allows a device installer to manually determine the antenna height above ground and provide it to the AFC. As the Commission notes with respect to white space devices, installers with simple measuring equipment should be able to accurately determine antenna height above ground. However, because improvements in technology in the future could enable devices to automatically determine their antenna height above ground with more precision, there is also the option for standard-power access points to automatically do so. Industry groups are expected to work on developing methods for automatic height determination that could be used for standard-power access points or other applications where the antenna height above ground must be known.

21. *Frequency availability re-check interval.* The Commission requires a standard-power access point to contact an AFC system at least once per day to obtain the latest list of available frequencies at its location. Once per day is an appropriate re-check interval because the ULS, from which the AFC system will obtain data, is updated on a daily basis. The Commission disagrees with suggestions that of a 30-day re-check interval be instituted. While the likelihood is low that a new microwave link will become operational on any given day at a given location, when 6

GHz devices are widely deployed there will be situations where new microwave links are licensed in the vicinity of co-channel standard-power access points. To ensure that an unlicensed device quickly ceases operation on a frequency that becomes licensed for a microwave link near its location, standard-power access points are required to re-check their frequency availability on a daily basis, *i.e.,* the same as the ULS update interval.

22. The Commission recognizes that there may be situations when an AFC system is temporarily unavailable due to a sustained power loss, an internet outage, or other circumstances that disrupt a device's ability to contact an AFC system. Consistent with the Commission's actions in other proceedings, an access point that cannot contact the AFC system during any given day is permitted to continue operating until 11:59 p.m. of the following day at which time it must cease operations until it re-establishes contact with the AFC system and re-verifies its list of available frequencies. The Commission does not believe that ais one-day grace period is not likely to result in harmful interference to fixed service links because an access point being unable to contact the AFC system for a day is likely to be a relatively infrequent occurrence, and the probability that it will occur at the same time in the same place where a new microwave link commences operation is low.

Designating AFC Operators

23. *Operator approval and system certification process.* Consistent with the Commission's actions regarding white spaces and the CBRS, the Commission directs the Chief of the Office of Engineering and Technology (OET) to designate AFC system operators and oversee operation of their systems.

24. OET will designate AFC operators using a multi-stage review process similar to that it used for designating white space database and SAS administrators. As the first step, OET will issue a public notice inviting prospective AFC system operators to submit proposals describing how their systems would comply with all Commission AFC rules. The public will have an opportunity to review and comment on these AFC system proposals. OET will conditionally approve applicants that demonstrate that their proposed systems would comply with all AFC requirements. Applicants that receive a conditional approval will then be required to provide a test system that will be subject to a public trial period to provide interested parties an opportunity to check that it provides accurate results. This trial period will include thorough testing, both in a controlled environment (*e.g.,* lab testing) and through demonstration projects (*e.g.,* field testing).

25. The Commission encourages formation of a multi-stakeholder group that will address issues specific to technical and operational issues associated with the AFC system, and intends to work with industry stakeholder groups as necessary to develop appropriate procedures for thoroughly testing AFC systems prior to use. The Commission will not grant final approval for an AFC system operator to begin providing service until after the operator satisfactorily demonstrates that standard-power access points can operate under the control of its system without causing harmful interference to fixed wireless services.

26. *Multiple AFC Operators.* As proposed in the Notice and consistent with commenters' support and existing rules for white spaces and CBRS multiple AFC operators may be designated. As the Commission previously noted in regard to white spaces databases, this would prevent a single party from obtaining monopoly control over the AFC systems, could provide an incentive for AFC system operators to provide additional services beyond those required by the rules, and is more likely to result in lower costs to consumers.

27. The Commission permits AFC functions, such as a data repository, registration, and query services, to be split among multiple entities, as is done for white spaces and the CBRS. No parties commented on this specific issue. This approach will allow greater flexibility in AFC system design and potential cost savings by allowing multiple operators to share the costs of running parts of an AFC systems. However, to ensure that the Commission can effectively oversee the AFC system operation, it requires that entities designated as AFC system operators be held accountable for all aspects of system administration, including any functions performed by third parties.

28. *Term of AFC Designation.* To ensure a stable operating environment for standard-power access points and consistent with both the white space and CBRS rules, the Commission adopts a five-year term which, at the Commission's discretion, may be renewed. Similar to the requirements for the white space database and SAS administrators, in the event an AFC system operator does not wish to continue to provide services, or if its term is not renewed, the system operator will be required to transfer its database along with the information necessary to access the database to another designated AFC system and will be permitted to charge a reasonable fee for the transfer of this information. Transferring this information assures operational continuity for existing devices; otherwise in the event an AFC discontinues service, devices would be denied operating frequencies and cut-off from providing services until it established a connection to a new database. This action allows that new connection to occur automatically.

29. The Commission disagrees that it would be burdensome for an AFC operator to transfer its registration data to another AFC system operator since the data that must be transferred (*e.g.,* location, antenna height, device FCC ID and serial number) is relatively simple. The Commission also adopts the proposal that an AFC system operator must provide a minimum of 30 days' notice to the Commission when it plans to cease operation. Because standard-power access points must be able to access an AFC in order to operate, the Commission does not believe that the it should designate AFC system operators that could cease operation at any time with no notice as that could leave users with equipment that ceases operating unexpectedly.

30. *Fees.* Consistent with the rules for white space database and CBRS SAS administrators and as supported in the record, the Commission permits AFC operators to charge fees for the provision of service. Because the Commission is allowing multiple AFC operators to be designated, the Commission believes that competition among them will serve to keep fees reasonable and will allow for multiple business models that could benefit consumers, *e.g.,* device manufacturers or a trade association could fund an AFC system as part of its business and no individual transaction fees would be charged. However, as with white space databases and the CBRS SAS, the Commission permits parties to petition the Commission to review fees and require changes to the fees if they are found to be excessive.

31. *AFC to AFC synchronization requirements.* The Commission concludes that, under the AFC system, there is no need to require AFC systems to synchronize their data with each other. Unlike white space database systems that must accept and share registration information from protected entities, *e.g.,* cable headends and

licensed wireless microphone operators, that cannot be obtained from Commission databases, AFC systems will obtain their data on protected entities from a single source (the ULS). Therefore, there will be no need for AFC operators to synchronize protected entity information between different systems as NAB suggests. Additionally, because the Commission is not requiring AFC systems to consider aggregate interference from multiple standard-power access points when determining frequency availability, there is no need for the AFC systems to share information about registered standard-power access points.

Interference Protection Analyses and Parameters

32. The Commission protects fixed microwave operations from harmful interference by using an AFC system that establishes location and frequency-based exclusion zones for standard-power unlicensed devices around fixed microwave receivers operating in the U–NII–5 and U–NII–7 bands. Under this AFC system, individual unlicensed devices will not be permitted to operate on certain frequencies within the exclusion zone. Below, the Commission discusses technical parameters that the AFC system will use to calculate these exclusion zones.

33. *Propagation models.* Evaluating potential harmful interference from U–NII–5 and U–NII–7 unlicensed standard-power access point devices depend on the propagation models assumed for both fixed microwave signals and unlicensed devices. The propagation model that the Commission adopts will, in turn, be used by the AFC system as one of the factors when determining the exclusion zones.

34. The Commission believes an approach which combines different propagation models is most appropriate for evaluating necessary separation distances of 6 GHz unlicensed devices from fixed microwave links. More specifically, because propagation models have been developed to accommodate a variety of environments and over various distances, the Commission finds that using a combination of models optimized for the varying propagation conditions that will be encountered is the best way to balance unlicensed device access and incumbent protection in the 6 GHz band. That is, it is most appropriate to use a set of propagation models keyed to specific separation distances between an unlicensed device and a fixed service receiver to determine appropriate exclusion zone size. Under this approach, the Commission uses the free-space model for short distances, where it accurately predicts signal path loss, the WINNER II for medium distances, and the Irregular Terrain Model (ITM) for longer distances to more realistically account for terrain and clutter losses.

35. Under our general approach, the Commission finds that for separation distances of 30 meters or less, the free space pathloss model is the appropriate model. Commenters generally assumed that 6 GHz unlicensed devices would not be placed within 30 meters of a microwave receiver and thus, did not suggest a propagation model for such short distances. Because, the potential for a direct line-of-sight between an unlicensed device and a microwave receiver is greatest at short distances, the Commission adopts the free space pathloss model for distances less than 30 meters. This model generates the greatest possible path loss to account for the possibility of direct line-of-sight from a standard-power access point to a microwave receiver. The free space pathloss model though theoretically simple, has a limited range of applicability because it ignores environmental clutter and over long distances can result in extremely conservative calculations that under predict the amount of actual path loss.

36. Incumbents generally recommend use of free space propagation model for all separation distances regardless of environment, while proponents of unlicensed operations advocate use of a combination of propagation models that specifically consider the propagation environment. Beyond 30 meters and up to one kilometer from an unlicensed device to a microwave receiver, the Commission finds that the most appropriate propagation model is the Wireless World Initiative New Radio phase II (WINNER II) model for urban, suburban, and rural environments. At these distances, the WINNER II model accounts for obstructions by urban and suburban clutter, which the free space model does not. The Commission makes this decision recognizing that the WINNER II model is one of the most widely used and well-known channel models in the world and was developed from measurements conducted by the WINNER organization, as well as results from academic literature and used by several commenters for analyses submitted to the record. The Commission requires the use of site-specific information, including buildings and terrain data, for determining the line-of-sight/non-line-of-sight path component in the WINNER II model where this information is available. For evaluating paths where this data is not available, the Commission requires probabilistic combining of the line-of-sight and non-line-of-sight path into a single path-loss. When site-specific information regarding line-of-sight/non-line-of-sight is not available then path losses of line-of-sight(LOS) and non-line-of-sight(NLOS) paths can be combined into a single loss using the following formula: Path-loss (L) = Σ_i P(i) * L_i = P_{LOS} * L_{LOS} + P_{NLOS} * L_{NLOS}, where P_{LOS} is the probability of line-of-sight, L_{LOS} is the line-of-sight path loss, P_{NLOS} is the probability of non-line-of sight, L_{NLOS} is the non-line-of-sight path loss, and L is the combined path loss. The WINNER II path loss models include a formula to determine P_{LOS} as a function of antenna heights and distance. P_{NLOS} is equal to $(1 - P_{LOS})$. Using the WINNER II propagation model for these separation distances will provide the best prediction of actual pathloss between unlicensed devices and fixed service receivers as it accounts for environmental information not considered in the free space model.

37. The Irregular Terrain Model is a propagation model that specifically takes into account the effects of terrain on radio propagation but does not include clutter losses. The model accounts for transmission loss relative to free space loss for distances between 1 km and 2,000 km. For separation distances greater than one kilometer, commenters suggest that the Irregular Terrain Model combined with a clutter model depending on the environment is the most appropriate model. The Commission agrees. Consistent with Commission use of propagation models in other proceedings, the Commission requires use of 1 arc-second digital elevation terrain data and, for locations where such data is not available, the Commission requires use of the most granular digital elevation terrain data available. To account for the effects of clutter, such as from buildings and foliage, the Commission requires that the Irregular Terrain Model be combined with a statistical clutter model ITU–R P.2108 for urban and suburban environments, and ITU–R P.452–16 clutter model for rural environments. The appropriate clutter category that most closely represents the local morphology should be selected when using ITU–R P.452–16. However, if detailed local information is not available, the Commission believes the ''Village Centre'' clutter category should be used as a default because access points will generally be installed in or on buildings (*i.e.,* in a village) and this category most closely represents that morphology. The Commission specifies

the Irregular Terrain Model because it has been widely available and accepted since the early 1980s, has been used by the Commission for interference prediction in other proceedings, is supported by the record, and in its experience has served reliably as a propagation model. The Irregular Terrain Model is the propagation model currently used to determine spectrum availability in the spectrum access systems (SAS) used to manage access to the 3550–3700 MHz band in the Citizens Broadband Radio Service.

38. *Interference protection criterion.* The Commission requires the prescribed AFC system to use an I/N metric rather than C/I for determining the exclusion zones. The I/N ratio was used by most commenters in their analyses as the interference protection metric and is more straightforward to implement, and thus is more consistent with one of our major goals for the AFC system—simplicity of implementation. Use of a C/I ratio would entail additional implementation complexities. In particular, calculating the C/I ratio would require calculating the power arriving at the microwave receiver from its corresponding transmitter in addition to estimating the signal level from the access point. This would require knowledge of the microwave link characteristics including the instantaneous transmitted power as well as the modulation and coding scheme used, which is information that is not available in ULS.

39. As for the specific interference protection criterion, the Commission specifies a I/N of −6 dB I/N. By specifying that AFC exclusion zone calculations will be based on this particular interference protection criterion, the Commission is taking a conservative approach to ensure that the potential for harmful interference is minimized and important fixed microwave services in the 6 GHz band are protected. The Commission is not, however making a determination that any signal received with an I/N greater than −6 dB would constitute ''harmful interference.'' No commenter provides technical justification for using a particular I/N level as the actual level necessary to protect fixed microwave receivers against harmful interference. In determining to apply −6 dB I/N as the interference protection criterion, the Commission does not find the need to establish a specific industry multi-stakeholder group to establish the appropriate metric on this issue, as some have suggested.

40. *Aggregate interference.* The Commission did not propose nor find that there is any need to consider the effect of aggregate interference from multiple access points to point-to-point microwave links. The risk of interference from large numbers of standard power access points would not be due to signal aggregation from multiple unlicensed devices, but from a single standard-power access point in or near the main beam of a microwave link receive antenna with little or no intervening clutter. In the event that two or more access points could cause interference to the same microwave receiver, the signal from the nearest would dominate over the others and make the others irrelevant to the analysis. The Commission does not require the AFC to consider aggregate interference when determining exclusion zones.

41. *Adjacent channel protection.* Although the Commission believes that the risk of adjacent channel interference to fixed service microwave receivers is low, the Commission takes a conservative approach to enabling new unlicensed devices in the 6 GHz band. Thus, in addition to the AFC calculating a co-channel exclusion zone, the Commission also requires it to determine an adjacent channel exclusion zone. The adjacent channel exclusion zone defines a zone under which any standard power access point is prevented from operating adjacent to an FS receiver within one-half channel bandwidth of the access point. The Commission expects these adjacent channel zones will be small and not significantly impact the amount of spectrum available to unlicensed devices at any given location. Also, because the AFC will need to calculate co-channel exclusion zones for all nearby fixed service stations, the incremental burden to also calculate adjacent channel exclusion zones should be minimal. To this end, the Commission requires the AFC to determine an adjacent channel exclusion zone based on the out-of-band emission mask the Commission adopts for unlicensed devices which is designed to keep energy outside an unlicensed device's operating channel to low levels and the same protection criterion used to determine co-channel exclusion zones; that is the I/N ratio must be calculated to be −6 dB or less. This requirement will protect fixed microwave receivers from harmful interference due to unlicensed devices out-of-band emissions.

Other AFC System Issues

42. *Security Issues.* The Commission requires that AFC systems and standard-power access points employ protocols and procedures to ensure that all communications and interactions between the AFC and standard-power access points are accurate and secure and that unauthorized parties cannot access or alter the database or the list of available frequencies and power levels sent to an access point. These requirements are similar to those adopted for the white space database and the Citizens Broadband Radio Service spectrum access system.

43. The Commission is not mandating specific security models. Instead, the Commission requires AFC system operators to use advanced security standards and demonstrate that their systems contain communication and information security features during the AFC system certification process. These security protocols will be subject to the Commission's review and approval. The Commission anticipates that an industry-wide multi-stakeholder group will take the lead on this process and develop security protocols that AFC administrators may consider for their operation, subject to Commission review and approval. The Commission also expects that security models will be updated as needed to reflect state-of-the-art protection against new security threats. The Commission will review any modifications or updates in the security protocols AFC system operators or a multi-stakeholder group proposes to implement.

44. *AFC device registration.* To further ensure the AFC ecosystem integrity, the Commission requires standard-power access points to register with the AFC system when requesting a list of available operating frequencies and power levels. Although the Commission recognizes that the AFC system would be simpler without a registration requirement, device registration provides another layer of protection by ensuring only authorized devices access the spectrum and by easing the process of mitigating harmful interference if it occurs. Because the registration information would be automatically provided by the access point or network proxy to the AFC system, the registration process will require little effort by the access point user.

45. To register, a standard-power access point will be required to provide the AFC system—in addition to the technical information described above with the device's FCC identifier (FCC ID), and its serial number. Although the FCC ID or the access point's serial number are not required to calculate frequency availability, the AFC will use the information for two purposes. First, the information will be used to authenticate the device, to ensure that no rogue devices are operating in the

band. The AFC will verify the device's FCC ID by accessing the Commission's Equipment Authorization System. The AFC can retrieve the FCC IDs of certified standard-power access points from the Commission's equipment authorization database using an Application Program Interface (API) or another method and determine whether the FCC ID provided by a device during registration is valid. Access to the equipment authorization database and extracting FCC IDs is a process that is used by the CBRS SAS and white space data administrators. Second, the information will be used for interference mitigation and enforcement purposes to identify the source if harmful interference were to occur. In addition, the Commission requires that AFC systems have the capacity to deny spectrum access to a particular registered standard-power access point upon requests by the Commission, in the event of harmful interference caused by a particular device or type of device. The Commission also requires that AFC operators implement procedures to respond to requests from Commission personnel for information stored or maintained by the AFC, and that they establish and follow protocols to comply with enforcement instructions from the Commission, including discontinuance of access point operations in designated geographic areas. These requirements ensure that the Commission is able to ascertain the accuracy of information stored in the AFC, obtain information necessary to enforce the Commission's rules, and ensure that access points that do not comply with the rules are shut down in a timely manner.

46. The Commission encourages formation of a multi-stakeholder group that would include representatives of unlicensed equipment manufacturers, equipment users and point-to-point microwave providers to develop additional procedures to resolve interference concerns. Regardless of the processes that stakeholders may develop for addressing interference, consistent with statute the Commission is the final arbiter regarding cases of harmful interference.

47. Individual standard-power access points will not be required to interface with the AFC system if the required registration data is communicated by a proxy device or network control device. The network management device may be the point of interface with the AFC system for multiple access points. In other words, the registration information can be provided directly and individually by a single standard-power access point or by a network proxy representing multiple devices operating on the same network. The access point or its proxy must register with the AFC system via any communication link, wired or wireless, outside the U–NII–5 and U–NII–7 bands. The AFC system will then communicate back a list of permissible frequency range(s) and the maximum power in each range for standard-power access point operation. In the case of a proxy, each access point must still provide its exact location and will obtain a set of available frequencies for that location.

48. The Commission requires the AFC system to store registered information in a secure database until an access point ceases operation at a location, which the Commission defines as a device not contacting the AFC to verify frequency availability information for more than three months. This requirement will ensure that the AFC database does not become cluttered with entries for devices that are no longer being used. To ensure the users' privacy, the AFC system will use the registered data and any other access point operational information only to protect incumbents and for potential interference mitigation.

Radio Astronomy Observatories

49. Incumbent operations in the U–NII–7 band include several radio astronomy observatories, located in remote areas, that observe methanol spectral lines between 6.6500–6.675.2 GHz. The Commission recognizes the importance of these observations to the scientific community and will adopt exclusion zones to protect them from interference over the specified frequencies. In so doing, the Commission notes that there is no radio astronomy allocation for these observations requiring that they be protected from interference; the radio astronomy allocation table footnote merely provides that ''all practicable steps shall be taken to protect the radio astronomy service'' in this band from harmful interference). As these observatories are located in remote areas the Commission does not believe excluding standard-power access points from this 25.2 megahertz of spectrum in these areas will be a significant burden on unlicensed operations. The AFC system will determine the size of the exclusion zones by the radio line-of-sight distance between the radio astronomy antenna and the unlicensed access point. The radio line-of-sight should be determined using ⅘ earth curvature using the following formula dkm_los = 4.12*(sqrt(Htx) + sqrt(Hrx)), where Htx and Hrx are the heights of the unlicensed access point and radio astronomy antenna in meters above ground level, respectively.

Fixed-Satellite Services

50. The Commission adopts rules supporting the Commission's tentative conclusion that the AFC system is not needed to protect incumbent fixed-satellite operations from standard power access point operations in the U–NII–5 and U–NII–7 bands. Considering that the satellites receiving in these sub-bands are limited to geostationary orbits, approximately 35,800 kilometers above the equator, the Commission believes it unlikely that relatively low-power unlicensed devices would cause harmful interference to the space station receivers.

51. The Commission declines to adopt Intelsat and SES Americom's s suggestion for an aggregate power limit from unlicensed devices to be enforced though the use of the AFC systems. As a precautionary measure, the Commission adopts a rule requiring outdoor standard-power access points to limit the maximum EIRP above a 30 degree elevation angle to 21 dBm, which is similar to what the Commission requires in the U–NII–1 band to protect fixed satellite services. The Commission adopts this restriction rather than an aggregate power limit for two reasons. First, outdoor access points have no reason to radiate significant power skyward, and so the Commission does not believe this requirement will impose a burden on standard-power access point manufacturers and users. Second, designing an AFC system to undertake aggregate power limit monitoring would be very complex, requiring the AFC to know how much energy is being emitted to each portion of the geostationary arc for each unlicensed device. That in turn would require the AFC to have knowledge of each outdoor access point's antenna pattern, orientation, actual transmit power levels, and percent of the time it transmits as well as similar information for unlicensed client devices operating outdoors. Given the skyward EIRP restrictions the Commission is placing on the AFC controlled outdoor unlicensed devices, the Commission see no reason to require this level of complexity in the AFC systems.

Additional Issues

52. *Authorizing standard-power access points to operate in the U–NII–8 band.* The Commission does not authorize standard-power access points to operate in the lower 100-megahertz portion of the U–NII–8 band, which had been requested by some unlicensed

proponent. The Commission declines to do so for a number of reasons. The U–NII–8 band is used by both fixed and mobile broadcast auxiliary service services and the lower 25-megahertz portion of the band is available for Low Power Auxiliary Stations operations such as licensed wireless microphones. The geographic areas for these types of licensed operations are specified in a variety of fashions, including point/radius, countywide, statewide and nationwide. The AFC system would not be able to allow standard-power access points to operate in the band while protecting licensed operations without additional information on their exact operating locations and times, and information on mobile operations can change frequently. Even if licensees were to provide additional operational information, this would increase the complexity of the AFC system and its interactions with unlicensed devices, and still may not adequately protect mobile operations. Accordingly, the Commission is not authorizing standard-power access points to operate in the lower 100 megahertz of the U–NII–8 band.

53. *Adopting an ''inclusion zone'' approach.* The Commission also declines to adopt the suggested alternative to an AFC system. to permit unlicensed devices to operate in an ''inclusion zone'' around microwave transmitters. Under this approach, an applicant for a microwave license would conduct coordination for both the licensed link and unlicensed devices within the inclusion zone. In declining to adopt this approach, the Commission notes that its proposal is nearly identical to the concept of auxiliary stations, which the Commission considered as part of the Wireless Backhaul proceeding. The auxiliary station proposal contemplated placement of multiple lower power transmitters within the signal pattern of a microwave link. These auxiliary stations would be coordinated in advance of deployment and have secondary status. The Commission rejects this proposal, one of the reasons being that the proposal would create an incentive for microwave license applicants to propose excessive power or use more diffuse antenna patterns for their primary transmitters thereby precluding use of the spectrum by other microwave operators.

Low-Power Indoor Operations Across the Entire 6 GHz Band

54. The Commission opens the entire 6 GHz band for unlicensed indoor operations without the need for AFC-controlled access. By doing so, the Commission creates new unlicensed use opportunities in these bands—including optimizing the potential for deployment of next generation Wi-Fi that makes use of 160 MHz channels—while protecting the various incumbent licensed services in the band, including fixed microwave services, various other fixed and mobile services, and fixed-satellite services.

55. Because there will be no AFC system to prevent interference to licensed services from occurring, the rules the Commission adopts three restrictions designed to prevent harmful interference. Devices are: (1) Limited to indoor operation; (2) required to use a contention-based protocol; and (3) subject to low-power operation.

56. *First,* these low-power access points must operate only indoors. The signals transmitted by these unlicensed devices will be significantly attenuated when passing through the walls of buildings. The median signal loss from a traditionally constructed building is 17 dB and newer, highly efficient buildings provide even higher signal attenuation. No commenters disagreed with the ITU median signal loss value for traditional construction. This attenuation is key to providing the necessary signal reduction to prevent harmful interference from occurring to incumbents.

57. *Second,* the Commission requires that the indoor low-power devices, both access points and their associated client devices, employ a contention-based protocol. A contention-based protocol allows multiple users to share spectrum by providing a reasonable opportunity for the different users to transmit. Because the weighted average airtime utilization of Wi-Fi networks today is 0.4%, Wi-Fi devices share spectrum using a contention-based protocol. For IEEE's 802.11, a ''listen-before talk'' medium access scheme based on the Carrier Sense Multiple Access with Collision Avoidance (CSMA/CA) protocol functions as a contention-based algorithm to provide access to all traffic. Before initiating any packet delivery, a station listens to the wireless medium and if the medium is idle, the station may transmit; otherwise the station must wait until the current transmission is complete before transmitting. To ensure efficient and cooperative shared use of the spectrum, the Commission requires all unlicensed indoor low power operations use technology that includes a contention-based protocol.

58. In addition to providing equal access to the spectrum for unlicensed devices, a contention-based protocol can also be used to avoid co-frequency interference with other services sharing the band. Thus, this requirement can be leveraged to facilitate spectrum sharing with incumbent fixed and mobile services in the band. In addition, requiring a contention-based protocol will limit the amount of time that the low-power unlicensed device will transmit because of the need to share the spectrum with other devices. This will limit the time periods during which interference could potentially occur.

59. *Third,* the Commission limits the low-power indoor access points to lower power levels than the standard-power access points that operate under the control of an AFC. Consistent with the Commission's approach for the existing U–NII bands, the Commission specifies both a maximum power spectral density and an absolute maximum transmit power, both in terms of EIRP. Specifically, the Commission allows a maximum radiated power spectral density of 5 dBm per 1 megahertz and an absolute maximum radiated channel power of 30 dBm for the maximum permitted 320-megahertz channel (or 27 dBm for a 160-megahertz channel). In addition, to ensure that client devices remain in close proximity to the indoor access points, the Commission limits their PSD and maximum transmit power to 6 dB below the power permitted for the access points. In adopting these power levels in our rules, the Commission authorizes indoor unlicensed devices with adequate power to be useful to the public while also protecting the licensed services in the 6 GHz band from harmful interference. In accordance with the record developed in this proceeding, the Commission finds that this power level meets these twin goals.

60. In the sections below, the Commission first discusses the provisions adopting to keep these low-power access points indoors. The Commission then discusses the technical parameters for indoor unlicensed operations in this band—the power levels different parties request, the rationale behind the power levels the Commission adopts today, and how the technical filings in this proceeding support our conclusion that the potential for harmful interference to incumbent services operating in the 6 GHz band is insignificant. The Commission then evaluates the probability of unlicensed devices causing harmful interference to the incumbent services in the 6 GHz band—fixed services, mobile services, FSS, and radio astronomy. The Commission discusses the technical studies submitted to the record, most of which employ different analysis methodologies with widely varying input assumptions leading to divergent conclusions.

Certain studies are based on statistical simulations while others are based on worst-case scenarios. In evaluating these studies, the Commission discusses the methodologies and the underlying assumptions regarding propagation models, building entry loss, antenna patterns, height of unlicensed devices, activity factor and the bandwidth overlap of incumbent and unlicensed services and the associated consequences and conclusions.

Indoor Operations

61. The Commission first addresses measures designed to restrict these operations to indoor use. Because building attenuation is a key factor in minimizing the potential for harmful interference from indoor low-power access points to licensees' receivers, the Commission adopts reasonable and practical measures that will restrict low power access points to indoor operations. Specifically, the Commission adopts three equipment-related hardware requirements that are designed to keep these low-power access points indoors. *First,* as suggested by Boeing, the Commission requires that the access point devices cannot be weather resistant. *Second,* the Commission requires that the low-power access points have integrated antennas and prohibit the capability of connecting other antennas to the devices, which will prevent substituting higher gain directional antennas and make the devices less capable or suitable for outdoor use. *Third,* the Commission prohibits these low-power access points from operating on battery power. Furthermore, the Commission requires that the access points be marketed as ''for indoor use only'' and include a label attached to the equipment stating that ''FCC regulations restrict to indoor use only.'' The Commission also requires that this statement be placed in the device's user manual. This statement along with existing Commission requirements for Part 15 equipment will inform consumers of the appropriate use.

62. The Commission finds that these requirements will make outdoor operations impractical and unsuitable, and disagree with those commenters that suggest either that no requirements are needed or that any requirements would be ineffective. The Commission declines to adopt a suggestion to use GPS to determine whether a device is indoors. Furthermore, the Commission is hesitant to require all devices to incur the cost of incorporating a GPS capability given that the effectiveness of this idea has not been demonstrated.

Power Spectral Density Limit

63. In determining the appropriate power spectral density for low power indoor unlicensed devices in this band, the Commission has carefully reviewed the studies submitted into the record by all parties. Various analysis methodologies are used which fall into two main categories: (i) Monte Carlo simulations, which take into account probabilistic factors such as building entry loss, activity factor, and co-channel probability, and (ii) static link budgets with limited considerations of probabilistic dependencies. The studies submitted to the record result in widely varying conclusions. While the studies performed by the incumbents tend to assume worst case conditions and ignore the very low probabilities associated with such worst-case scenarios, the proponents of unlicensed usage tend to assume very low probabilities for the activity factor and high building entry losses. Other assumptions that vary between the models are building entry loss and propagation loss, with incumbents generally assuming line of sight free space propagation and unlicensed device proponents applying industry standard models that either inherently include clutter loss or treat such loss as an additive factor determined by a separate statistical clutter model appropriate for the environment.

64. The Commission adopts a 5 dBm/MHz PSD. Based on our experience with unlicensed operations and interference analyses as well as our engineering judgment, the Commission finds that 5 dBm/MHz PSD will both adequately protect all incumbents in the band from harmful interference as well as offer enough power to unlicensed devices, commensurate with the levels in the other U–NII bands, to sustain meaningful applications especially when using wider bandwidths. At this power limit and with the other constraints imposed on these operations, the risk of harmful interference to incumbent operations is insignificant.

65. With respect to unlicensed client devices, the Commission adopts the proposal and does not permit client devices to operate with the same power spectral density as access points. The Commission finds that client devices does not need the same power level due to the asymmetrical nature of traffic. An additional margin of 6 dB will provide protection to incumbents as client devices operate in the vicinity of access points. Accordingly, the Commission concludes that the appropriate maximum power spectral density for low power indoor client devices in this band is 6 dB below the limit for access points (or −1 dBm/MHz based on the adopted PSD limit).

Protecting Incumbent Operations

66. *Fixed Microwave Service.* The Commission finds that fixed microwave receivers will be protected from harmful interference from unlicensed indoor low power devices operating at the power levels the Commission is authorizing. The Commission reaches this conclusion based on the examination of two representative technical studies submitted to the record. First, a Monte Carlo simulation submitted by CableLabs provides a strong basis for reaching this conclusion. This study assumes realistic operating conditions for both licensed incumbent services and unlicensed operations. Second, a link budget analysis for six particular cases submitted by AT&T illustrates that interference is not likely to occur with the proposed power levels when realistic assumptions are made regarding propagation losses and taking into account the probabilistic nature of unlicensed transmissions. Because these six cases represent microwave receiver/unlicensed device geometries that are challenging from an interference perspective, the results give us confidence that interference is unlikely to occur. The Commission explains in more detail the numerous other technical filings submitted and why they are not significant to the conclusion.

67. Among several technical studies submitted by advocates of indoor low-power operations showing that the likelihood of interference to fixed microwave receivers is extremely low, the Commission finds the CableLabs study the most significant. These studies generally perform Monte Carlo computer simulations that model a random deployment of low-power unlicensed devices and calculate statistics on the likelihood of interference occurring to microwave receivers. Advocates of indoor low-power operations claim that fixed microwave links will not experience harmful interference from the unlicensed devices.

68. In general, any technical study pertaining to spectrum sharing should take into consideration the specific behavior of services involved and the complexity of the propagation environment where the services operate. Studies that focus on static link budgets, for example, neglect the effects of the sporadic nature of most unlicensed transmissions (activity factor) and the probability of co-channel operation of

the unlicensed device and the licensed service (*e.g.,* an 80-megahertz unlicensed channel covers less than 7% of the 6 GHz band). These factors reduce the probability of interference to the licensed service.

69. CableLabs submitted a technical study that models the interference potential of low-power indoor unlicensed devices to microwave receivers. This Monte Carlo simulation explores the potential for interference to fixed links in the New York City area. The simulation uses the WINNER II urban propagation model, the propagation model the Commission adopts in this Report and Order for intermediate distances for AFC systems (By intermediate distances the Commission is referring to distances between 30 meters and 1 kilometer.). The CableLabs study selects a building entry loss between 10 dB and 30 dB, which is consistent with ITU recommendation P.2109. Furthermore, the simulation uses a distribution of airtime utilization based on data taken from 500,000 Wi-Fi access points to model how often each access point in the simulation transmits. The simulations showed that the I/N ratio is far below the conservative −6 dB I/N threshold. This is the same −6 dB threshold that the Fixed Wireless Communications Coalition, which represents the interest of the fixed microwave licensees, uses as a threshold for protecting against harmful interference to fixed microwave links.

70. The Commission finds the CableLabs' study persuasive because it uses actual airtime utilization data for hundreds of thousands of Wi-Fi access points along with a statistical model for building entry loss. Rather than using a single average or median value to represent building entry loss the CableLabs' study uses attenuation values drawn from a probability distribution for each access point in the simulation. In this way the simulation more accurately models the variability of the building loss than using a single number for building loss such as the median or average.

71. Wi-Fi is the predominant use of the U–NII bands, and is ubiquitous in both residences and businesses. The Commission expects that the majority of indoor unlicensed operations in the 6 GHz band will be for Wi-Fi as well. Additionally, while the adopted rules do not limit the activity factor, the Commission requires devices to use a contention-based protocol which will prevent devices from transmitting at extremely high duty cycles. For these reasons, the Commission finds that the CableLabs study is the best evidence in the record of the impact that unlicensed low-power indoor devices will have on incumbent operations—and it demonstrates that such operations will not cause harmful interference.

72. AT&T offered six scenarios where an unlicensed device operates in close proximity to a fixed microwave receiver or where an unlicensed device operates relatively far from the microwave receiver but the terrain causes the unlicensed device to be in or close to the main receiver beam.

73. AT&T's technical study attempts to overcome the limitation of simple deterministic interference calculations by introducing a probability distribution around building entry loss. AT&T claims that their examples properly apply building entry loss by treating it as a probabilistic quantity using the distribution from ITU-recommendation P.2109 and that prior analyses have oversimplified building entry loss into a single value. The Commisison concludes that this step does not fully remedy the limitation of a static link budget analysis limitations. Some of the most significant elements of the AT&T link budgets are also probabilistic quantities. AT&T's link budget makes the following assumptions: (a) An EIRP of 30 dBm in an 80 MHz channel (11 dBm/MHz); (b) the maximum unlicensed device EIRP is in the direction of the microwave antenna; (c) free-space propagation for the interfering signal; (d) zero clutter loss; (e) that an unlicensed device at the specified location is capable of 6 GHz band operation and is operating co-frequency with the microwave receiver; and (f) the unlicensed device has a 100% duty cycle. Clearly, all of these parameters except for the EIRP have an associated probability distributions that are missing from AT&T's link budgets. For example, AT&T's use of a free-space propagation model ignores clutter that often surrounds the transmitter and receiver sites (and that may significantly reduce the risk of harmful interference). Recognizing that each of these factors can take on a range of values and that it is unlikely that each will be worst case at the same time and location, the Commission finds that AT&T overstates the potential for harmful interference.

74. The Commission presents a detailed comparison in Table 1 for one of AT&T's examples (Example 2) The Commission does this because it gives a more useful indication of unlicensed device signal levels than only treating one factor in the calculation as a probabilistic quantity as AT&T has done in their examples. By treating only the building entry loss as a probabilistic quantity while not considering all the other statistical quantities, AT&T's examples exaggerate the likelihood of interference occurring.

TABLE 1—AT&T EXAMPLE 2

	AT&T	Apple, Broadcom et al.	FCC
EIRP/BW	30 dBm/80 MHz	30 dBm/160 MHz	24 dBm/80 MHz.
PSD	11 dBm/MHz	8 dBm/MHz	5 dBm/MHz.
Antenna Gain	37.9 dB	37.9 dB	37.9 dB.
Antenna Discrimination	−1.5 dB	−2.538 dB	−1.5 dB.
RLAN/FS Antenna Mismatch	0 dB	−5 dB	−5 dB.
Clutter	0 dB	−25.00 dB	−18.4 dB (using ITU–R P.452 clutter model).
Path Loss	−118.96 dB (free space)	−118.92 dB (free space)	−120.12 dB (ITM P2P model).
Bandwidth Mismatch	−3 dB (assuming 80 MHz channels).	−7.27 dB (assuming 160 MHz channels).	−4.26 (assuming 80 MHz channels).
Noise Figure	−3.0 dB	−3.0 dB	−3.0 dB.
Polarization Loss	−3.0 dB	−3.0 dB	−3.0 dB.
Feeder Loss	0 dB	0 dB	0 dB.
Building Entry Loss (50%)	−17.00 dB	−17.00 dB	−20.62 dB (70/30 mix).
Interference (I)	−78.76 dBm	−113.83 dBm	−114 dBm.
Noise Floor (N)	−99 dBm	−99 dBm	−99 dBm.
I/N	20.44 dB	−14.83 dB	−15.0 dB.

75. The parameters in the above table were adjusted as follows:

(i) *EIRP/BW:* The analysis assumes a nominal channel bandwidth of 80 MHz, which results in a 5 dBm/MHz PSD limit.

(ii) *RLAN/FS Antenna mismatch:* The Commission agrees with Apple, Broadcom et al. that there will be an antenna pattern mismatch between the unlicensed devices and the microwave antenna and that 5 dB is a reasonable assumed loss.

(iii) *Clutter:* The Commission uses a standard clutter model (ITU–R P.452) to derive an 18.4 dB clutter loss.

(iv) *Path loss:* The Commission believes that the ITM P2P path loss model is most appropriate for this scenario.

(v) *Bandwidth mismatch:* The mismatch is based on an 80-megahertz bandwidth unlicensed channel. However, The Commission assumes that the mismatch factor should be −4.26 dB based on the ratio of the passband of AT&T's receiver and the bandwidth of the unlicensed channel.

(vi) *Building Entry Loss:* The Commisison finds that a 70% traditional construction/30% energy efficient construction mix of building types for determining building entry loss is appropriate.

76. Table 2 presents all of AT&T's six examples but substitutes more realistic technical parameters.

TABLE 2—FCC ANALYSIS OF THE AT&T EXAMPLES

	Example 1A	Example 1B	Example 2	Example 3	Example 4	Example 5
EIRP Power Spectral Density (dBm/MHz).	5	5	5	5	5	5.
Bandwidth (MHz)	80	80	80	80	80	80.
EIRP (dBm)	24	24	24	24	24	24.
RLAN Antenna Discrimination (dB).	−5	−5	−5	−5	−5	−5.
BW Mismatch (80 MHz Chan.) (dB)	−4.26	−4.26	−4.26	−4.26	−4.26	−4.26.
Polarization Loss (dB)	−3	−3	−3	−3	−3	−3.
Propagation Model	Winner II Urban LOS.	Winner II Urban LOS.	ITM P2P	ITM P2P	Winner II Sub-urban LOS.	Winner II Sub-urban LOS.
Propagation Loss (dB)	−103.6	−99.5	−120.12	−122.7	−96.1	−83.6.
Clutter Loss(dB)	0	0	−18.4	−18.4	0	0.
MW Antenna Gain (dB)	43.2	43.2	37.9	38.8	41.3	38.8.
MW Antenna Discrimination (dB)	−36	−38	−1.5	−0.9	−38	−40.
Feeder Loss (dB)	−2	−2	0	0	−2	0.
Building Entry Loss (70T/30E) 50th Percentile (dB).	−21.4	−21.9	−20.6	−20.6	−23.1	−24.0.
Noise (dBm)	−99.0	−99.0	−99.0	−99.0	−99.0	−99.0.
Noise Figure (dB)	3	3	3	3	3	3.
I/N (dB)	−12.06	−10.46	−15	−16.1	−10.1	−1.06.

77. Table 2 shows that when more realistic technical parameters than assumed by AT&T are used, the I/N ratio in all but one case now falls below the conservative −6 dB interference protection benchmark—indicating that there is an insignificant risk of harmful interference in five of these cases, when considering a static link budget analysis. Significantly, because these examples represent cases where the unlicensed devices are close to the microwave receivers or have terrain features that place the unlicensed device squarely in the main beam, they are representative of the worst cases that are likely to occur. Accordingly, they do not serve to rebut the persuasive showing by CableLabs based on a reliable probabilistic assessment derived from measurements associated with hundreds of thousands of actual Wi-Fi APs.

78. In only one case does a static link budget analysis suggest a nontrivial possibility of harmful interference (Case 5), and the Commission does not believe this one case poses a significant potential for actual harmful interference. That is in part because a −6 dB I/N interference protection criterion is a conservative approach to ensuring that the potential for harmful interference is minimized and in part because many statistical factors unaccounted for in this link budget analysis further make the potential for harmful interference much less likely. Combining the low probability of co-channel operation and low activity factor, the Commission concludes that based on a 5 dBm/MHz EIRP, the low power indoor operation will have an insignificant chance of causing harmful interference to the microwave links for any of these six examples (or fixed microwave links more generally). If the EIRP where increased to 8 dBm/MHz, the I/N ratios for examples 1B, 4, and 5 in Table 5 would recalculate to −7.46 dB, −7.1 dB, and 1.94 dB respectively, which would create a higher risk of harmful interference (although still very low). As the Commission cannot conduct an analysis for every fixed station and each of their associated link paths, it chooses to adopt a conservative 5 dBm/MHz EIRP at this time to enable low-power indoor operations throughout the 6 GHz band with insignificant risk of harmful interference.

79. CITA, Southern Company, the Critical Infrastructure Industry, and Apple, Broadcom et al. also submitted technical studies exploring the potential for harmful interference to fixed microwave receivers. The Commission examined these technical studies. These technical studies did not change the Commission's conclusion that unlicensed low-power indoor operations would present an insignificant risk of harmful interference.

80. *Additional Considerations.* The Commission is convinced, that as the Monte Carlo simulations involving extensive use of unlicensed devices in the band and examination of the link budget studies show, fixed microwave links will have an insignificant chance of experiencing harmful interference from indoor low-power unlicensed operations. Further, the non-continuous nature of the transmissions of the most widely used unlicensed systems today, like Wi-Fi makes the occurrence of harmful interference even less likely. And the Commission's rule requiring

that low-power indoor access points employ a contention-based protocol ensures that none of these unlicensed devices will employ continuous transmissions. The data that CableLabs submitted collected from 500,000 Wi-Fi access points shows that 95% of access points have an activity factor of less than 2% and only 1% of access points are active more than 7% of the time. This illustrates that most of the time a particular access point will not be transmitting.

81. The sporadic and bursty nature of Wi-Fi transmissions is significant for two reasons. First, it illustrates why discussions of aggregate interference from Wi-Fi devices cannot simply add the power received from the individual access points to calculate the received interference. Instead, to more accurately estimate aggregate interference a Monte Carlo simulation which accounts for the intermittent nature of the transmissions should be undertaken.

82. Second, potential degradation of a microwave link will only occur if a deep atmospheric multipath fade occurs at the same time the microwave receiver receives an excessively high powered transmission from an unlicensed device, such that natural losses due to separation distance, clutter, and terrain do not sufficiently diminish the power received from the unlicensed device.

83. The Commission disagrees with the Fixed Wireless Communications Coalition to the extent that it implies that our obligation regarding harmful interference from unlicensed devices goes beyond what is enumerated in our rules. While as general matter harmful interference is defined as ''[a]ny emission, radiation or induction that endangers the functioning of a radio navigation service or of other safety services or seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with this chapter,'' the Part 15 rules apply this criteria on a case by case basis for different bands after careful consideration of the incumbent services in each band that ensures such harmful interference is unlikely to occur. The technical and operational limits the Commission adopts in this proceeding ensures that unlicensed devices will not have a significant potential for causing harmful interference to the users authorized to operate in the 6 GHz band.

84. The Commission, however, is not required to refrain from authorizing services or unlicensed operations whenever there is any possibility of harmful interference. Indeed, such a prohibition would rule out virtually all services and unlicensed operations, given that there is virtually no type of RF-emitting device that does not have the potential for causing such interference if used incorrectly. NCTA notes that the Commission may promulgate rules for unlicensed operations in bands occupied by other users so long as unlicensed devices do not ''transmit[ ] enough energy to have a significant potential for causing harmful interference.'' In rulemakings, the Commission may authorize operations in a manner that reduces the possibility of harmful interference to the minimum that the public interest requires, and it will then authorize the service or unlicensed use to the extent that such authorization is otherwise in the public interest. The Commission determines that the restrictions and requirements that it is establishing for indoor use of low power access points eliminates any significant risk of causing harmful interference.

85. AT&T, CTIA, and others express concern that harmful interference nonetheless may occur, and the rules do not go far enough to ensuring that the interfering devices can be identified and the operation cease. Both AT&T and CTIA advocate use of an AFC system to address these concerns. While in certain bands the Commission has required database use, for other bands the Part 15 rules have no such requirement. Of particular relevance here, there is no spectrum management system in the 2400–2483.5 MHz band, where unlicensed devices share spectrum with the incumbent broadcast auxiliary service licensees and operate at higher powers than the indoor low-power access points authorized here. Nor are there such requirements in the 5 GHz band, which includes sensitive incumbent operations and where the unlicensed operations are similar to the kinds of low-power operations anticipated in the 6 GHz band. Wi-Fi devices have been deployed in these bands in abundance for well over 20 years, and the Commission expects that the deployment of 6 GHz devices will resemble the deployment of devices in these other bands, where instances of harmful interference have been effectively identified and addressed.

86. The Commission disagrees with CTIA's contention that our rules will be ineffective in keeping the low-power indoor devices from being used outdoors. The Commission's Part 15 rules prohibited outdoor operation in the U–NII–1 band from 1997 until 2014 and currently prohibit outdoor operation for unlicensed devices in the 92–95 GHz band and many ultra-wideband devices. As outdoor operation of these indoor devices has not been a problem, the Commission's rules restricting devices to indoors cannot be categorized as ineffective. None of these existing and previous rules contain all of the restrictions the Commission adopts here to discourage outdoor use. As in the rules for those operations, the Commission concludes that the technical and operational rules will be sufficient to protect incumbent operations.

87. In the unlikely event that harmful interference does occur, the Commission's Part 15 rules in section 15.5 (b)–(c) require that such operations cease, and the Commission's Enforcement Bureau has the ability to investigate reports of such interference and take appropriate enforcement action as necessary. Also, once interference to a protected service crosses the relevant threshold specified in section 15.3(m) for harmful interference, it is immediately actionable for enforcement purposes. Any user causing interference may be required to cease operating the U–NII device, even if the device in use was properly certified and configured and will not be permitted to resume operation until the condition causing the harmful interference has been corrected.

88. Here, as always, the Commission focuses on identifying and protecting against actual-use cases; were the Commission to act on every unrealistic or contrived situation that purports to show the potential for harmful interference, the Commission's rules would allow for few or no opportunities for sharing between unlicensed devices and licensed services; sharing that has allowed Wi-Fi to prosper along with continued licensed spectrum use. The Commission emphasizes, however, that under our long-established rules, Part 15 devices are not permitted to cause harmful interference. This fundamental principle stands regardless of the particular band- and application-specific rules adopted.

Mobile Services

89. The 6 GHz band Mobile service allocation is limited to the U–NII–6 (6.425–6.525 GHz) and U–NII–8 (6.875–7.125 GHz) bands. In these bands, the mobile service incumbents operate electronic news gathering and other Part 74 broadcast auxiliary services, as well as Part 78 Cable Television Relay Service, and Part 101 Local Television Transmission Service. Incumbents operate portable camera relays to ''jumbotron'' screens for major sporting events at stadiums and arenas, and at musical concerts at large venues, indoors and outdoors; use the spectrum bands for video relay to production

trucks at news events; and for video signal multi-hop mobile relay from newsworthy events to either a satellite news truck, a fixed receive site or a temporary relay site. Low Power Auxiliary Stations, also licensed in the U–NII–8 band, operate on an itinerant basis and transmit over distances of approximately 100 meters for uses such as wireless microphones, cue and control communications, and TV camera synchronization signals. Additional terrestrial uses of the band include short range video relay for video production at automobile and sailboat racing event, political conventions and golf tournaments. Because of the nature of their use—breaking news, event coverage, etc.—the use of particular portions of this band by these auxiliary services is unpredictable.

90. NAB opposes allowing indoor unlicensed operations in the bands where there are broadcast auxiliary service operations (U–NII–6 and U–NII–8), unless a ''robust, reliable mechanism is developed to coordinate'' the unlicensed operations with the licensed uses. To support of its position, NAB submitted a study which evaluates the impact of indoor and outdoor unlicensed operations in the U–NII–6 and U–NII–8 bands in three different use scenarios: (i) An electronic news gathering truck transmitting to a central receive site; (ii) portable cameras transmitting to an outdoor electronic news gathering truck receive site; and (iii) portable cameras transmitting to an indoor receive site.

91. Though the NAB study provides some valuable information about the potential risk of harmful interference to electronic news gathering receive sites, the Commission disagrees with certain of its assumptions. The Commission disagrees with NAB's use of free-space path loss for all paths based on a predicted percentage of area that is line-of-sight when in fact unlicensed devices will be randomly located and could very well be in areas of buildings without line-of-sight to the electronic news gathering receiver. Under more realistic conditions, the Commission notes that NAB's use of a −10 dB I/N benchmark is rarely exceeded in the electronic news gathering truck receiver case. The Commission notes that the use of a conservative but more reasonable −6 dB would show much less likelihood of any potential for harmful interference. And taking into account the power-level and contention-based protocol limitations would show even less likelihood of harmful interference.

92. NAB's study includes co-channel operation probability in its statistical study but bases this probability on unlicensed devices being restricted to the U–NII–6 and U–NII–8 bands. NAB's assumption increases the probability of co-channel operations and thus, over predicts the potential for harmful interference to electronic news gathering operations.

93. Finally, NAB requests that the Commission authorize low power indoor operations in the U–NII–6 band altogether or alternatively to reserve 80 megahertz in the upper U–NII–8 band for ENG use only. As discussed below, low-power indoor operations will have little potential of causing harmful interference to ENG operations and decline to take this action. Moreover, eliminating the spectrum available for 6 GHz unlicensed devices could have the unintended effect of actually increasing the potential interference to other users as more unlicensed devices would have access to fewer channels.

94. *Outdoor electronic news gathering central receive sites.* For the reasons outlined above, the Commission believes NAB's study overstates the potential of exceeding its chosen I/N criterion of −10 dB and therefore also overstates the likelihood of exceeding the conservative and sufficiently protective I/N value of −6 dB. Apple, Broadcom et al. submitted a statistical study of the same scenarios but based on a combination of WINNER II and Irregular Terrain Model with the P.2108 propagation models. The Apple, Broadcom et al. study considers two activity factors and a 70/30 mix of building entry loss based on ITU Recommendation P.2109. The Apple, Broadcom et al. results indicate that aggregate signal level from indoor unlicensed devices will exceed a level 6 dB below the electronic news gathering central site receiver noise floor only 0.1% of the time. Thus, concluding that there is a negligible risk of harmful interference. The Commission finds that the Apple, Broadcom et al. study uses more appropriate propagation models and therefore more accurately represents the risk of harmful interference from indoor unlicensed devices to electronic news gathering central receive sites and find that risk to be insignificant.

95. *Interference to electronic news gathering truck receivers.* Results of NAB's own study show that at the lower activity factor of 0.44% indoor unlicensed devices are unlikely to cause the I/N to exceed −10 dB. At the 10% activity factor, the electronic news gathering truck receiver results showed that between 0.2 and 49.8% of the time the aggregate I/N exceeds the −10 dB I/N threshold. CableLabs' empirical activity factor data show a weighted distribution of 0.4%. The Commission concludes that it is highly unrealistic to assume that every unlicensed device in an area surrounding an electronic news gathering truck will be transmitting at the high 10% activity factor.

96. The NAB study also concludes that the level of unwanted signal seen by the electronic news gathering truck receiver is dependent on the relationship between the height of the unlicensed device, the height of the electronic news gathering antenna and the height of the surrounding environment. The same relationship between local environment and antenna heights will exist for the desired link between the electronic news gathering transmitter and truck mounted receiver, except the electronic news gathering link can be planned and the electronic news gathering truck can be positioned to achieve the best possible signal between transmitter and receiver. Given the sensitivity of potential interference to geometry coupled with NAB's unrealistic assumption that every unlicensed device in an area surrounding an electronic news gathering truck will be transmitting at the high activity factor, the Commission concludes that the potential for harmful interference (using a more appropriate −6 dB threshold) is again insignificant for the scenario indicated.

97. CableLabs and Apple, Broadcom et al. both submitted studies indicating that potential for harmful interference from indoor unlicensed devices to outdoor electronic news gathering truck receivers will be unlikely. The Commission agrees with CableLabs' and Apple, Broadcom et al.'s findings, that the risk of harmful interference to outdoor electronic news gathering receivers from indoor unlicensed devices is negligible. The Commission notes that the same conditions that cause signal variations in the electronic news gathering signal will also act upon a signal from an unlicensed device. CableLabs states that a 10 dB signal-to-interference-plus-noise provides an accurate basis for determining the impact of unlicensed indoor devices on broadcast auxiliary service signals. Apple, Broadcom et al. asserts ''[n]ews truck operators will be able to improve their link budgets by slightly adjusting the positions of their trucks or shooting locations.'' The Commission also notes that both Apple, Broadcom et al. and CableLabs' studies assume a maximum of 30 dBm EIRP with at least an 8 dBm/MHz PSD, and that it is permitting indoor unlicensed devices to transmit with only a maximum 5 dBm/MHz PSD. This 3 dB variance further reduces the probability of harmful interference to

electronic news gathering trucks from unlicensed devices.

98. *Interference to indoor electronic news gathering receivers.* The final scenario studied by NAB is communication between indoor electronic news gathering transmitters, such as microphones and camera-back transmitters, and indoor electronic news gathering receivers. The Commission is not permitting client devices to be used as hotspots and requires 6 GHz unlicensed devices to use a contention-based protocol. The Commission concludes that such a protocol will allow unlicensed devices to sense the energy from nearby indoor licensed operations and avoid using that channel. Apple, Broadcom et al. points out that the 802.11 specification dictates that devices sense the energy in the channel and not transmit if they detect energy at a level greater than −62 dBm. To confirm that energy sensing could be used to mitigate interference to indoor electronic news gathering receivers, Apple, Broadcom et al. simulated the receive power level from electronic news gathering transmitters at 20 unlicensed access points operating within the US House of Representatives chamber. The results of this simulation demonstrate that, even at the lowest electronic news gathering transmit power level, all unlicensed access points would detect the electronic news gathering signal at greater than −62 dBm and therefore not transmit co-channel. While it is not requiring a specific technology protocol or contention method, the Commission concludes that the results of the Apple, Broadcom et al. study shows the likely potential of contention-based protocols to protect indoor mobile links, including electronic news gathering and Low Power Auxiliary Stations. Thus, the Commission concludes that the risk of harmful interference to indoor electronic news gathering receivers from indoor unlicensed devices is insignificant.

Fixed-Satellite Services

99. The entire 6 GHz band is also home to a FSS allocation (Earth-to-space), while U–NII–8 has a few space-to-Earth MSS feeder downlinks. The Commission agrees with Sirius XM, Intelsat, and SES that there will be negligible interference to satellite receivers from low-power indoor unlicensed devices. The low power levels of these devices as well as building attenuation will prevent harmful interference. With regard to earth station receivers, the Commission disagrees with Globalstar's analysis. As Apple, Broadcom et al. point out Globalstar's analysis represents an impossible worst-case scenario because it assumes that the earth station antenna is pointing at its minimum usable elevation angle in each of the interfering indoor access points resulting in the assumption that earth station antennas will simultaneously receive unlicensed device transmissions from all directions with the same antenna gain. Globalstar also assumes all unlicensed devices are operating at the same location where the incidence angle at the building wall is always zero, yielding the least building entry loss. Globalstar, uses a conservative 10% activity factor with all unlicensed activity concentrated at a small number of sites resulting in an unrealistic assumption that unlicensed transmission will always be subject to 7 dBi of earth station gain. However, it is unlikely that all indoor unlicensed devices will be operating at the same location and orientation with respect to the path between the device and the earth station receiver. Instead, the elevation angle at the building façade should be considered to be variable, resulting in incidence angles greater than zero, which would increase the building entry loss value and minimize the probability of interference. Globalstar assumes line-of-sight and free-space propagation for all paths. The Commission disagrees that line of sight and free-space propagation loss is appropriate in all cases between a randomly placed unlicensed device and Globalstar's earth station.

100. Finally, Globalstar's analysis assumes all unlicensed devices are operating at the proposed maximum permissible power with the peak antenna gain directed toward its earth stations. The Commission is allowing unlicensed indoor devices to operate at a maximum 5 dBm/MHz PSD which represents at least a 3 dB/MHz reduction over the power levels assumed in the Globalstar analysis. Additionally, when considering random placement of unlicensed devices and variations in the unlicensed device antenna pattern, it is unlikely that the unlicensed device EIRP in the direction of the earth station will always be at maximum power, thus the risk of harmful interference is further reduced. For the reasons outlined here, the Commission finds that Globalstar's link budget analysis fails to fully consider all the probability factors that must align in order for interference to occur. The Commission therefore finds that the risk of harmful interference occurring to Globalstar's earth stations to be low.

Radio Astronomy

101. The National Academy of Sciences Committee on Radio Frequencies requests that the Commission use the AFC system to protect four radio astronomy observatories located in remote areas. The Commission is not adopting any AFC-based requirements for unlicensed low-power indoor operations generally, and declines to adopt such a requirement here. The four radio observatories that receive in the 6 GHz band are in remote locations and it is unlikely that indoor low-power unlicensed devices will be operating nearby. Furthermore, these observatories can restrict installation of such devices at their facilities. The Commission believes that indoor unlicensed devices do not pose any risk of harmful interference to radio astronomy operations.

Multi-Stakeholder Group

102. The Commission notes that many of the companies and organizations with interest in the 6 GHz band may not have previously participated in multi-stakeholder groups on matters related to specific Commission proceedings. Therefore, while the Commission takes no position on whether an existing organization could or should serve as host of the 6 GHz multi-stakeholder group, the Commission believes that any such multi-stakeholder group should be newly formed (not an offshoot of an existing group) and focus solely on issues relevant to the 6 GHz band. To ensure that all viewpoints are considered, the Commission encourages stakeholders comprising all sectors of the 6 GHz ecosystem to participate, including: wireless service providers with interest in providing service through standard-power and indoor low power devices, RLAN and network equipment manufacturers, potential AFC operators, fixed service vendors and operators, existing 6 GHz band incumbent licensees, ultrawideband equipment manufacturers, academic experts, testing organizations, and other 6 GHz band stakeholders. The Commission does not, however, take a position on the exact makeup or organizational structure of any such stakeholder group.

103. The Commission encourages the multi-stakeholder group to address any issues it deems appropriate regarding interference detection and mitigation in the event that an incumbent licensee believes it may be experiencing harmful interference from standard-power or indoor low-power operations. These issues would include procedures and

processes that could be followed if an incumbent licensee has, or potentially has, an interference complaint. For example, network operators of standard-power or indoor low-power operations could decide to make points of contact publicly available or to create a website to facilitate addressing concerns or for reporting complaints. The Commission also believes that the group should set a goal of creating a process through which the industry can effectively address and resolve interference claims without necessitating involvement of the Commission's Enforcement Bureau.

104. While the Commission is not requiring general device testing as a gating criterion for devices before they begin operating in the 6 GHz band, the Commission recognizes that it will take some time before devices can be designed, manufactured and made available to consumers. During this interim period, members of the multi-stakeholder group could work cooperatively to develop and test devices to aid in the goal of developing processes for introducing and operating devices across the 6 GHz band. As the Commission does not require the multi-stakeholder group to conduct testing, the Commission also declines to set any timelines if any testing is conducted. Because the Commission does not expect widespread availability of 6 GHz unlicensed devices immediately, the Commission encourages the multi-stakeholder group, if conducting any testing related to developing procedures and processes regarding interference detection and mitigation, to set a goal of implementing any agreed-upon device-related features before unlicensed 6 GHz devices reach consumers.

105. The Commission also encourages the multi-stakeholder group to address any other issues that may be specific to standard-power operations or indoor low-power operations. In particular, the Commission encourages the group to address, as proposed in the Notice, AFC system development for standard power access points. Related tasks are expected to include any standards that are necessary for AFC operators, such as how to implement the required propagation models or whether common communications protocols are needed between standard power unlicensed devices and the AFC(s). Additionally, the Commission expects that the multi-stakeholder group will develop AFC system testing and certification procedures and processes for ensuring that AFC systems contain complete and up-to-date incumbent data.

106. Finally, the Commission expects that the multi-stakeholder group will develop best practices and standards concerning standard-power operations (and use of the AFC system) and for indoor low-power operations—practices that the Commission expects will benefit all users of the 6 GHz band, both incumbents that desire additional protection and new unlicensed users that want to use the spectrum more intensely. The Commission expects that these best practices will include such concerns as device and communication link security. These activities should be viewed as a starting point; participants of the multi-stakeholder group should tackle any issues they deem appropriate.

107. The Commission's Office of Engineering and Technology (OET) will act as a liaison for the Commission with any such multi-stakeholder group so formed. In particular, the Commission expects the Office to observe the functioning of any such group and the technical concerns that it is considering to ensure that the group's activities are useful and pertinent. OET will provide guidance to any such group on the topics on which it would be most helpful for the Commission to receive input and a sense of the time frames in which such input would be helpful.

Equipment Issues

108. *LAntenna Requirements.* The Commission requires that all low power devices incorporate permanently attached integrated antennas. Requiring an integrated antenna makes it significantly more difficult for a party to replace a device's antenna with a higher gain antenna, which could increase a device's EIRP above the limit and therefore increase the potential for a device to cause harmful interference.

109. The Commission does not, however, require a permanently attached antenna for standard-power access points. The Commission finds that a requirement to use a permanently attached antenna on standard power access points could be overly restrictive. These types of devices are typically used outdoors by parties such as schools, businesses and WISPs and are configured in a manner where the antenna is mounted on a mast or building and connected through a cable to a separately located transmitter. Such a requirement could be difficult to implement for these configurations. In addition, permitting such devices a choice of appropriate antennas will provide options for meeting the antenna pointing restrictions which limit outdoor devices to antenna elevation angles less than 30 degrees for devices transmitting more than 21 dBm EIRP to protect satellite operations in the band. Further, the Commission notes that devices in other U–NII bands do not have a requirement for permanently attached antennas, so adding a requirement for equipment in the 6 GHz bands could make it more difficult for manufacturers to develop devices that are capable of operating across multiple bands. Consistent with the existing Part 15 rules, applicants for standard-power access point equipment authorizations will be required to list all types of antennas that will be used with a device and demonstrate that the equipment complies with the EIRP limits with all types of antennas with which it is authorized.

110. *Maximum Channel Bandwidth.* Because the Commission is setting a power spectral density limit of 5 dBm/MHz for low power indoor devices to limit their potential for causing interference to incumbent services, the Commission permits these devices to operate with a maximum channel bandwidth to 320 megahertz to permit a maximum power of up to 30 dBm. For consistency the Commission also specifies a maximum bandwidth of 320 megahertz for AFC controlled standard-power access points.

111. The Commission finds that this bandwidth requirement is appropriate for several reasons. It will permit manufacturers to develop equipment under current standards with bandwidths of up to 160 megahertz as a number of parties suggest. In addition, the Commission's understanding is that industry standards under consideration such as IEEE 802.11be will specify channel bandwidths of up to 320 megahertz. Thus, a 320 megahertz bandwidth limit will permit future equipment development under anticipated standards without a need for additional rule changes. However, the Commission is placing a 320-megahertz upper limit on bandwidth so as not to supplant the rules for wideband and ultrawideband operations in the 6 GHz band. These rules permit operation with bandwidths greater than 500 megahertz, but with a lower −41 dBm/MHz power spectral density. The Commission notes that unlicensed proponents have not requested channels bandwidths greater than 320 megahertz and that the Commission did not provide notice of any proposed changes to the wideband or ultrawideband rules.

112. *Standard power transmitted power levels in rural areas.* The Commission does not at this time permit higher power limits in rural areas, nor make any specific provisions for higher power point-to-point or point-to-multipoint operations in the U–NII–5 and U–NII–7 bands as suggested by some commenters. While the Commission recognizes that establishing

a single power limit of 36 dBm for standard-power access points differs from the rules for the U–NII–1 and U–NII–3 bands that permit higher power for fixed point-to-point devices, and from the white space rules that permit higher power for fixed devices in ''less congested'' (*e.g.,* rural) areas, the Commission is not adopting higher power limits for several reasons. The Commission first notes that the rules adopted does not place an upper limit on antenna gain; the transmit limits are based solely on EIRP, and manufacturers can use any combination of transmitter power and antenna gain to reach that limit. The Commission interprets parties' requests for higher antenna gain limits as requests for higher EIRP limits. While allowing higher power could encourage the provision of additional services in rural and other areas, it also increases the range at which harmful interference to incumbent users in the bands could potentially occur. Therefore, the Commission is taking a conservative approach at this time and not permitting power levels greater than 36 dBm for standard-power access points. In addition, permitting higher power in only certain areas would make the AFC implementation more complex because criteria for where to allow higher power operation would have to be defined and incorporated into the AFC. Also, taking into account the directivity of standard-power access point transmit antennas as some parties suggest would make AFC calculations more complex.

113. *Client Device Transmit Power Levels.* The Commission is adopting rules that limit client devices to power levels 6 dB below the power limits for access points. The Commission concludes that this 6 dB reduction is necessary because when the client device is operating under the control of the access point, the client device may have a slightly different propagation path and interference potential to a victim receiver.

114. The Commission generally declines to increase client device power levels to the same power levels as access points, as suggested by some commenters. The Commission recognizes commenters concerns regarding the power differential between access points and client devices. However, because a client device may be portable (*e.g.,* a cell phone) and operate at different locations around its serving access point, the propagation path of its emissions could vary. This could, in turn, slightly change the potential for interference from any particular client device to incumbent operations within the area. Thus, the Commission declines to adopt power limits for client devices commensurate with access points. However, the Commission makes two limited exceptions to this requirement.

115. First, to the extent that an access point and a client device are both permanently fixed and operate under the control of an AFC system that provides a list of available frequencies to each device, each may operate at up to the maximum 36 dBm level. In such cases, the Commission does treat the client device as another access point with respect to operational rules, provided it complies with all of the requirements for access points, including using an AFC to obtain a list of available channels, having a geolocation capability and complying with the limit on upward antenna radiation from outdoor devices (no greater than 21 dBm at more than 30 degrees above the horizon). To distinguish these devices from actual access points for equipment certification purposes (as they differ in not having a direct connection to the internet), the Commission defines them as fixed client devices.

116. The Commission also adopts an exception to accommodate devices such as Wi-Fi extenders and mesh networking equipment intended to work in conjunction with an indoor access point and share the same propagation path and thus the same power requirements. The Commission also permits other devices under certain conditions to operate at the full 5 dBm/MHz power spectral density. The Commission permits such devices to operate at the same power levels as an access point provided that they comply with all the requirements set out for low power indoor access points (*i.e.,* the device cannot be weather resistant, must have an integrated antenna and cannot have capability of connecting other antennas, cannot be capable of operating on battery power, and must include a label regarding proper usage) and the end unit obtains its own equipment certification. Under these requirements modules do not qualify for higher power. Further, such devices may only be used within a single structure and not to connect separate buildings or structures. The Commission believes such relief is a reasonable accommodation to keep most popular consumer devices less complex and more affordable without increasing the potential of harmful interference to incumbent licensees as these devices will be installed and used in a manner analogous to an access point.

117. The Commission does not find it necessary to restrict the power radiated upward from client devices as required for standard-power access points. The Commission believes it is unlikely that relatively low-power unlicensed devices will cause harmful interference to receivers on geostationary satellites approximately 36,000 km above the equator. The Commission is limiting upward power from standard-power access points merely as a precautionary measure as they are more likely to operate outdoors and with higher power. The Commission notes that client devices can operate with EIRP as high as 30 dBm, but finds that they are less likely to cause interference to satellite receivers than similarly powered outdoor access points due to the nature of their operation. The Commission first notes that client devices are limited to a power level 6 dB lower than access points, but the Commission expects them to generally operate at much lower power levels to maximize battery life and comply with RF exposure limits. In addition, client devices communicate with access points in an asymmetric nature, in that relatively little data is transmitted in the uplink direction (*i.e.,* from the client device) as compared to the downlink direction where any single access point may be serving many client devices. Moreover, client devices typically operate with omnidirectional antennas at low antenna heights and in a mobile or portable mode (*i.e.,* not installed in permanent outdoor locations). Thus, the Commission expects that upwardly directed client device emissions will often be at low power levels and shielded to some extent by buildings, foliage, or other obstructions.

118. *Emission Mask and Out-of-Band Emission Limits.* The Commission concludes that the emission mask suggested by RKF Engineering, with certain modifications, protects incumbent microwave links and other services operating in the adjacent channel to unlicensed devices within the U–NII–5 through U–NII–8 bands. Accordingly, the Commission requires emissions from standard power access points and low power indoor devices within the U–NII–5 through U–NII–8 bands to comply with the transmit emission mask proposed in the Notice. Specifically, the Commission is requiring 20 dB suppression of power spectral density at one megahertz outside of an unlicensed device's channel edge, 28 dB suppression of power spectral density at one channel bandwidth from an unlicensed device's channel center, and 40 dB suppression of power spectral density at one and one-half times the channel bandwidth

away from an unlicensed device's channel center. At frequencies between one megahertz outside an unlicensed device's channel edge and one channel bandwidth from the center of the channel, the limits must be linearly interpolated between 20 dB and 28 dB suppression, and at frequencies between one and one and one-half time an unlicensed device's channel bandwidth from the center of the channel, the limits must be linearly interpolated between 28 dB and 40 dB suppression. Emissions removed from the channel center by more than one and one-half times the channel bandwidth, but within the U–NII–5 and U–NII–8 bands, must be suppressed by at least 40 dB.

119. The Commission adopts a −27 dBm/MHz limit for emissions from all 6 GHz unlicensed devices at frequencies below the bottom of the U–NII–5 band (5.925 GHz) and above the upper edge of the U–NII–8 band (7.125 GHz), but will not require it between the sub-bands, *i.e.,* between the U–NII–5 and U–NII–6, the U–NII–6 and U–NII–7, and the U–NII–7 and U–NII–8 bands. The Commission believes that a limit of −27 dBm/MHz is necessary to protect services outside the U–NII–5 and U–NII–8 bands, including the Intelligent Transportation Service below the U–NII–5 band and federal government operations above the U–NII–8 band. The Commission is not requiring devices to meet this emission limit between the sub-bands as suggested by Sony because it is seeking to maximize spectrum use and it would stifle innovation by precluding the use of wide bandwidth channels (up to 320 megahertz) that straddle sub-bands. Standards bodies have generally developed channeling plans for unlicensed devices based on technical characteristics, including devices' out-of-band emissions. Manufacturers will have the freedom to determine how they will meet this limit either by reducing power levels, through filtering or through other means, such as not enabling channels closest to the U–NII–5 and U–NII–8 band edges.

120. Finally, the Commission addresses the measurement procedures for 6 GHz unlicensed devices. To protect Intelligent Transportation Services in the band below 6 GHz, 5GAA states that the −27 dBm/MHz standard the Commission is adopting, when based on a root-mean-square (RMS) measurement, is sufficient to protect those services from indoor device OOBE. RLAN proponents agree that the OOBE should be verified using an RMS detector or other appropriate techniques for measuring average power. The Commission agrees and will provide guidance to the test labs and telecommunications certification bodies which conduct equipment approval measurements and oversight that 6 GHz unlicensed device measurements may be conducted based on using an RMS detector. Because RMS measurements represent the continuous power being generated from a device as opposed to peak power which may only be reached occasionally and for short periods of time, the Commission believes an RMS measurement is more appropriate. The Commission notes that this is a departure from the Commission's measurement guidance for similar devices in the 5 GHz band where the Commission specifies a peak measurement. However, that procedure was instituted to mitigate a known interference issue with federal radars in the 5 GHz band. No such situation exists in the 6 GHz band. The Commission will update its Knowledge Database guidance consistent with this decision.

121. *Client Device Restrictions.* The Commission adopts a requirement that client devices operate either under the control of a standard-power access point or a low-power access point. The purpose of this requirement is to prevent client devices from transmitting outdoors at locations where they may cause interference to a microwave receiver or other incumbent. When client devices are under the control of a standard-power access point, they will be in close proximity to the access point and may transmit only on frequencies that the AFC system has determined will not cause interference to fixed microwave links. When a client device is under the control of a low-power indoor access point, it should also be indoors and in close proximity to the access point, and therefore avoid presenting an interference risk to licensed services. However, the Commission also adopts an exception to this general requirement to allow a client device to transmit brief messages (''probe requests'') to an access point when attempting to join its network as discussed below.

122. The Commission recognizes the utility of permitting probe requests to enable client devices to join an access point's network. However, these probe requests have the potential to cause harmful interference to licensed operations. The Commission therefore only permits a client device to send a probe request to an access point after it has detected a transmission from the access point. The client device will be required to send the probe request on the same frequency as the access point's transmission. This is consistent with the white space rules that permit a fixed white space device establishing a network to make brief transmissions on a frequency that it detects is in use by another fixed device prior to receiving a list of available channels from a database. Under this exception, because the client device will have to detect an access point transmission, the client device will only transmit when it is close enough to an access point to be under its control and on a frequency on which the access point has permission to transmit. This will prevent harmful interference from occurring.

123. The Commission prohibits the use of client devices as mobile hotspots that could authorize the operation of other client devices. The rules the Commission adopts for AFC controlled operation of unlicensed access points are designed to prevent harmful interference to licensed stations by only allowing operation at locations where an access point and client devices directly communicating with it would not cause interference to licensed stations. Permitting a client device operating under the control of an access point to authorize the operation of additional client devices could potentially increase the distance between these additional client devices and the access point and increase the potential for harmful interference to fixed service receivers or electronic news gathering operations. For standard-power devices in the U–NII–5 and U–NII–7 bands hotspot operation could allow the additional client devices to transmit in locations where the AFC otherwise would prevent operation to protect incumbent service operations. With regard to low-power indoor access points, our rules are designed to prevent the low-power access points from being used outdoors which should also keep the client devices indoors. In addition, as APCO states, allowing such portable access points could make identifying and resolving interference difficult.

Making Portions of the 6 GHz Band Available for New Licensed Services

124. The Commission declines the requests to repurpose substantial portions of the 6 GHz band for new licensed services in place of new unlicensed operations and existing incumbents. Most importantly, the Commission believes that providing new opportunities for unlicensed operations across the entire 6 GHz band can help address the critical need for providing additional spectrum resources for unlicensed operations. Making the entire band available for these unlicensed operations enables use of wide swaths of spectrum, including several 160-megahertz channels as well

as 320-megahertz channels, which promotes more efficient and productive use of the spectrum, and would also help create a larger ecosystem in the 5 GHz and 6 GHz bands for U–NII devices. Repurposing large portions of the 6 GHz band for new licensed services would diminish the benefits of such use to the American public. Accordingly, the Commission agrees with the unlicensed proponents to reject these requests. Similarly, repurposing substantial portions of the band, as CTIA and Ericsson request substantially affects existing licensed services in the band. This is contrary to the Commission's goal in this proceeding to ensure that existing incumbents can continue to thrive in the 6 GHz band. Representatives of the incumbent fixed microwave services also raise concerns about the reasonableness and practicality of relocation, and question whether other appropriate spectrum can be found. The fixed satellite service commenters also strongly reject the contention of CTIA and Ericsson that satellite services would not need to be relocated because new licensed services would not cause harmful interference to the satellite services. Further, there is no certain or clear path for achieving what CTIA and Ericsson propose, and it would take years. For all of these reasons, the Commission will not take the approach suggested by CTIA and Ericsson to repurpose this band. By the actions the Commission takes today to open the entire 6 GHz band for new unlicensed operations, the American public will begin to see the benefits in the near term.

125. The Commission also declines to reconsider the approach it is taking to authorize unlicensed low-power operations in the U–NII–6 band. Ericsson asked to make the U–NII–6 band available for licensed indoor use rather than permitting unlicensed indoor use as proposed in the Notice. The Commission has made the entire 6 GHz band available for indoor low-power operations under rules that will protect incumbent operations across the band while also enabling use of wide channels that promote efficient use of the entire band. These unlicensed devices can provide the IoT applications envisioned by Ericsson in the entire 6 GHz band while protecting incumbent operators from harmful interference.

Mobile Operations and Use in Moving Vehicles

126. *General prohibition on mobile operations.* The Commission does not at this time permit standard-power and low-power indoor access points in the 6 GHz band to operate while in motion, with one exception in the U–NII–5 band with respect to large passenger aircraft operating over 10,000 feet. The Commission declines to permit operation in vehicles because of the potential for increasing interference to incumbent services. As a result, the use of unlicensed access points shall not be permitted in moving vehicles such as cars, trains, ships, or small aircraft. Also, the Commission is prohibiting unlicensed devices in the 6 GHz band to be installed on unmanned aircraft systems.

127. As commenters note, the white space rules do provide a method that could enable personal/portable devices to operate while in motion by obtaining channel availability information for multiple locations and using this information to define a geographic area of operation. However, no personal/portable white space devices have yet been certified and such devices are limited to a lower power level than other white space devices. The Commission is concerned that allowing standard-power access points to operate while in motion would add complexity to the AFC system as it would need to continuously update available frequency lists for such devices, and that this could add substantial congestion to links connecting devices to the AFC, potentially degrading the quality of service for the expected predominant fixed access point use. Given the lack of a record as to the power levels and operational requirements that would be needed to permit mobile operation, the Commission will not permit mobile standard-power access point operation at this time.

128. Similarly, the Commission rejects the Wi-Fi Alliance's position that it should consider the signal attenuation provided by the vehicle or the user's body to establish appropriate power levels to enable mobile and transportable operations. Unlicensed devices will have no way to determine whether they are within a car, train, or plane and therefore would not be able to adjust their output power accordingly.

129. While the Commission is prohibiting the use of 6 GHz access points while in motion, the Commission is not prohibiting transportable devices, which the rules define as devices that ''are not intended to be used in motion, but rather at stationary locations.'' However transportable access points will have to otherwise comply with the rules the Commission adopting. That is, they will either operate under the control of an AFC system or they will have to operate only indoors. Indoor transportable access points will have to comply with all of the restrictions the Commission is adopting to prevent outdoor use.

130. The Commission is prohibiting use of access points in cars, trains, and small aircraft because of the complications of using an AFC to control frequency access while in motion and because of the uncertain attenuation properties of these vehicles. Use of 6 GHz devices on ships raises the same issues as use in cars, trains, and aircraft regarding use of the AFC systems to protect licensees and lack of building attenuation when access points are used indoors. To address these issues and protect the earth exploration satellite service operations over oceans, the Commission also prohibits standard-power and low-power indoor access points aboard ships and on oil platforms.

131. The Commission prohibits unlicensed devices in the 6 GHz band—whether standard-power or low-power devices—from operating on unmanned aircraft systems. Unmanned aircraft systems pose similar issues as other vehicles with the added complication of operating at significant height, and the Commission has no technical bases in the record to enable an evaluation of the potential harmful interference concerns posed by these systems. For the reasons it is not permitting standard-power and low-power indoor devices generally in vehicles, the Commission is not permitting them in unmanned aircraft systems.

132. *Exception for large aircraft operating above 10,000 feet.* Boeing requests that that the Commission permit unlicensed operations aboard large aircraft when flying above 10,000 feet. The Commission agrees with Boeing that the fuselage of large passenger aircraft will provide significant attenuation of signals from unlicensed in-flight entertainment systems. The measured average signal attenuation from the fuselage of a large aircraft at 5 gigahertz is 17 dB, which is comparable to a building of traditional construction. The Commission does not expect the aircraft fuselage signal attenuation at 6 GHz to differ significantly from 5 GHz given the closeness in frequency. In addition, large passenger aircraft normally fly at high altitudes which will provide additional signal attenuation preventing signals from reaching terrestrial fixed and mobile receivers. The only potential area of concern would be if an aircraft flew through the main beam of a microwave link during take-off or landing. To address this concern, the Commission limits the use of low-power

access points for in-flight entertainment systems in aircraft to above 10,000 feet. Because the only data on the signal attenuation from aircraft fuselage submitted on the record is for large passenger aircraft, the Commission shall also limit use to this type of aircraft. Finally, to prevent harmful interference to radio astronomy and earth exploration satellite service, the Commission limits airborne use of low-power access points to the U–NII–5 band where such passive scientific operations do not occur.

Microwave Links in the Gulf of Mexico

133. The Commission does not find RigNet's technical study regarding aggregate interference from indoor unlicensed devices convincing for several reasons. RigNet's study presents a link budget analysis of aggregate interference to each of ten microwave receivers located on land. In each of the link budget calculations the study assumes that a number of access points ranging from 2 to 100 are present. For each receiver all the access points are assumed to be at the same distance from the microwave receiver, but this distance varies from 250 m to 5 km for the different receivers. The reason for assuming these distances and number of access points is not explained. The study assumes that the access points would transmit power at a power spectral density of 23 dBm/MHz and that there would be 11 dB of building loss. Because the Commission is only permitting access points to transmit at 5 dBm/MHz and, as discussed above, an appropriate assumption for building loss is 20.5 dB, the calculated signal from each access point should be 26.5 dB lower than what the study assumes. While the study does not discuss the propagation model used, from the pathloss shown in the link budgets it appears that free space was used for all cases. In addition, the study assumes that every access point was directly in the main beam of the microwave receiver, which is unrealistic considering the height of the microwave receivers compared to the likely height of the indoor access points. Thus, the Commission believes the calculated interference levels should be at least 50 dB lower than what RigNet's study finds. This is consistent with the Commission's conclusion that microwave receivers will not experience harmful interference from indoor access points. With respect to AFC-controlled devices, RigNet's microwave links will be protected by the AFC as would any other microwave link licensed in the 6 GHz band. RigNet's microwave network appears to be no different from any other microwave links, which our new unlicensed rules are designed to protect from harmful interference. Accordingly, the Commission's rules do not exclude the Gulf of Mexico from unlicensed operations.

Ultra-Wideband and Wideband

134. The Commission declines to adopt specific provisions to provide special protections for ultra-wideband and wideband devices. As ultra-wideband and wideband devices operate under Part 15 unlicensed rules, taking such action would effectively provide those devices with a level of interference protection to which they are not entitled. Ultra-wideband and wideband devices are permitted to operate at a variety of power levels, all of which are below −41.3 dBm/MHz. These devices also operate over large bandwidths that are typically allocated to a variety of services.

135. The Commission notes that ultra-wideband and wideband devices, as with all unlicensed devices operating under our Part 15 rules, are subject to the condition that they may receive interference—including interference from other unlicensed devices. Unlicensed Part 15 devices have no vested right in the continued use of any particular block of spectrum. Moreover, ultra-wideband and wideband devices operate across a varied spectrum landscape with different types of licensed services (in this case, microwave links and satellite uplinks) that are governed by differing service and technical rules. Thus, by their nature, wideband and wideband devices must be designed to tolerate varying levels of interference with no assurance of an interference-free operating environment.

136. All of the provisions that the ultra-wideband and wideband advocates request would in effect reserve spectrum in a manner that the Commission has not previously contemplated or proposed for such devices. The Commission declines to let the spectrum provisions applicable to ultra-wideband and wideband devices preclude the provision of other services that the Commission has widely permitted under the unlicensed framework applicable to the U–NII bands. The Commission's experience with the 2.4 GHz and existing U–NII bands has shown that the adoption of technology neutral rules has resulted in an explosion of innovation and the widespread adoption of unlicensed technologies by consumers and businesses. The Commission expects a similar experience to occur in the 6 GHz band. If the Commission were to adopt the suggested limitations on power levels, available spectrum, and duty cycle it would limit the range and data rates of the new unlicensed devices in a way that limits their utility. The Commission finds that it would not be in the public interest to restrict the use of the 6 GHz band unlicensed devices in this way. However, the Commission notes that the contention-based protocol requirement it is adopting for low power indoor devices will limit the unlicensed device duty cycle and that it could also detect the presence of ultra-wideband and wideband devices. The Commission encourages ultra-wideband and wideband interests to work with standards bodies to explore protocols that may enhance those devices coexistence with new 6 GHz unlicensed devices.

137. Additionally, the record provides compelling evidence of circumstances where unlicensed devices operating under both the existing and new rules will be able to peacefully co-exist. A study submitted by Broadcom indicates that wideband devices may be able to operate outdoors in areas immediately adjacent to locations where unlicensed devices operating indoors under the new rules are deployed and that, where devices are in close proximity, users will likely be able to promote co-existence by adjusting the positioning of UWB and RLAN devices. Thus, for ultra-wideband and wideband devices employed in industrial applications and other indoor locations, the facility owner will be able to exercise control over the use and placement of new unlicensed devices, and if necessary, can choose which devices to deploy to avoid unwanted interference. In addition, according to data submitted by CableLabs, the weighted average of the activity factor for Wi-Fi is 0.4% which is below the 0.5% activity factor suggested by the ultra-wideband and wideband proponents to enable co-existence. Thus, the Commission has reason to believe that in many cases ultra-wideband and wideband devices will be able to operate in the presence of new devices that will operate under the new 6 GHz unlicensed rules.

Synchronized Unlicensed Operation

138. Qualcomm requests that the Commission adopt a rule which it claims will permit access points that use synchronized contention windows to operate without disadvantaging other technologies. The specific rule that Qualcomm requests would establish a synchronized mode for unlicensed devices with contention windows every 6 milliseconds.

139. The Commission has historically adopted rules that are technologically neutral and remains committed to this policy. This is reflected by our U–NII rules which do not require the use of a particular contention method for unlicensed devices to share access to spectrum. The Commission's embrace of technology neutrality has encouraged the development of a vast variety of unlicensed devices operating under our Part 15 rules. In fact, Qualcomm has endorsed our policy stating that this ''approach to both licensed and unlicensed spectrum bands has supported perpetual innovation by the entire wireless industry'' and that ''[t]here is no question that the FCC should continue its successful tech neutral policy to existing and future spectrum bands.'' While there may be ways to increase spectrum efficiency by synchronization as Qualcomm advocates, this would necessarily require restricting the flexibility that Part 15 has permitted to U–NII devices. The Commission does not believe that this would be an acceptable tradeoff and rejects Qualcomm's request.

140. The Commission also does not find convincing Qualcomm's contention that granting its request would be in keeping with our technology neutral policy. The Commission agrees with HP Enterprise that ''far from being technologically neutral, the stated purpose of [Qualcomm's] proposal is to advantage one specific type of unlicensed technology over all others.'' The Commission also expects that technologies other than IEEE 801.11be (EHT) or 5G NR–U will be used by unlicensed devices in this band and do not see any reason to place limitations on their operation.

Digital Identifying Information

141. The Commission declines to adopt a requirement that 6 GHz unlicensed devices transmit digital identifying information. To impose such a requirement requires the Commission to mandate a modulation format for the transmitted information, which necessarily imposes restrictions on the development of unlicensed technology in the band. Given that the record has provided no details on how this requirement will help resolve interference, the Commission does not believe that imposing this requirement can be justified. The Commission also agrees with those commenters who express concern that this requirement could intrude upon the privacy of device users by facilitating tracking of devices.

Benefits and Costs

142. Making available 1200 megahertz of spectrum in the 6 GHz band for new types of unlicensed use will yield important economic benefits and will allow more extensive use of technologies such as Wi-Fi and Bluetooth by American consumers. Consumers are using more and more data, on average, and this is expected to continue to grow significantly. As demand for data increases, making more spectrum available for two types of unlicensed use—standard-power and low-power indoor—will provide economic benefits by relieving potential congestion, allowing more users to access these new bands, and potentially making new use cases possible. As noted above, the ability of unlicensed devices to use significant portions of this band may also complement new licensed 5G services by allowing providers to offer a full range of services to consumers and will help to secure U.S. leadership in the next generation of wireless services. One report cited by several commenters estimates that in 2018, the economic benefits associated with Wi-Fi in the United States was valued at almost $500 billion. A further report estimated that these new rules will produce over $150 billion in economic value. In some ways, unlicensed usage on the new spectrum will be more restricted than for current Wi-Fi usage due to the AFC and lower power limits. However, in the United States, Wi-Fi currently operates in different bands over nearly 700 megahertz of spectrum, none of which enables channels as large as 160 megahertz. Making an additional 1200 megahertz of 6 GHz spectrum available for unlicensed use, including enabling the use of 160-megahertz channels that will lead to expanded throughput, capacity, and performance will have a significant economic benefit.

143. The Commission notes, however, that the new rules for unlicensed spectrum use could impose some economic costs if harmful interference to incumbent services occurs. As explained above, the technical and operational rules are designed to minimize the potential interference to incumbent licensed uses. While under the rules there can be interference with ultra-wideband and wideband applications, these costs will be lower than the total U.S. economic value for ultra-wideband and wideband products, which in turn, are lower than the total economic value of new unlicensed use. The CableLabs study gives reason to believe that interference with ultra-wideband and wideband will only be intermittent, so that coexistence with new users will be possible. Further, when ultra-wideband and wideband use is specific to an indoor facility, it will be feasible for facility owners to prevent interference by regulating use of unlicensed activity within the facility. Thus, in most cases, the full value of ultra-wideband or wideband will be preserved, with only management costs incurred by facility owners. While the Commission is unable to precisely estimate the value of U.S. ultra-wideband and wideband, one market research firm cited the global value of the ultra-wideband industry will be $85.4 million in 2022. In addition, the Commission notes that revenues from a non-exhaustive list of U.S. firms producing ultra-wideband products, among others, imply that even if costs are incurred, they will be significantly less than the potential hundreds of billions of dollars of economic value created. Overall, while the Commission identifies some economic costs, the Commission believes that they are limited and do not outweigh the substantial economic benefits of making such a large amount of spectrum available for unlicensed use.

Procedural Matters

144. *Final Regulatory Flexibility Analysis.*—As required by the Regulatory Flexibility Act of 1980 (RFA), as *amended,* the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) regarding the possible significant economic impact on small entities of the policies and rules adopted in this First Report and Order, which is found in Appendix B of the link provided in the beginning of this **SUPPLEMENTARY INFORMATION** section. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the Report and Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

145. *Paperwork Reduction Act Analysis.*—This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

146. *Congressional Review Act.*—The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs,

Office of Management and Budget, concurs that this rule is major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report & Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

147. Accordingly, *it is ordered,* pursuant to Sections 4(i), 201, 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201, 302a, 303, and Section 1.411 of the Commission's Rules, 47 CFR 1.411; that this *Report and Order and Further Notice of Proposed Rulemaking,* is hereby *adopted.*

148. *It is further ordered* that the amendments of the Commission's rules as set forth in Appendix A *are adopted,* effective sixty days from the date of publication in the **Federal Register**.

149. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Report and Order and Further Notice of Proposed Rulemaking,* including the Initial and Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

150. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Report and Order and Further Notice of Proposed Rulemaking,* including the Initial and Final Regulatory Flexibility Analysis, 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

47 CFR Part 0

Reporting and recordkeeping requirements, Telecommunications.

47 CFR Part 15

Communications equipment, Radio.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 parts 0 and 15 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for Part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

■ 2. Section 0.241 is amended by adding paragraph (k) to read as follows:

§ 0.241 Authority delegated.

* * * * *

(k) The Chief of the Office of Engineering and Technology is delegated authority to administer the Automated Frequency Coordination (AFC) system and AFC system operator functions set forth in subpart E of part 15 of this chapter. The Chief is delegated authority to develop specific methods that will be used to designate AFC system operators; to designate AFC system operators; to develop procedures that these AFC system operators will use to ensure compliance with the requirements for AFC system operations; to make determinations regarding the continued acceptability of individual AFC system operators; and to perform other functions as needed for the administration of the AFC systems.

PART 15—RADIO FREQUENCY DEVICES

■ 3. The authority citation for Part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a, and 549.

■ 4. Section 15.401 is revised to read as follows:

§ 15.401 Scope.

This subpart sets out the regulations for unlicensed National Information Infrastructure (U–NII) devices operating in the 5.15–5.35 GHz, 5.47–5.725 GHz, 5.725–5.85 GHz, and 5.925–7.125 GHz bands.

■ 5. Section 15.403 is revised to read as follows:

§ 15.403 Definitions.

Access Point (AP). A U–NII transceiver that operates either as a bridge in a peer-to-peer connection or as a connector between the wired and wireless segments of the network or as a relay between wireless network segments.

Automated Frequency Coordination (AFC) System. A system that automatically determines and provides lists of which frequencies are available for use by standard power access points operating in the 5.925–6.425 GHz and 6.525–6.875 GHz bands.

Available Channel. A radio channel on which a *Channel Availability Check* has not identified the presence of a radar.

Average Symbol Envelope Power. The average symbol envelope power is the average, taken over all symbols in the signaling alphabet, of the envelope power for each symbol.

Channel Availability Check. A check during which the U–NII device listens on a particular radio channel to identify whether there is a radar operating on that radio channel.

Channel Move Time. The time needed by a U–NII device to cease all transmissions on the current channel upon detection of a radar signal above the DFS detection threshold.

Client Device. A U–NII device whose transmissions are generally under the control of an access point and is not capable of initiating a network

Contention-based protocol. A protocol that allows multiple users to share the same spectrum by defining the events that must occur when two or more transmitters attempt to simultaneously access the same channel and establishing rules by which a transmitter provides reasonable opportunities for other transmitters to operate. Such a protocol may consist of procedures for initiating new transmissions, procedures for determining the state of the channel (available or unavailable), and procedures for managing retransmissions in the event of a busy channel.

Digital modulation. The process by which the characteristics of a carrier wave are varied among a set of predetermined discrete values in accordance with a digital modulating function as specified in document ANSI C63.17–1998.

Dynamic Frequency Selection (DFS) is a mechanism that dynamically detects signals from other systems and avoids co-channel operation with these systems, notably radar systems.

DFS Detection Threshold. The required detection level defined by detecting a received signal strength (RSS) that is greater than a threshold specified, within the U–NII device channel bandwidth.

Emission bandwidth. For purposes of this subpart the emission bandwidth is determined by measuring the width of the signal between two points, one below the carrier center frequency and one above the carrier center frequency, that are 26 dB down relative to the maximum level of the modulated carrier.

Fixed client device. For the purpose of this subpart, a client device intended as customer premise equipment that is permanently attached to a structure, operates only on channels provided by an AFC, has a geolocation capability, and complies with antenna pointing angle requirements.

Indoor Access Point. For the purpose of this subpart, an access point that operates in the 5.925–7.125 GHz band, is supplied power from a wired connection, has an integrated antenna, is not battery powered, and does not have a weatherized enclosure.

In-Service Monitoring. A mechanism to check a channel in use by the U–NII device for the presence of a radar.

Non-Occupancy Period. The required period in which, once a channel has been recognized as containing a radar signal by a U–NII device, the channel will not be selected as an available channel.

Operating Channel. Once a U–NII device starts to operate on an Available Channel then that channel becomes the Operating Channel.

Maximum Power Spectral Density. The maximum power spectral density is the maximum power spectral density, within the specified measurement bandwidth, within the U–NII device operating band.

Maximum Conducted Output Power. The total transmit power delivered to all antennas and antenna elements averaged across all symbols in the signaling alphabet when the transmitter is operating at its maximum power control level. Power must be summed across all antennas and antenna elements. The average must not include any time intervals during which the transmitter is off or is transmitting at a reduced power level. If multiple modes of operation are possible (*e.g.,* alternative modulation methods), the *maximum conducted output power* is the highest total transmit power occurring in any mode.

Power Spectral Density. The power spectral density is the total energy output per unit bandwidth from a pulse or sequence of pulses for which the transmit power is at its maximum level, divided by the total duration of the pulses. This total time does not include the time between pulses during which the transmit power is off or below its maximum level.

Pulse. A pulse is a continuous transmission of a sequence of modulation symbols, during which the average symbol envelope power is constant.

RLAN. Radio Local Area Network.

Standard Power Access Point. An access point that operates in the 5.925–6.425 GHz and 6.525–6.875 GHz bands pursuant to direction from an Automated Frequency Coordination System.

Subordinate Device. For the purpose of this subpart, a device that operates in the 5.925–7.125 GHz band under the control of an Indoor Access Point, is supplied power from a wired connection, has an integrated antenna, is not battery powered, does not have a weatherized enclosure, and does not have a direct connection to the internet. Subordinate devices must not be used to connect devices between separate buildings or structures. Subordinate devices must be authorized under certification procedures in part 2 of this chapter. Modules may not be certified as subordinate devices.

Transmit Power Control (TPC). A feature that enables a U–NII device to dynamically switch between several transmission power levels in the data transmission process.

U–NII devices. Intentional radiators operating in the frequency bands 5.15–5.35 GHz, 5.470–5.85 GHz, 5.925–7125 GHz that use wideband digital modulation techniques and provide a wide array of high data rate mobile and fixed communications for individuals, businesses, and institutions.

■ 6. Section 15.407 is amended by:
■ A. Redesignating paragraphs (a)(4) and (5) as (a)(11) and (12);
■ B. Adding paragraphs (a)(4) through (10);
■ C. Revising newly redesignated paragraph (a)(12);
■ D. Redesignating paragraphs (b)(5) through (8) as (b)(7) through (10);
■ E. Adding paragraphs (b)(5) and (6), (d) and (k) through (n).

The additions and revisions read as follows.

§ 15.407 General technical requirements.

(a) * * *

(4) For a standard power access point and fixed client device operating in the 5.925–6.425 GHz and 6.525–6.875 GHz bands, the maximum power spectral density must not exceed 23 dBm e.i.r.p in any 1-megahertz band. In addition, the maximum e.i.r.p. over the frequency band of operation must not exceed 36 dBm. For outdoor devices, the maximum e.i.r.p. at any elevation angle above 30 degrees as measured from the horizon must not exceed 125 mW (21 dBm).

(5) For an indoor access point operating in the 5.925–7.125 GHz band, the maximum power spectral density must not exceed 5 dBm e.i.r.p. in any 1-megahertz band. In addition, the maximum e.i.r.p. over the frequency band of operation must not exceed 30 dBm.

(6) For a subordinate device operating under the control of an indoor access point in the 5.925–7.125 GHz band, the maximum power spectral density must not exceed 5 dBm e.i.r.p in any 1-megahertz band, and the maximum e.i.r.p. over the frequency band of operation must not exceed 30 dBm.

(7) For client devices, except for fixed client devices as defined in this subpart, operating under the control of a standard power access point in 5.925–6.425 GHz and 6.525–6.875 GHz bands, the maximum power spectral density must not exceed 17 dBm e.i.r.p. in any 1-megahertz band, and the maximum e.i.r.p. over the frequency band of operation must not exceed 30 dBm and the device must limit its power to no more than 6 dB below its associated standard power access point's authorized transmit power.

(8) For client devices operating under the control of an indoor access point in the 5.925–7.125 GHz bands, the maximum power spectral density must not exceed −1 dBm e.i.r.p. in any 1-megahertz band, and the maximum e.i.r.p. over the frequency band of operation must not exceed 24 dBm.

(9) Access points operating under the provisions of paragraphs (a)(5) and (a)(6) of this section must employ a permanently attached integrated antenna.

(10) The maximum transmitter channel bandwidth for U–NII devices in the 5.925–7.125 GHz band is 320 megahertz

* * * * *

(12) Power spectral density measurement. The maximum power spectral density is measured as either a conducted emission by direct connection of a calibrated test instrument to the equipment under test or a radiated measurement. Measurements in the 5.725–5.85 GHz band are made over a reference bandwidth of 500 kHz or the 26 dB emission bandwidth of the device, whichever is less. Measurements in all other bands are made over a bandwidth of 1 MHz or the 26 dB emission bandwidth of the device, whichever is less. A narrower resolution bandwidth can be used, provided that the measured power is integrated over the full reference bandwidth.

(b) * * *

(5) For transmitters operating within the 5.925–7.125 GHz band: Any emissions outside of the 5.925–7.125 GHz band must not exceed an e.i.r.p. of −27 dBm/MHz.

(6) For transmitters operating within the 5.925–7.125 GHz bands: Power spectral density must be suppressed by 20 dB at 1 MHz outside of channel edge, by 28 dB at one channel bandwidth from the channel center, and by 40 dB at one- and one-half times the channel bandwidth away from channel center. At frequencies between one megahertz

outside an unlicensed device's channel edge and one channel bandwidth from the center of the channel, the limits must be linearly interpolated between 20 dB and 28 dB suppression, and at frequencies between one and one- and one-half times an unlicensed device's channel bandwidth, the limits must be linearly interpolated between 28 dB and 40 dB suppression. Emissions removed from the channel center by more than one- and one-half times the channel bandwidth must be suppressed by at least 40 dB.

* * * * *

(d) *Operational restrictions for 6 GHz U–NII devices.* (1) Operation of standard access points, fixed client devices and indoor access points in the 5.925–7.125 GHz band is prohibited on oil platforms, cars, trains, boats, and aircraft, except that indoor access points are permitted to operate in the 5.925–6.425 GHz bands in large aircraft while flying above 10,000 feet.

(2) Operation of transmitters in the 5.925–7.125 GHz band is prohibited for control of or communications with unmanned aircraft systems.

(3) Transmitters operating under the provisions of paragraphs (a)(5), (a)(6), and (a)(8) of this section are limited to indoor locations.

(4) In the 5.925–7.125 GHz band, indoor access points and subordinate devices must bear the following statement in a conspicuous location on the device and in the user's manual: FCC regulations restrict operation of this device to indoor use only. The operation of this device is prohibited on oil platforms, cars, trains, boats, and aircraft, except that operation of this device is permitted in large aircraft while flying above 10,000 feet.

(5) In the 5.925–7.125 GHz band, client devices, except fixed client devices, must operate under the control of a standard power access point, indoor access point or subordinate devices; Subordinate devices must operate under the control of an indoor access point. In all cases, an exception exists for transmitting brief messages to an access point when attempting to join its network after detecting a signal that confirms that an access point is operating on a particular channel. Access points and subordinate devices may connect to other access points or subordinate devices. Client devices are prohibited from connecting directly to another client device.

(6) Indoor access points, subordinate devices and client devices operating in the 5.925–7.125 GHz band must employ a contention-based protocol.

(7) Fixed client devices may only connect to a standard power access point.

* * * * *

(k) *Automated frequency coordination (AFC) system.* (1) Standard power access points and fixed client devices operating under paragraph (a)(4) of this section must access an AFC system to determine the available frequencies and the maximum permissible power in each frequency range at their geographic coordinates prior to transmitting. Standard power access points and fixed client devices may transmit only on frequencies and at power levels that an AFC system indicates as available.

(2) An AFC system must be capable of determining the available frequencies in steps of no greater than 3 dB below the maximum permissible e.i.r.p of 36 dBm, and down to at least a minimum level of 21 dBm.

(3) An AFC system must obtain information on protected services within the 5.925–6.425 GHz and 6.525–6.875 GHz bands from Commission databases and use that information to determine frequency availability for standard power access points and fixed client devices based on protection criteria specified in paragraph (l)(2) of this section.

(4) An AFC system must use the information supplied by standard power access points and fixed client devices during registration, as set forth in this section, to determine available frequencies and the maximum permissible power in each frequency range for a standard power access point at any given location. All such determinations and assignments must be made in a non-discriminatory manner, consistent with this part.

(5) An AFC system must store registered information in a secure database until a standard power access point or fixed client device ceases operation at a location. For the purpose of this paragraph, a standard power access point or fixed client device is considered to have ceased operation when that device has not contacted the AFC system for more than three months to verify frequency availability information.

(6) An AFC system must verify the validity of the FCC identifier (FCC ID) of any standard power access point and fixed client device seeking access to its services prior to authorizing the access point to begin operation. A list of standard power access points with valid FCC IDs and the FCC IDs of those devices must be obtained from the Commission's Equipment Authorization System.

(7) The general purposes of AFC system include:

(i) Enacting all policies and procedures developed by the AFC system operators pursuant to this section.

(ii) Registering, authenticating, and authorizing standard power access point and fixed client device operations, individually or through a network element device representing multiple standard power access points from the same operating network.

(iii) Providing standard power access points and fixed client devices with the permissible frequencies and the maximum permissible power in each frequency range at their locations using propagation models and interference protection criteria defined in paragraph (l) of this section.

(iv) Obtaining updated protected sites information from Commission databases.

(8) Standard power access points and fixed client devices:

(i) Must register with and be authorized by an AFC system prior to the standard power access point and fixed client device's initial service transmission, or after a standard power access point or fixed client device changes location, and must obtain a list of available frequencies and the maximum permissible power in each frequency range at the standard power access point and fixed client device's location.

(ii) Must register with the AFC system by providing the following parameters: Geographic coordinates (latitude and longitude referenced to North American Datum 1983 (NAD 83)), antenna height above ground level, FCC identification number, and unique manufacturer's serial number. If any of these parameters change, the standard power access point or fixed client device must provide updated parameters to the AFC system. All information provided by the standard power access point and the fixed client device to the AFC system must be true, complete, correct, and made in good faith.

(iii) Must provide the registration information to the AFC system either directly and individually or by a network element representing multiple standard power access points or fixed client devices from the same operating network. The standard power access point, fixed client device or its network element must register with the AFC system via any communication link, wired or wireless, outside 5.925–6.425 GHz and 6.525–6.875 GHz bands.

(iv) Must contact an AFC system at least once per day to obtain the latest list of available frequencies and the

maximum permissible power the standard power access point or fixed client device may operate with on each frequency at the standard power access point and fixed client device's location. If the standard power access point or fixed client device fails to successfully contact the AFC system during any given day, the standard power access point or fixed client device may continue to operate until 11:59 p.m. of the following day at which time it must cease operations until it re-establishes contact with the AFC system and re-verifies its list of available frequencies and associated power levels.

(v) Must incorporate adequate security measures to prevent it from accessing AFC systems not approved by the FCC and to ensure that unauthorized parties cannot modify the device to operate in a manner inconsistent with the rules and protection criteria set forth in this section and to ensure that communications between standard power access points, fixed client devices and AFC systems are secure to prevent corruption or unauthorized interception of data. Additionally, the AFC system must incorporate security measures to protect against unauthorized data input or alteration of stored data, including establishing communications authentication procedures between client devices and standard power access points.

(9) Standard power access point and fixed client device geo-location capability:

(i) A standard power access point and a fixed client device must include either an internal geo-location capability or an integrated capability to securely connect to an external geolocation devices or service, to automatically determine the standard power access point's geographic coordinates and location uncertainty (in meters), with a confidence level of 95%. The standard power access point and fixed client device must report such coordinates and location uncertainty to an AFC system at the time of activation from a power-off condition.

(ii) An external geo-location source may be connected to a standard power access point or fixed client device through either a wired or a wireless connection. A single geo-location source may provide location information to multiple standard power access points or fixed client devices.

(iii) An external geo-location source must be connected to a standard power access point or fixed client device using a secure connection that ensures that only an external geo-location source approved for use with a standard power access point or fixed client device provides geographic coordinates to that standard power access point or fixed client device. Alternatively, an extender cable may be used to connect a remote receive antenna to a geo-location receiver within a standard power access point or fixed client device.

(iv) The applicant for certification of a standard power access point or fixed client device must demonstrate the accuracy of the geo-location method used and the location uncertainty. For standard power access points and fixed client devices that may not use an internal geo-location capability, this uncertainty must account for the accuracy of the geo-location source and the separation distance between such source and the standard power access point or fixed client device.

(10) An AFC system operator will be designated for a five-year term which can be renewed by the Commission based on the operator's performance during the term. If an AFC system ceases operation, it must provide at least 30-days' notice to the Commission and transfer any registration data to another AFC system operator.

(11) The Commission will designate one or more AFC system operators to provide service in the 5.925–6.425 GHz and 6.525–6.875 GHz bands.

(12) The Commission may permit the functions of an AFC system, such as a data repository, registration, and query services, to be divided among multiple entities; however, entities designated as AFC system operators will be held accountable for the overall functioning and system administration of the AFC system.

(13) The AFC system must ensure that all communications and interactions between the AFC system and standard power access points and fixed client devices are accurate and secure and that unauthorized parties cannot access or alter the database, or the list of available frequencies and associated powers sent to a standard power access point.

(14) An AFC system must implement the terms of international agreements with Mexico and Canada.

(15) Each AFC system operator designated by the Commission must:

(i) Maintain a regularly updated AFC system database that contains the information described in this section, including incumbent's information and standard power access points and fixed client devices registration parameters.

(ii) Establish and follow protocols and procedures to ensure compliance with the rules set forth in this part.

(iii) Establish and follow protocols and procedures sufficient to ensure that all communications and interactions between the AFC system and standard power access points and fixed client devices are accurate and secure and that unauthorized parties cannot access or alter the AFC system, or the information transmitted from the AFC system to standard power access points or fixed client devices.

(iv) Provide service for a five-year term. This term may be renewed at the Commission's discretion.

(v) Respond in a timely manner to verify, correct, or remove, as appropriate, data in the event that the Commission or a party presents to the AFC system Operator a claim of inaccuracies in the AFC system. This requirement applies only to information that the Commission requires to be stored in the AFC system.

(vi) Establish and follow protocols to comply with enforcement instructions from the Commission, including discontinuance of standard power access point operations in designated geographic areas.

(16) An AFC system operator may charge fees for providing service in registration and channel availability functions. The Commission may, upon request, review the fees and can require changes to those fees if the Commission finds them unreasonable.

(l) *Incumbent Protection by AFC system: Fixed Microwave Services.* A standard power access point or fixed client device must not cause harmful interference to fixed microwave services authorized to operate in the 5.925–6.425 GHz and 6.525–6.875 GHz bands. Based on the criteria set forth below, an AFC system must establish location and frequency-based exclusion zones (both co-channel and adjacent channel) around fixed microwave receivers operating in the 5.925–6.425 GHz and 6.525–6.875 GHz bands. Individual standard power access points and fixed client devices must not operate co-channel to fixed microwave system frequencies within co-channel exclusion zones, or on adjacent channel frequencies within adjacent channel exclusion zones.

(1) Propagation Models: Propagation models to determine the appropriate separation distance between a standard power access point or a fixed client device and an incumbent fixed microwave service receiver. For a separation distance:

(i) Up to 30 meters, the AFC system must use the free space path-loss model.

(ii) More than 30 meters and up to and including one kilometer, the AFC system must use the Wireless World Initiative New Radio phase II (WINNER II) model. The AFC system must use site-specific information, including buildings and terrain data, for

determining the line-of-sight/non-line-of-sight path component in the WINNER II model, where such data is available. For evaluating paths where such data is not available, the AFC system must use a probabilistic model combining the line-of-sight path and non-line-of-sight path into a single path-loss as follows:

$$\text{Path-loss (L)} = \Sigma_i P(i) * L_i = P_{LOS} * L_{LOS} + P_{NLOS} * L_{NLOS},$$

where P_{LOS} is the probability of line-of-sight, L_{LOS} is the line-of-sight path loss, P_{NLOS} is the probability of non-line-of sight, L_{NLOS} is the non-line-of-sight path loss, and L is the combined path loss. The WINNER II path loss models include a formula to determine P_{LOS} as a function of antenna heights and distance. P_{NLOS} is equal to $(1 - P_{LOS})$. In all cases, the AFC system will use the correct WINNER II parameters to match the morphology of the path between a standard power access point and a fixed microwave receiver (*i.e.,* Urban, Suburban, or Rural).

(iii) More than one kilometer, the AFC system must use Irregular Terrain Model (ITM) combined with the appropriate clutter model. To account for the effects of clutter, such as buildings and foliage, that the AFC system must combine the ITM with the ITU–R P.2108–0 (06/2017) clutter model for urban and suburban environments and the ITU–R P.452–16 (07/2015) clutter model for rural environments. The AFC system should use the most appropriate clutter category for the local morphology when using ITU–R P.452–16. However, if detailed local information is not available, the ''Village Centre'' clutter category should be used. The AFC system must use 1 arc-second digital elevation terrain data and, for locations where such data is not available, the most granular available digital elevation terrain data.

(2) Interference Protection Criteria:

(i) The AFC system must use −6 dB I/N as the interference protection criteria in determining the size of the co-channel exclusion zone where I (interference) is the co-channel signal from the standard power access point or fixed client device at the fixed microwave service receiver, and N (noise) is background noise level at the fixed microwave service receiver.

(ii) The AFC system must use −6 dB I/N as the interference protection criteria in determining the size of the adjacent channel exclusion zone, where I (interference) is the signal from the standard power access point or fixed client device's out of channel emissions at the fixed microwave service receiver and N (noise) is background noise level at the fixed microwave service receiver. The adjacent channel exclusion zone must be calculated based on the emissions requirements of paragraph (b)(6) of this section.

(m) *Incumbent Protection by AFC system: Radio Astronomy Services.* The AFC system must enforce an exclusion zones to the following radio observatories that observe between 6650–6675.2 MHz: Arecibo Observatory, the Green Bank Observatory, the Very Large Array (VLA), the 10 Stations of the Very Long Baseline Array (VLBA), the Owens Valley Radio Observatory, and the Allen Telescope Array. The exclusion zone sizes are based on the radio line-of-sight and determined using 4/3 earth curvature and the following formula:

$$\text{dkm\_los} = 4.12 * (\text{sqrt}(\text{Htx}) + \text{sqrt}(\text{Hrx})),$$

where Htx is the height of the unlicensed standard power access point or fixed client device and Hrx is the height of the radio astronomy antenna in meters above ground level. Coordinate locations of the radio observatories are listed in section 2.106, notes US 131 and US 385 of this part.

(n) *Incumbent Protection by AFC system: Fixed-Satellite Services.* Standard power access points and fixed client devices located outdoors must limit their maximum e.i.r.p. at any elevation angle above 30 degrees as measured from the horizon to 21 dBm (125 mW) to protect fixed satellite services.

[FR Doc. 2020–11236 Filed 5–22–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042–8884–02; RTID 0648–XA200]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule.

SUMMARY: NMFS closes the northern area Angling category fishery for large medium and giant (''trophy'' (*i.e.,* measuring 73 inches (185 cm) curved fork length or greater)) Atlantic bluefin tuna (BFT). This action is being taken to prevent further overharvest of the Angling category northern area trophy BFT subquota.

DATES: Effective 11:30 p.m., local time, May 21, 2020, through December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 978–281–9260, Larry Redd, 301–427–8503, or Nicholas Velseboer 978–675–2168.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments.

Under § 635.28(a)(1), NMFS files a closure notice with the Office of the Federal Register for publication when a BFT quota is reached or is projected to be reached. Retaining, possessing, or landing BFT under a quota category is prohibited on or after the effective date and time of a closure notice for that category until the opening of the relevant subsequent quota period or until such date as specified.

Angling Category Large Medium and Giant Northern Area ''Trophy'' Fishery Closure

The 2020 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2020. The Angling category season opened January 1, 2020, and continues through December 31, 2020. The currently codified Angling category quota is 232.4 metric tons (mt), of which 5.3 mt is allocated for the harvest of large, medium, and giant (trophy) BFT by vessels fishing under the Angling category quota, with 1.8 mt allocated for each of the following areas: North of 39°18′ N lat. (off Great Egg Inlet, NJ); south of 39°18′ N lat. and outside the Gulf of Mexico (the ''southern area''); and in the Gulf of Mexico. Trophy BFT measure 73 inches (185 cm) curved fork length or greater.

Based on reported landings from the NMFS Automated Catch Reporting System, NMFS has determined that the codified Angling category northern area trophy BFT subquota of 1.8 mt has been

reached and exceeded, and that a closure of the northern area trophy BFT fishery is warranted. Therefore, retaining, possessing, or landing large medium or giant BFT north of 39°18′ N lat.by persons aboard vessels permitted in the HMS Angling category and the HMS Charter/Headboat category (when fishing recreationally) must cease at 11:30 p.m. local time on May 21, 2020. This closure will remain effective through December 31, 2020. This action is intended to prevent further overharvest of the Angling category northern area trophy BFT subquota, and is taken consistent with the regulations at § 635.28(a)(1). We previously closed the 2020 trophy BFT fishery in the southern area on February 20, 2020 (85 FR 10341, February 24, 2020), and in the Gulf of Mexico area on April 16, 2020 (85 FR 21789, April 20, 2020). Therefore, with this closure of the northern area trophy BFT fishery, the Angling category trophy BFT fishery will be closed in all areas for 2020.

If needed, subsequent Angling category adjustments will be published in the **Federal Register**. Information regarding the Angling category fishery for Atlantic tunas, including daily retention limits for BFT measuring 27 inches (68.5 cm) to less than 73 inches (185 cm) and any further Angling category adjustments, is available at *hmspermits.noaa.gov* or by calling (978) 281–9260. HMS Angling and HMS Charter/Headboat category permit holders may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. Anglers are also reminded that all BFT that are released must be handled in a manner that will maximize survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the ''Careful Catch and Release'' brochure available at *https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure.*

HMS Charter/Headboat and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov,* using the HMS Catch Reporting app, or calling (888) 872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. The closure of the northern area Angling category trophy fishery is necessary to prevent any further overharvest of the northern area trophy fishery subquota. NMFS provides notification of closures by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on *hmspermits.noaa.gov.*

These fisheries are currently underway, and delaying this action would be contrary to the public interest as it could result in excessive trophy BFT landings that may result in future potential quota reductions for the Angling category, depending on the magnitude of a potential Angling category overharvest. NMFS must close the northern area trophy BFT fishery before additional landings of these sizes of BFT occur. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.28(a)(1), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: May 20, 2020.

Hélène M.N. Scalliet,

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

[FR Doc. 2020–11246 Filed 5–20–20; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 101
Tuesday, May 26, 2020

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

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2020–0003; Notice No. 188]

RIN 1513–AC70

Proposed Establishment of the Palos Verdes Peninsula Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the approximately 15,900-acre ''Palos Verdes Peninsula'' viticultural area in the southwestern coastal region of Los Angeles County, California. The proposed viticultural area does not lie within, nor does it contain, any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

DATES: Comments must be received by July 27, 2020.

ADDRESSES: You may electronically submit comments to TTB on this proposal, and view copies of this document, its supporting materials, and any comments TTB receives on it within Docket No. TTB–2020–0003 as posted on *Regulations.gov* (*https://www.regulations.gov*), the Federal e-rulemaking portal. Please see the ''Public Participation'' section of this document below for full details on how to comment on this proposal via *Regulations.gov*, U.S. mail, or hand delivery, and for full details on how to view or obtain copies of this document, its supporting materials, and any comments related to this proposal.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003).

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes the standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Palos Verdes Peninsula Petition

TTB received a petition from James York, owner of Catalina View Wines, on behalf of the Palos Verdes Peninsula Winegrowers, proposing to establish the ''Palos Verdes Peninsula'' AVA. The proposed Palos Verdes Peninsula AVA lies within Los Angeles County, California, and contains the cities of Palos Verdes Estates, Rolling Hills Estates, Rancho Palos Verdes, and Rolling Hills, California. The proposed AVA does not overlap with any other existing or proposed AVA. The proposed Palos Verdes Peninsula AVA contains approximately 15,900 acres, including 7 acres of producing vineyards, distributed throughout the proposed AVA. The primary varieties grown in the proposed Palos Verdes

Peninsula AVA consist of Pinot Noir, Chardonnay, Merlot, and Cabernet Sauvignon.

According to the petition, the distinguishing features of the proposed Palos Verdes Peninsula AVA include its geology, soils, topography, and climate. Unless otherwise noted, all information and data pertaining to the proposed AVA contained in this document are from the petition for the proposed Palos Verdes Peninsula AVA and its supporting exhibits.

Name Evidence

The proposed Palos Verdes Peninsula AVA takes its name from the Rancho de Los Palos Verdes, which was awarded as a land grant from the Governor of Mexican California in the early 1800s. Use of the term ''Palos Verdes Peninsula'' to describe the region began during the mid-century development surge of the area.

The petitioner provided several examples of the use of ''Palos Verdes Peninsula'' to refer to the region of the proposed AVA. For example, many local agencies and organizations utilize the ''Palos Verdes Peninsula'' reference in their names: Palos Verdes Peninsula United School District, Palos Verdes Peninsula Transit Authority, Palos Verdes Peninsula Land Conservancy, Palos Verdes Peninsula News, and Palos Verdes Peninsula Chamber of Commerce. The petition also provided a list of several books that refer to the Palos Verdes Peninsula in their titles, including *Handbook of Wildflowers, Weeds, Wildlife, and Weather of the South Bay and Palos Verdes Peninsula* [1] and *Best Hikes on the Palos Verdes Peninsula.*[2]

Boundary Evidence

The proposed Palos Verdes Peninsula AVA is bounded on the west and south by the Pacific Ocean. The northern and eastern boundaries of the proposed AVA coincides with the jurisdictional boundaries of the cities of Palos Verdes Estates, Rolling Hills Estates, Rancho Palos Verdes, and the neighboring cities of Torrance, Lomita and San Pedro (Los Angeles), respectively.

Distinguishing Features

The distinguishing features of the proposed Palos Verdes Peninsula AVA include its geology, soils, topography, and climate.

Geology and Soils

The proposed Palos Verdes Peninsula AVA is an island-like terrain, or an isolated upland peninsula created by tectonic uplift and volcanic activity. During periods of intense geologic activity, the region of the proposed AVA was subjected to repeated cycles of uplift, erosion, submersion, and deposition. Submersion allowed significant amounts of marine deposits to be laid down, which contributed to the soil composition. Uplift created new lands, while erosion wore away the newly-formed lands to create the series of marine terraces that characterize the region's topography today. By contrast, the geology of the surrounding areas is a large coastal plain, consisting mainly of surficial sediments, older surficial sediments, and shallow marine sediments. While the surrounding regions experienced the same ocean fluctuations as the proposed AVA, they did not experience the same intensity of tectonic uplift and volcanic activity.

The geology of the Peninsula consists primarily of the Monterey Formation and ancient landslides. The geology of the Monterey Formation created soils from the Altamont Series, including Altamont Clay Adobe and Altamont Clay Loam. A third soil commonly found in the proposed AVA is the Diablo Clay Adobe. These three soils are rich in clays, adobe, and loamy clay and contain high amounts of calcium. The calcium found in Peninsula soils retains moisture in dry weather while allowing for good drainage. According to the petition, the levels of calcium in the soils produce thicker grape skins than are found on the same grape varietals grown in non-calcareous soils, which increases the amount of color, flavor, and aromatics in the resulting wine.

The lowland areas surrounding the proposed AVA have alluvial-and fluvial-based sedimentary soils (sand and silt) which, according to the petition, generally produce wines with less color, acidity, and tannins, but with more aromas, than clay-and adobe-rich soils. These soils also have lower levels of calcium, and they can retain excessive water which can increase the chances of root disease.

Topography

The topography of the proposed Palos Verdes Peninsula AVA is often described as a low altitude mountain of the Coast Range situated between the Los Angeles Plain and the Pacific Ocean. It is covered by rolling hills, incised canyons, and coastal bluffs and terraces. Elevations range from sea level on the west and south to about 1,460 feet above sea level at San Pedro Hill, which is located near the eastern/central area of the Palos Verdes Hills. The slope angles of the vineyards in the proposed AVA range from gentle to high (0–50%). Some vineyards that are planted on steeper slopes have been terraced to allow for drainage/erosion control, equipment access, and solar orientation. The aspects of the vineyard slopes face south, southeast, and southwest, providing year-round solar exposure.

The moderate slopes of the proposed Palos Verdes Peninsula AVA promote: (1) Air flow that helps to minimize mildew, botrytis rot, and frost issues; (2) drainage of excess water that helps to minimize root rot and; (3) direct sun exposure which aids in ripeness and reduces frost risk. South-and southwest-facing slopes promote earlier bud break, bloom, and harvest than other aspects. Southeast-facing slopes bring morning radiation for soil warmth and canopy growth.

In contrast, the surrounding areas have relatively flat topography with elevations ranging from sea level to about 500 feet. Slope angles range from 0–25%. Flatter topography can promote: (1) Reduced air flow which can lead to mildew and botrytis rot; (2) pooling of water which can cause root rot and excessive vegetative growth; and (3) and reduced photosynthesis from diluted sun exposure as it is spread out across a wider surface area.

Climate

The climate of the proposed Palos Verdes Peninsula AVA is ''Mediterranean warm'', which is characterized by warm, dry summers and mild winters with limited rainfall. The petition also described wind and fog patterns within the proposed AVA and the surrounding regions. However, the petition did not provide enough data for TTB to determine if wind and fog are distinguishing features of the proposed AVA, so those climate aspects are not discussed in this document. All climate information provided in the petition can be viewed in the public docket at *https://www.regulations.gov.*

The vineyards within the proposed AVA are located in the following microclimates: [3] Climate Zone IA and IB (Coastal Zone), Zone III (Middle Highlands, Southeastern Upper Slope), and Zone IV (Middle and Lower North and East Slopes). These zones have

[1] Gales, Donald Moore, *Handbook of Wildflowers, Weeds, Wildlife, and Weather of the South Bay and Palos Verdes Peninsula* (Third Edition), Palos Verdes Peninsula, CA: FoldaRoll Company, 1988.

[2] Dye, Barbara L. K., *Best Hikes on the Palos Verdes Peninsula,* Bookmasters, Inc., 2007.

[3] Gales, Donald More, *Handbook of Wildflowers, Weeds, Wildlife, and Weather of the South Bay and Palos Verdes Peninsula* (Third Edition), Palos Verdes Peninsula, CA: FoldaRoll Company, 1988 (Gales divides the Palos Verdes Peninsula into zones I, II, III, and IV. These are the primary climate zones (microclimates) within the proposed AVA).

milder temperatures, more fog, higher relative humidity, and slightly more rain than the surrounding areas which are classified as the warmer zones V and VI.

As evidence of these milder temperatures, the petition includes weather data for the proposed AVA and the surrounding areas from the National Oceanic and Atmospheric Administration (NOAA) from 2014 to 2017. The temperature data shows that average monthly temperatures for the proposed Palos Verdes Peninsula AVA range between four and six degrees lower than in the surrounding areas in the colder months, and five to eight degrees lower than in the surrounding areas in the summer months. While the average temperatures of the proposed AVA and the surrounding areas are within a narrow range, the high and low temperatures of the surrounding areas are more extreme than the high and low temperatures of the proposed AVA. Generally, the weather data shows that average spring and summer temperatures of San Pedro and Long Beach, which are farther inland than the proposed AVA, are the warmest of the areas surrounding the proposed AVA.

TABLE 1—AVERAGE MONTHLY HIGH AND LOW TEMPERATURES AND EXTREME MONTHLY HIGH AND LOW TEMPERATURES FOR THE PROPOSED PALOS VERDES PENINSULA AVA FROM 2014–2017 IN DEGREES FAHRENHEIT

Month	Average high/low	Extreme high/low
January	63/48	75/46
February	63/49	75/46
March	64/51	75/50
April	66/52	77/49
May	67/55	77/52
June	70/58	78/58
July	73/61	80/58
August	74/62	83/60
September	73/61	83/58
October	72/57	84/53
November	68/51	81/48
December	63/48	74/46

TABLE 2—AVERAGE MONTHLY HIGH AND LOW TEMPERATURES AND EXTREME MONTHLY HIGH AND LOW TEMPERATURES FOR SURROUNDING REGIONS FROM 2014–2017 IN DEGREES FAHRENHEIT

Month	Location (direction from proposed AVA)							
	Torrance Airport (north)		Redondo Beach (north)		San Pedro (east)		Long Beach (east)	
	Average high/low	Extreme high/low	Average high/low	Extreme high/low	Average high/low	Extreme high/low	Average high/low	Extreme high/low
January	68/49	83/34	66/48	82/35	67/49	75/45	68/48	78/43
February	70/51	86/37	69/51	88/38	67/49	75/45	70/49	78/42
March	72/52	92/43	70/52	91/43	69/52	77/46	70/49	80/44
April	74/53	88/47	70/53	81/47	72/52	80/48	74/52	83/50
May	71/60	85/45	69/56	84/47	73/55	80/52	75/55	83/50
June	76/60	98/51	73/60	90/53	79/58	83/58	79/59	87/59
July	79/64	91/55	77/64	86/59	81/62	84/59	84/62	88/60
August	79/64	90/57	77/64	84/60	82/64	86/60	84/64	91/58
September	81/62	100/55	78/64	100/54	82/61	86/58	84/62	91/57
October	80/60	104/54	78/64	102/53	78/56	85/53	79/58	89/52
November	73/53	94/41	73/522	93/42	74/56	82/48	73/52	85/46
December	68/47	84/34	68/47	85/35	67/49	75/46	68/47	77/43

Finally, the petition included data on average annual rainfall amounts for locations within the proposed Palos Verdes Peninsula AVA and the surroundings from 2014 to 2017. The data supports the petition's claim that, although the proposed AVA is a dry region, the surrounding inland regions are generally drier than locations within the proposed AVA.

TABLE 3—AVERAGE MONTHLY RAINFALL AMOUNTS FOR THE PROPOSED PALOS VERDES PENINSULA AVA FROM 2014–2017 IN INCHES

Month	Rancho Palos Verdes	Palos Verdes Estates	Rolling Hills/ Rolling Hills Estates	Average of proposed AVA locations
January	2.79	3.15	2.96	2.97
February	2.56	2.88	2.72	2.72
March	2.04	2.36	2.21	2.20
April	0.91	1.10	0.99	1.00
May	0.16	0.20	0.20	0.19
June	0.04	0.08	0.08	0.07

TABLE 3—AVERAGE MONTHLY RAINFALL AMOUNTS FOR THE PROPOSED PALOS VERDES PENINSULA AVA FROM 2014–2017 IN INCHES—Continued

Month	Rancho Palos Verdes	Palos Verdes Estates	Rolling Hills/ Rolling Hills Estates	Average of proposed AVA locations
July	0.00	0.00	0.00	0.00
August	0.08	0.12	0.08	0.09
September	0.28	0.28	0.28	0.28
October	0.32	0.35	0.32	0.33
November	1.89	2.25	1.97	2.04
December	2.01	2.32	2.09	2.14
Average Annual Rainfall	13.08	15.09	13.90	14.03

TABLE 4—AVERAGE MONTHLY RAINFALL AMOUNTS FOR SURROUNDING REGIONS FROM 2014–2017 IN INCHES

Month	Torrance (north)	Redondo Beach (north)	San Pedro (east)	Long Beach (east)
January	3.76	3.81	3.60	2.60
February	2.32	2.11	3.22	3.07
March	1.11	0.98	2.79	1.85
April	0.19	0.28	0.73	0.59
May	0.44	0.27	0.26	0.20
June	0.03	0.05	0.08	0.08
July	0.16	0.22	0.04	0.04
August	0.00	0.00	0.13	0.04
September	0.25	0.23	0.23	0.20
October	0.12	0.19	0.48	0.63
November	0.41	0.52	1.24	0.98
December	1.29	1.74	1.99	1.97
Average Annual Rainfall	10.08	10.40	14.79	12.25

Summary of Distinguishing Features

In summary, the geology, soils, topography, and climate of the proposed Palos Verdes Peninsula AVA distinguish it from the surrounding regions. The following table, derived from information in the petition, compares the features of the proposed AVA to the features of the surrounding areas.

TABLE 5—SUMMARY OF CHARACTERISTICS OF THE PROPOSED AVA AND SURROUNDING REGIONS

Region	Characteristics
Proposed Palos Verdes Peninsula AVA	Hilly topography; clay, adobe, loamy soils with high levels of calcium; south, southeast, and southwest sun exposure; mild temperatures with lower growing season temperatures.
North, Northeast, and East of proposed AVA	Flat topography; sandy fertile soils; east-west sun exposure; hot dry climate.
South and West of proposed AVA	Pacific Ocean.

TTB Determination

TTB concludes that the petition to establish the approximately 15,900-acre proposed Palos Verdes Peninsula AVA merits consideration and public comment, as invited in this notice of proposed rulemaking.

Boundary Description

See the narrative description of the boundary of the petitioned-for AVA in the proposed regulatory text published at the end of this proposed rule.

Maps

The petitioner provided the required maps, and they are listed below in the proposed regulatory text. You may also view the proposed Palos Verdes Peninsula AVA boundary on the AVA Map Explorer on the TTB website, at *https://www.ttb.gov/wine/ava-map-explorer.*

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has

a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

If TTB establishes this proposed AVA, its name, ''Palos Verdes Peninsula AVA,'' will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the proposed regulation clarifies this point. Consequently, wine bottlers using the name ''Palos Verdes Peninsula AVA'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the AVA name as an appellation of origin if this proposed rule is adopted as a final rule. The approval of the proposed Palos Verdes Peninsula AVA would not affect any existing AVA.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether it should establish the proposed AVA. TTB is also interested in receiving comments on the sufficiency and accuracy of the name, boundary, soils, climate, and other required information submitted in support of the petition. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Palos Verdes Peninsula AVA on wine labels that include the term ''Palos Verdes Peninsula'' as discussed above under Impact on Current Wine Labels, TTB is particularly interested in comments regarding whether there will be a conflict between the proposed AVA name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed AVA will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the AVA.

Submitting Comments

You may submit comments on this notice by using one of the following three methods:

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form posted with this notice within Docket No. TTB–2020–0003 on ''*Regulations.gov*,'' the Federal e-rulemaking portal, at *http://www.regulations.gov.* A direct link to that docket is available under Notice No. 188 on the TTB website at *https://www.ttb.gov/wine/wine-rulemaking.shtml.* Supplemental files may be attached to comments submitted via *Regulations.gov*. For complete instructions on how to use *Regulations.gov*, visit the site and click on the ''Help'' tab.
- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005.
- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Suite 400, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 188 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

In your comment, please clearly state if you are commenting for yourself or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity's name, as well as your name and position title. If you comment via *Regulations.gov*, please enter the entity's name in the ''Organization'' blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

TTB will post, and you may view, copies of this notice, selected supporting materials, and any online or mailed comments received about this proposal within Docket No. TTB–2020–0003 on the Federal e-rulemaking portal, *Regulations.gov*, at *http://www.regulations.gov.* A direct link to that docket is available on the TTB website at *https://www.ttb.gov/wine/wine_rulemaking.shtml* under Notice No. 188. You may also reach the relevant docket through the *Regulations.gov* search page at *http://www.regulations.gov.* For information on how to use *Regulations.gov*, click on the site's ''Help'' tab.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You may also view copies of this notice, all related petitions, maps and other supporting materials, and any electronic or mailed comments that TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW, Suite 400, Washington, DC 20005. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Please note that TTB is unable to provide copies of USGS maps or other similarly-sized documents that may be included as part of the AVA petition. Contact TTB's Regulations and Rulings Division at the above address, by email using the web form at *https://www.ttb.gov/contact-rrd,* or by telephone at 202–453–1039, ext. 175, to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Caroline Hermann of the Regulations and Rulings Division drafted this notice of proposed rulemaking.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.____ to read as follows:

§ 9.____ Palos Verdes Peninsula.

(a) *Name.* The name of the viticultural area described in this section is ''Palos Verdes Peninsula''. For purposes of part 4 of this chapter, ''Palos Verdes Peninsula'' is a term of viticultural significance.

(b) *Approved maps.* The three United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Palos Verdes Peninsula viticultural area are titled:

(1) Redondo Beach, CA, 1996;

(2) Torrance, Calif., 1964 (photorevised 1981); and

(3) San Pedro Calif., 1964 (photorevised 1981).

(c) *Boundary.* The Palos Verdes Peninsula viticultural area is located in the southwestern coastal region of Los Angeles County, and contains the cities of Palos Verdes Estates, Rolling Hills, Rolling Hills Estates, and Rancho Palos Verdes, California. The boundary of the Palos Verdes Peninsula viticultural area is as described below:

(1) The beginning point is on the Redondo Beach map at the intersection of the Pacific Ocean and the Torrance corporate boundary at Malaga Cove, R14W/T4S; then

(2) From the beginning point, proceed east, then generally southeast, along the Torrance corporate boundary, crossing onto the Torrance map, to the intersection of the Lomita corporate boundary, R14W/T4S; then

(3) Proceed generally southeast along the Lomita corporate boundary to the intersection with Western Ave, R14W/T4S; then

(4) Proceed south along Western Ave, crossing onto the San Pedro map, to the intersection of the Los Angeles city boundary, R14W/T5S; then

(5) Proceed west, then generally south, then southwest along the Los Angeles city boundary to the intersection with the Pacific Ocean at Palos Verdes Peninsula Park, R14W/T5S; then

(6) Proceed clockwise along the Pacific coastline to return to the beginning point.

Signed:

Mary G. Ryan,

Acting Administrator.

Approved:

Timothy E. Skud,

Deputy Assistant Secretary, (Tax, Trade, and Tariff Policy).

[FR Doc. 2020–10363 Filed 5–22–20; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2019–0573, FRL–10009–43–Region 10]

Air Plan Approval; WA; Infrastructure Requirements for the 2010 Sulfur Dioxide and 2015 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Whenever a new or revised National Ambient Air Quality Standard (NAAQS) is promulgated, the Clean Air Act (CAA) requires states to submit a plan for the implementation, maintenance, and enforcement of the standard, commonly referred to as infrastructure requirements. The Environmental Protection Agency (EPA) is proposing to approve Washington State Implementation Plan (SIP) submissions as meeting specific infrastructure requirements for the 2010 sulfur dioxide (SO_2) and 2015 ozone NAAQS.

DATES: Comments must be received on or before June 25, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2019–0573 at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue—Suite 155, Seattle, WA 98101, at (206) 553–0256, or *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

Table of Contents

I. Background

On June 2, 2010, the EPA promulgated a revised primary SO_2 NAAQS at 75 parts per billion, based on a three-year average of the annual 99th percentile of one-hour daily maximum concentrations (75 FR 35520). In 2015, the EPA promulgated a revision to the ozone NAAQS retaining the existing form of the standard (three-year average of the annual fourth-highest daily maximum 8-hour average concentration) but lowered the level of both the primary and secondary standards from 0.075 to 0.070 parts per million (80 FR 65292, October 26, 2015). On September 30, 2019, and as supplemented on April 3, 2020, the Washington Department of Ecology (Ecology) submitted SIP revisions to meet certain 2010 SO_2 and 2015 ozone NAAQS infrastructure requirements. We note that Ecology previously submitted a SIP revision on February 7, 2018, addressing CAA section 110(a)(2)(D)(i)(I) (interstate transport prongs 1 and 2) for the 2010 SO_2 and 2015 ozone NAAQS. We approved the February 7, 2018, SIP revision as meeting the CAA section 110(a)(2)(D)(i)(I) requirements for the 2015 ozone NAAQS on September 20, 2018 (83 FR 47568). We will address the CAA section 110(a)(2)(D)(i)(I) requirements for the 2010 SO_2 NAAQS in a separate action.

II. Infrastructure Elements

CAA section 110(a)(1) provides the procedure and timing for SIP submissions after a new or revised NAAQS is promulgated. CAA section 110(a)(2) lists specific elements that states must meet related to a newly established or revised NAAQS. The EPA has issued guidance to help states address these requirements, most recently on September 13, 2013 (2013 Guidance).[1] The requirements, with their corresponding CAA subsection, are listed below:

- *110(a)(2)(A):* Emission limits and other control measures.
- *110(a)(2)(B):* Ambient air quality monitoring/data system.
- *110(a)(2)(C):* Program for enforcement of control measures.
- *110(a)(2)(D):* Interstate transport.
- *110(a)(2)(E):* Adequate resources.
- *110(a)(2)(F):* Stationary source monitoring system.
- *110(a)(2)(G):* Emergency episodes.
- *110(a)(2)(H):* Future SIP revisions.
- *110(a)(2)(I):* Areas designated nonattainment and applicable requirements of part D.
- *110(a)(2)(J):* Consultation with government officials; public notification; and Prevention of Significant Deterioration and visibility protection.
- *110(a)(2)(K):* Air quality modeling/data.
- *110(a)(2)(L):* Permitting fees.
- *110(a)(2)(M):* Consultation/participation by affected local entities.

The EPA's 2013 Guidance restated our interpretation that two elements are not governed by the three-year submission deadline in CAA section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are due on separate schedules, pursuant to CAA section 172 and the various pollutant-specific subparts 2 through 5 of part D. These are submissions required by: (i) CAA section 110(a)(2)(C), to the extent that subsection refers to a permit program as required in part D, title I of the CAA, and (ii) CAA section 110(a)(2)(I). As a result, this action does not address CAA section 110(a)(2)(C) with respect to nonattainment new source review (NSR) or CAA section 110(a)(2)(I). The EPA has also determined that the CAA section 110(a)(2)(J) provision on visibility is not triggered by a new NAAQS because the visibility requirements in part C, title I of the CAA are not changed by a new NAAQS.

Ecology's September 30, 2019 infrastructure SIP revision noted that it did not contain a narrative for CAA section 110(a)(2)(K) explaining that additional rulemaking was necessary to update Washington's adoption by reference of 40 CFR part 51, appendix W for air quality modeling. On April 3, 2020, Ecology submitted a SIP revision updating the narrative for CAA section 110(a)(2)(K) to reflect the EPA's approval of revisions to Chapters 173–400 and 463–78 Washington Administrative Code (WAC) with an updated adoption by reference of Federal regulations as of January 24, 2018, including the EPA's most recent update to 40 CFR part 51, appendix W. *See* 85 FR 4233 (January 24, 2020) and 85 FR 10301 (February 24, 2020). Also, as part of the September 2019 infrastructure SIP revision, Ecology's CAA section 110(a)(2)(A) narrative included a cross reference to additional SIP-strengthening regulations included as an appendix for EPA approval.[2] Ecology's April 3, 2020 SIP revision updated the narrative to clarify that the current Federally-approved Washington SIP meets all CAA section 110(a)(2)(A) requirements and is not contingent on the EPA's approval of the SIP-strengthening rules. The EPA agrees that the SIP-strengthening rules are severable from the infrastructure certification and can be addressed in a separate future action.

With respect to CAA section 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J), Ecology's September 2019 infrastructure SIP revision describes how Washington relies on a narrow set of Federal Implementation Plans (FIPs) in implementing portions of the Prevention of Significant Deterioration (PSD) and regional haze programs.[3] Ecology's infrastructure SIP revision also notes that Washington is not submitting replacements for these FIPs at this time. The EPA's 2013 Guidance states, ''In this situation, the EPA would make a completeness finding that extends only to the SIP elements actually submitted by the air agency, and a finding that other relevant applicable elements were not submitted. The EPA would be required to take action only on the elements that were submitted, within 12 months after those elements have been determined to be complete. The overall infrastructure SIP would not be approvable with respect to the elements that were not submitted, and thus the EPA could only partially approve the overall infrastructure SIP.''

In accordance with the 2013 Guidance, we found that Ecology's September 2019 infrastructure SIP submission was incomplete for the portions addressing the infrastructure elements in CAA section 110(a)(2)(C), (D)(i)(II) (prong 3), (D)(ii), and (J) relating to PSD, because Washington has not fully addressed all requirements of part C of title I of the CAA. We also found the submission incomplete as to element D(i)(II) (prong 4) relating to interstate visibility transport. On November 18, 2019, the EPA sent a letter to Ecology notifying Washington of this determination.[4] With respect to PSD, as a result of this incompleteness finding, the EPA is not taking action on the portions of section 110(a)(2)(C), D(i)(II), (D)(ii), and (J) related to the PSD FIP. The EPA recognizes, however, that Washington has elected to comply with the Federal requirements through joint EPA and state implementation through a FIP. Because Washington is already subject to a FIP, Washington would not have to take further action for continued implementation of the PSD program.

With respect to prong 4 requirements related to interstate visibility transport under section 110(a)(2)(D)(i)(II), Washington does not have a fully approved regional haze SIP typically used to satisfy element D(i)(II) (prong 4) relating to interstate visibility transport.[5] However, regional haze FIPs are in place to fully address the disapproved portions of the state's SIP for the period of the first long-term strategy for regional haze. *See* 79 FR 33438 (June 11, 2014). As a result, and as explained in more detail in the technical support document (TSD) in the docket for this action, the EPA finds that the FIP obligations with respect to prong 4 for the 2010 SO_2 and 2015 ozone NAAQS are already satisfied, and no further action is required.

The EPA does not anticipate any adverse consequences to Washington as a result of this incompleteness finding for the PSD portions of CAA section 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J), or the interstate visibility transport portion of section 110(a)(D)(i)(II). Mandatory sanctions would not apply to Washington under CAA section 179 because PSD and regional haze SIP

[1] Stephen D. Page, Director, Office of Air Quality Planning and Standards. ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Section 110(a)(1) and 110(a)(2).'' Memorandum to EPA Air Division Directors, Regions 1 through 10, September 13, 2013.

[2] See ''state submittal_173–423 WA Register'' and ''state submittal_2010 SO_2 and 2015 O3 Appendix B Table'' in the docket for this action.

[3] *See* 40 CFR 52.2497, 40 CFR 52.2500, 40 CFR 52.2501, and 40 CFR 52.2502. Ecology's April 3, 2020 SIP revision updated the narrative for CAA section 110(a)(2)(A) and (K) only, with no revisions for other infrastructure elements.

[4] See ''completeness letter_Taylor, Kathy, WA Department of Ecology_11.18.19'' included in the docket for this action.

[5] See 2013 Guidance, page 33.

submissions are not required under title I part D of the CAA, and in this instance are not in response to a SIP call under section 110(k)(5) of the CAA.

III. The EPA Approach To Review of Infrastructure SIP Submissions

Due to ambiguity in some of the language of CAA section 110(a)(2), the EPA believes that it is appropriate to interpret these provisions in the specific context of taking action on infrastructure SIP submissions. The EPA has previously provided comprehensive guidance on the application of these provisions in the 2013 Guidance and through regional actions on infrastructure submissions.[6] Unless otherwise noted below, we are following that existing approach in taking action on these submissions. In addition, in the context of taking action on such infrastructure submissions, the EPA evaluates the submitting state's SIP for facial compliance with statutory and regulatory requirements, not for the state's implementation of its SIP.[7] The EPA has other authority to address any issues concerning a state's implementation of the rules, regulations, consent orders, etc. that comprise its SIP.

IV. The EPA Evaluation

The EPA's evaluation and rationale for proposing action on Washington's September 30, 2019 and April 3, 2020 infrastructure SIP revisions are detailed in the ''Technical Support Document for the EPA's Proposed Rulemaking for the Washington Implementation Plan Revision for Meeting the Infrastructure Requirements in the Clean Air Act'' (TSD). The TSD is available in the docket for this action.

V. Proposed Action

We are proposing to approve the September 2019 and April 2020 Washington infrastructure SIP revisions as meeting certain infrastructure requirements for the 2010 SO_2 and 2015 ozone NAAQS, specifically CAA section 110(a)(2)(A), (B), (C) (except for those provisions covered by the PSD FIP), (D)(i)(II) (except for those provisions covered by the PSD and regional haze FIPs), (D)(ii) (except for those provisions covered by the PSD FIP), (E), (F), (G), (H), (J) (except for those provisions covered by the PSD FIP), (K), (L), and (M).

VI. Statutory and Executive Orders Review

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed 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 proposed action:

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

The SIP is not approved to apply on any Indian reservation land in Washington except as specifically noted below and is also not approved to apply 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law. Washington's SIP is approved to apply on non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area. Consistent with EPA policy, the EPA provided a consultation opportunity to the Puyallup Tribe in a letter dated July 15, 2019.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: May 14, 2020.

Christopher Hladick,

Regional Administrator, Region 10.

[FR Doc. 2020–10853 Filed 5–22–20; 8:45 am]

BILLING CODE 6560–50–P

[6] The EPA explains and elaborates on these ambiguities and its approach to address them in its September 13, 2013 Infrastructure SIP Guidance) available in the docket for this action and at *https://www.epa.gov/air-quality-implementation-plans/infrastructure-sip-requirements-and-guidance*).

[7] See U.S. Court of Appeals for the Ninth Circuit decision in *Montana Environmental Information Center* v. *EPA,* No. 16–71933 (August 30, 2018).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–R06–OAR–2010–0580; FRL–10009–48–Region 6]

New Source Performance Standards; Delegation of Authority to Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of delegation.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to update the Code of Federal Regulations (CFR) to reflect Oklahoma's current New Source Performance Standards (NSPS) delegation status and mailing address for the Oklahoma Department of Environmental Quality (ODEQ). The ODEQ has submitted updated

regulations for delegation of the EPA authority for implementation and enforcement of certain NSPS. The updated State regulations incorporate by reference certain NSPS promulgated by the EPA, as they existed through June 30, 2018.

DATES: Written comments on this proposed rule must be received on or before June 25, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2010–0580, at *https://www.regulations.gov* or via email to *pitre.randy@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact Randy Pitre, (214) 665–7229; email: *pitre.randy@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov.* While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Mr. Randy Pitre, EPA Region 6 Office, Infrastructure and Ozone Section, 214–665–7229, *pitre.randy@epa.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via *https://www.regulations.gov,* as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

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

I. Background

Section 111(c)(1) of the Clean Air Act (CAA), 42 U.S.C. 7411(c)(1), authorizes the EPA to delegate to a state the authority to implement and enforce NSPS promulgated by the EPA under CAA section 111(b) and codified at part 60 of title 40 of the CFR. CAA section 111(c)(2) states that the EPA retains the authority to enforce any applicable NSPS delegated to a state. On March 25, 1982, the EPA approved the delegation of authority to implement and enforce NSPS to Oklahoma (1982 NSPS Delegation). See 47 FR 1785 (April 22, 1982). On October 8, 1999, the EPA updated Oklahoma's NSPS delegation, including specific provisions setting forth the terms and conditions of the delegation of authority for NSPS responsibility to the ODEQ (1999 NSPS Delegation). See 64 FR 57392 (October 25, 1999). Copies of the initial 1982 NSPS Delegation and the 1999 NSPS Delegation updates are included in the docket for this action, both of which contain provisions specifying conditions and limitations applicable to the EPA's delegation of authority to implement and enforce the NSPS in Oklahoma.

Under the terms and conditions of the 1999 NSPS Delegation, ''[f]uture provisions of 40 CFR part 60 shall be delegated to ODEQ pursuant to this agreement provided that (1) ODEQ requests delegation and provides copies of the proposed or adopted rules, (2) ODEQ adopts the federal standard without change (*e.g.,* incorporation by reference) and (3) EPA does not object to the delegation within thirty (30) days of ODEQ's request.'' See Specific Provision 1 of the 1999 NSPS Delegation.

II. ODEQ's December 23, 2019 NSPS Delegation Update

By letter dated December 23, 2019, the ODEQ requested an update to its NSPS delegation. ODEQ reaffirmed that it retains all required authorities set forth in 40 CFR 60.4 for delegation of a CAA section 111(c) program and all authority identified in the 1982 and 1999 NSPS Delegations. ODEQ provided copies of the duly adopted state regulations which incorporate specifically identified NSPS found at 40 CFR part 60 into the Oklahoma Administrative Code (OAC) 252:100–2 and OAC 252:100 Appendix A, as published in the *Oklahoma Register* on September 3, 2019 (36 Okla. Reg. 1573) with an effective date of September 15, 2019.[1] These ODEQ regulations are, therefore, at least as stringent as the EPA's rules. See 40 CFR 60.10(a). ODEQ's December 23, 2019, request included the following NSPS in 40 CFR part 60, as they existed through June 30, 2018: 40 CFR part 60, subparts A (except sections 60.4, 60.9, 60.10, and 60.16), D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, Ga, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAa, BB, BBa, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, XXX, AAAA, CCCC, EEEE, IIII, JJJJ, KKKK, LLLL, OOOO, OOOOa, TTTT, and Appendices A and B to 40 CFR part 60.[2] In accordance with the authority provided by CAA section 111(c)(1) and consistent with the provisions of the 1982 NSPS Delegation and the 1999 NSPS Delegation, the EPA has determined that the ODEQ has met the conditions required for approval of the ODEQ's requested update to its NSPS delegation, as described above. All authorities not affirmatively and expressly requested by the ODEQ are not delegated. In addition, the provisions and conditions contained in the 1982 and 1999 NSPS Delegations remain in effect, including Specific Provision 7 of the 1999 NSPS Delegation which states that the delegation excludes the State's authority for sources located on Indian lands.[3] Furthermore, no authorities are delegated that require rulemaking in the **Federal Register** to implement, or where Federal overview is the only way to ensure national consistency in the application of the standards. All inquiries and requests concerning implementation and enforcement of the excluded standards in the State of Oklahoma should be directed to the EPA Region 6 Office of Enforcement and Compliance Assurance. Furthermore, the EPA retains any authority in an individual NSPS that may not be delegated according to provisions of the standard. Finally, the EPA retains the

[1] The ODEQ previously submitted requests to the EPA for updates to the Oklahoma NSPS delegation, by letters dated June 29, 2018, November 2, 2016, March 17, 2015, August 23, 2012, and May 5, 2000. EPA has determined that such requests meet the requirements of the CAA and the 1982 and 1999 NSPS Delegations concerning the approval of the EPA's delegation of authority for the enforcement and implementation of the NSPS in Oklahoma.

[2] See EPA Docket No. EPA–R06–OAR–2010–0580 in *www.regulations.gov.*

[3] For purposes of the ODEQ's NSPS delegation, the term ''Indian lands'' is synonymous with the term ''Indian county,'' as defined at 18 U.S.C. 1151.

authorities stated in the 1982 and 1999 NSPS Delegations.

III. Proposed Action

Apart from the notification of the updated NSPS delegation to the ODEQ as discussed above, the EPA is proposing to amend 40 CFR part 60 to include a table of the specific NSPS delegated to the ODEQ and update the mailing address for the ODEQ. If finalized as proposed, 40 CFR 60.4(b)(38) will be amended to read: State of Oklahoma: State of Oklahoma, Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, OK 73101–1677, and the following language and table will be added to 40 CFR 60.4(e):

DELEGATION STATUS FOR PART 60 STANDARDS—STATE OF OKLAHOMA

[Excluding Indian Country]

Subpart	Source category	ODEQ
A	General Provisions (except Sections 60.4, 60.9, 60.10 and 60.16)	Yes.
D	Fossil Fueled Steam Generators (250 MM BTU/hr)	Yes.
Da	Electric Utility Steam Generating Units (250 MM BTU/hr)	Yes.
Db	Industrial-Commercial-Institutional Steam Generating Units (100 to 250 MM BTU/hr)	Yes.
Dc	Industrial-Commercial-Institutional Small Steam Generating Units (10 to 100 MM BTU/hr	Yes.
E	Incinerators (>50 tons per day)	Yes.
Ea	Municipal Waste Combustors	Yes.
Eb	Large Municipal Waste Combustors	Yes.
Ec	Hospital/Medical/Infectious Waste Incinerators	Yes.
F	Portland Cement Plants	Yes.
G	Nitric Acid Plants	Yes.
Ga	Nitric Acid Plants (after October 14, 2011)	Yes.
H	Sulfuric Acid Plants	Yes.
I	Hot Mix Asphalt Facilities	Yes.
J	Petroleum Refineries	Yes.
Ja	Petroleum Refineries (After May 14, 2007)	Yes.
K	Storage Vessels for Petroleum Liquids (After 6/11/73 & Before 5/19/78)	Yes.
Ka	Storage Vessels for Petroleum Liquids (After 6/11/73 & Before 5/19/78)	Yes.
Kb	Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Stg/Vessels) After 7/23/84	Yes.
L	Secondary Lead Smelters	Yes.
M	Secondary Brass and Bronze Production Plants	Yes.
N	Primary Emissions from Basic Oxygen Process Furnaces (Construction Commenced After June 11, 1973)	Yes.
Na	Secondary Emissions from Basic Oxygen Process Steelmaking Facilities Construction is Commenced After January 20, 1983.	Yes.
O	Sewage Treatment Plants	Yes.
P	Primary Copper Smelters	Yes.
Q	Primary Zinc Smelters	Yes.
R	Primary Lead Smelters	Yes.
S	Primary Aluminum Reduction Plants	Yes.
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Plants	Yes.
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	Yes.
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	Yes.
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	Yes.
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities	Yes.
Y	Coal Preparation Plants	Yes.
Z	Ferroalloy Production Facilities	Yes.
AA	Steel Plants: Electric Arc Furnaces After 10/21/74 & On or Before 8/17/83	Yes.
AAa	Steel Plants: Electric Arc Furnaces & Argon-Oxygen Decarburization Vessels After 8/07/83	Yes.
BB	Kraft Pulp Mills	Yes.
BBa	Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013.	Yes.
CC	Glass Manufacturing Plants	Yes.
DD	Grain Elevators	Yes.
EE	Surface Coating of Metal Furniture	Yes.
GG	Stationary Gas Turbines	Yes.
HH	Lime Manufacturing Plants	Yes.
KK	Lead-Acid Battery Manufacturing Plants	Yes.
LL	Metallic Mineral Processing Plants	Yes.
MM	Automobile & Light Duty Truck Surface Coating Operations	Yes.
NN	Phosphate Manufacturing Plants	Yes.
PP	Ammonium Sulfate Manufacture	Yes.
QQ	Graphic Arts Industry: Publication Rotogravure Printing	Yes.
RR	Pressure Sensitive Tape and Label Surface Coating Operations	Yes.
SS	Industrial Surface Coating: Large Appliances	Yes.
TT	Metal Coil Surface Coating	Yes.
UU	Asphalt Processing and Asphalt Roofing Manufacture	Yes.
VV	VOC Equipment Leaks in the SOCMI Industry	Yes.
VVa	VOC Equipment Leaks in the SOCMI Industry (After November 7, 2006)	Yes.
WW	Beverage Can Surface Coating Industry	Yes.
XX	Bulk Gasoline Terminals	Yes.
AAA	New Residential Wood Heaters	No.
BBB	Rubber Tire Manufacturing Industry	Yes.

DELEGATION STATUS FOR PART 60 STANDARDS—STATE OF OKLAHOMA—Continued

[Excluding Indian Country]

Subpart	Source category	ODEQ
DDD	Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry	Yes.
FFF	Flexible Vinyl and Urethane Coating and Printing	Yes.
GGG	VOC Equipment Leaks in Petroleum Refineries	Yes.
GGGa	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction or Modification Commenced After November 7, 2006.	Yes.
HHH	Synthetic Fiber Production	Yes.
III	VOC Emissions from the SOCMI Air Oxidation Unit Processes	Yes.
JJJ	Petroleum Dry Cleaners	Yes.
KKK	VOC Equipment Leaks From Onshore Natural Gas Processing Plants	Yes.
LLL	Onshore Natural Gas Processing: SO_2 Emissions	Yes.
NNN	VOC Emissions from SOCMI Distillation Operations	Yes.
OOO	Nonmetallic Mineral Processing Plants	Yes.
PPP	Wool Fiberglass Insulation Manufacturing Plants	Yes.
QQQ	VOC Emissions From Petroleum Refinery Wastewater Systems	Yes.
RRR	VOC Emissions from SOCMI Reactor Processes	Yes.
SSS	Magnetic Tape Coating Operations	Yes.
TTT	Industrial Surface Coating: Plastic Parts for Business Machines	Yes.
UUU	Calciners and Dryers in Mineral Industries	Yes.
VVV	Polymeric Coating of Supporting Substrates Facilities	Yes.
WWW	Municipal Solid Waste Landfills	Yes.
XXX	Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification after July 17, 2014.	Yes.
AAAA	Small Municipal Waste Combustion Units (Construction is Commenced After 8/30/99 or Modification/Reconstruction is Commenced After 6/06/2001.	Yes.
CCCC	Commercial & Industrial Solid Waste Incineration Units (Construction is Commenced After 11/30/1999 or Modification/Reconstruction is Commenced on or After 6/01/2001.	Yes.
EEEE	Other Solid Waste Incineration Units (Constructed after 12/09/2004 or Modification/Reconstruction is commenced on or after 06/16/2004).	Yes.
IIII	Stationary Compression Ignition Internal Combustion Engines	Yes.
JJJJ	Stationary Spark Ignition Internal Combustion Engines	Yes.
KKKK	Stationary Combustion Turbines (Construction Commenced After 02/18/2005)	Yes.
LLLL	New Sewage Sludge Incineration Units	Yes.
OOOO	Crude Oil and Natural Gas Production, Transmission and Distribution for which Construction, Modification or Reconstruction Commenced After August 23, 2011, and on or before September 18, 2015.	Yes.
OOOOa	Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After September 18, 2015.	Yes.
TTTT	Greenhouse Gas Emissions for Electric Generating Units	Yes.
N/A	Appendices A (Test Methods) and B (Performance Specifications)	Yes.

IV. Statutory and Executive Order Reviews

Under the CAA, the EPA previously delegated to the ODEQ the authority to implement and enforce certain NSPS for sources located in Oklahoma, as provided for under 42 U.S.C. 7411(c)(1); see also 40 CFR 60.4(b). Pursuant the terms and conditions of that delegation, this action informs the public that the EPA has found the ODEQ's December 23, 2019, request to update the delegation status for NSPS meets Federal requirements and does not impose additional requirements beyond those imposed by state law. Through this action, the EPA is proposing to add a table to 40 CFR part 60 listing the specific NSPS currently delegated to the ODEQ and update the ODEQ's address for submittal of documents required under the delegated NSPS provisions. For these reasons, 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 NSPS delegation updates are exempted under Executive Order 12866;

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide the EPA with the discretionary authority to address, 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 Oklahoma NSPS delegation does not extend to Indian country. If finalized as proposed, the EPA's action will 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).

List of Subjects in 40 CFR Part 60

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

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

Dated: May 14, 2020.

David Garcia,

Director, Air & Radiation Division, Region 6.

[FR Doc. 2020–10834 Filed 5–22–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1989–0011; FRL–10008–68–Region 9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the JASCO Chemical Corp. Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of intent.

SUMMARY: The Environmental Protection Agency (EPA) Region 9 is issuing a Notice of Intent to Delete the JASCO Chemical Corporation Superfund Site (Site) located in Mountain View, California, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA and the State of California, through the Department of Toxic Substances Control, have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by June 25, 2020.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1989–0011, by one of the following methods:

- *http://www.regulations.gov*: Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*
- *Email:* Superfund Project Manager: Eric Canteenwala, *canteenwala.eric@epa.gov.*
- Written comments submitted by mail are temporarily suspended and no hand deliveries will be accepted. We encourage the public to submit comments via *https://www.regulations.gov*

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1989–0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the following repositories:

The EPA is temporarily suspending its Docket Center and Regional Records Centers for public visitors to reduce the risk of transmitting COVID–19. In addition, many site information repositories are closed and information in these repositories, including the deletion docket, has not been updated with hardcopy or electronic media. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID.

FOR FURTHER INFORMATION CONTACT: Eric Canteenwala, Superfund Project Manager, U.S. EPA, Region 9 (SFD–7–1), 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3932, email: *canteenwala.eric@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA Region 9 announces its intent to delete the JASCO Chemical Corporation Superfund Site from the NPL and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of

sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

EPA will accept comments on the proposal to delete this Site for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Site and demonstrates how it meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the State before developing this Notice of Intent to Delete.

(2) EPA has provided the State 30 working days for review of this notice prior to publication of it today.

(3) In accordance with the criteria discussed above, EPA has determined that no further response is appropriate.

(4) The State of California, through DTSC, has concurred with deletion of the Site from the NPL.

(5) Concurrently with the publication of this Notice of Intent to Delete in the **Federal Register**, a notice is being published in a local newspaper, the Mountain View Voice. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(6) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

If comments on this document are received within the 30-day public comment period, EPA will evaluate and respond appropriately to the comments before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received. After the public comment period, if EPA determines it is still appropriate to delete the Site, the Regional Administrator will publish a final Notice of Deletion in the **Federal Register**. Public notices, public submissions and copies of the Responsiveness Summary, if prepared, will be made available to interested parties and in the Site information repositories listed above.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL.

Site Background and History

The Site (CERCLIS ID #CAD009103318) is located at 1710 Villa Street in the City of Mountain View, Santa Clara County, California and is 2.05 acres in size. JASCO Chemical Corporation (JASCO) repackaged and formulated bulk chemical products on site from 1976 to 1995. Chemicals were unloaded from rail cars and stored in eight underground storage tanks that polluted the surrounding soil and groundwater. Volatile organic compounds (VOCs) and hydrocarbons, such as trichloroethane, acetone, creosote, and methylene chloride, were detected in shallow groundwater at the Site starting in 1984. On June 24, 1988, the Site was proposed for NPL listing (53 FR 23988). On October 4, 1989, EPA added the Site to the NPL (54 FR 41015).

Ongoing Development

Historically, the area surrounding the site was industrial with many different electronics and semiconductor manufacturers. It is now within a residential area and zoned for future residential use, with the Southern Pacific Railroad running along the property's northern boundary. The site is currently owned by the Prometheus Real Estate Group, which plans to redevelop the property into an apartment complex.

Remedial Investigation and Feasibility Study (RI/FS)

The Remedial Investigation (RI) was completed in 1991 and included investigation of groundwater and soil. A citizen complaint of solvent dumping resulted in the California Regional Water Quality Control Board (RWQCB) requesting the installation of monitoring wells to determine if the groundwater had been contaminated. EPA drilled additional groundwater monitoring wells and collected soil samples to define the nature and extent of contamination at the site.

EPA completed the Feasibility Study (FS) in 1991. The FS evaluated six alternatives for groundwater remediation and five alternatives for soil remediation. The groundwater alternatives were: (1) No further action; (2) discharge to a Publicly Owned Treatment Works (POTW); (3) UV oxidation; (4) liquid phase carbon adsorption; (5) air stripping; and (6) biological treatment followed by carbon adsorption. The soil remediation alternatives were (1) no further action; (2) off-site treatment; (3) enhanced biological treatment; (4) X–19 biological treatment; and (5) Excalibur process or soil washing involving catalytic ozone oxidation.

Selected Remedy

The Record of Decision (ROD) was issued on September 30, 1992. A Groundwater Extraction and Treatment System (GETS) with air stripping and liquid phase carbon adsorption that discharged into a POTW was selected as the groundwater remedy. Ex-situ bioremediation was selected for the soil remedy. An interim removal action completed in 1988 removed 572 cubic feet of contaminated soil down to the

water table (22–28 ft. below ground surface). A dual vacuum extraction/soil vapor extraction system (DVE) was installed for dual remediation of contaminated soil and groundwater. This remedy included modifications to and continued operation of the existing GETS and implementation of a restrictive easement to prohibit use of onsite shallow groundwater. Institutional controls on the site prohibited the use of groundwater until cleanup levels were achieved.

On September 13, 2002, EPA issued an Explanation of Significant Differences (ESD) that modified three elements of the remedy. (1) Treated groundwater was discharged to surface water under a National Pollutant Discharge Elimination System (NPDES) permit issued by the RWQCB instead of Mountain View's POTW. In order to meet the more stringent requirements under the NPDES permit the groundwater treatment system was modified. (2) Soil treatment in the drainage swale area at the rear of the site was modified to allow in situ soil vapor extraction. (3) Institutional control requirements were modified to add a post cleanup deed restriction to address the impacts of an offsite tetrachloroethene (PCE) plume not considered part of the Site. EPA issued a second ESD on September 26, 2012 that removed the requirement for the deed restriction to address the offsite PCE plume and clarified that this was no longer a component of the Superfund remedy for the Site.

The remedial action objectives (RAO) for the remedy selected in the 1992 ROD were to prevent further migration of contaminants into groundwater by treating Site soils; prevent possible future exposure of the public to contaminated groundwater; and prevent contamination of the drinking water aquifer by treating both contaminated soil and groundwater. The 1992 ROD listed cleanup criteria for twenty different VOCs in soil and groundwater. The cleanup levels for many of these contaminants were more protective than the groundwater Maximum Contaminant Level as specified in the Safe Drinking Water Act.

Response Actions

The remedy selected in the 1992 ROD was implemented beginning in 1994. Activities implemented pursuant to the ROD, as modified by the 2002 ESD included: (1) Removal of eight underground storage tanks (UST) from the Site and ex-situ bioremediation of the soil stockpile generated from UST removal; (2) installation of GETS equipped with a liquid-phase carbon adsorption system that discharged to a POTW; (3) a dual vacuum extraction/soil vapor extraction system installed for dual remediation of contaminated soil and groundwater in the drainage swale area; (4) two monitoring wells were converted to DVE wells in response to the appearance of PCE in groundwater. These converted wells remained in operation until April 1998 when the expanded GETS was completed; (5) Implementation of Institutional Controls on the Site in the form of a restrictive easement recorded in 1993, which prohibited the use of groundwater until cleanup levels were achieved. The Site reached construction complete status on September 20, 2002 and a Preliminary Close Out Report (PCOR) was prepared at that time.

Cleanup Levels

Cleanup levels for both soil and groundwater treatment were reached in 2002. The GETS was shut off in 2002 and groundwater monitoring ended in 2010. The 2012 Five Year Review (FYR) concluded that all contaminants of concern, except for PCE and tricholoroethylene (TCE), were below the maximum contaminant levels for 18 consecutive quarters. PCE and TCE were determined to be related to an offsite plume not related to the Site. The EPA determined that the RAO (*i.e.,* prevent any further migration of contaminants into groundwater by treating Site soils) had been attained at the Site based on confirmatory samples taken of soil contaminants after the excavation of the USTs and in 2002. The results were compared against both EPA Region 9 residential soil Preliminary Remediation Goals for dermal exposure and the 2012 EPA Regional Screening Levels for soils.

Operation and Maintenance

There are no ongoing monitoring activities for soil or groundwater. The 2012 ESD removed the requirement for institutional controls related to the CERCLA remedy. An environmental covenant related to the offsite PCE plume was signed by the property owner and the RWQCB, was recorded by Santa Clara County, and remains in effect. Because cleanup is now complete at the Site, the 2002 Site-related deed restriction was terminated, groundwater monitoring was discontinued, the monitoring wells have been properly closed under Santa Clara Valley Water District (SCVWD) permit, and monitoring and maintenance have been discontinued.

Five-Year Reviews

EPA conducts reviews every five years to determine if remedies are functioning as intended and if they continue to be protective of human health and the environment. EPA issued the Second Five-Year Review Report on September 28, 2012, and concluded that the remedy at the JASCO Site is protective of human health and the environment. At that time, groundwater contamination had reached cleanup levels, and any potential exposures were controlled through the deed restriction. No future five-year reviews are needed because the groundwater and soil cleanup goals have been attained throughout the Site, all monitoring wells have been closed, and the environmental covenant for the CERCLA related contamination was terminated.

Community Involvement

EPA held community meetings before and during the Site cleanup. EPA released a fact sheet in 2010 describing potential redevelopment of the site.

Determination That the Site Meets the Criteria for Deletion in the NCP

EPA has followed all procedures required by 40 CFR 300.425(e), Deletion from the NPL. EPA consulted with the State of California prior to developing this Notice. EPA determined that the responsible party has implemented all appropriate response actions required and that no further response action for the Site is appropriate. EPA is publishing a notice in the Mountain View Voice, a local newspaper, of its intent to delete the Site and how to submit comments. EPA placed copies of documents supporting the proposed deletion in the Site information repositories; these documents are available for public inspection and copying.

The implemented groundwater remedy achieved the degree of cleanup and protection specified in the ROD for the Site. The selected remedial action objectives and associated cleanup levels for the groundwater are consistent with agency policy and guidance. Based on information currently available to EPA, no further Superfund response is needed to protect human health and the environment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(d); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: May 14, 2020.

John Busterud,

Regional Administrator, Region 9.

[FR Doc. 2020–11028 Filed 5–22–20; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 85, No. 101
Tuesday, May 26, 2020

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Document No. AMS–TM–20–0043]

Micro-Grants for Food Security Program; Request for Emergency Approval of a New Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of emergency request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Marketing Service's (AMS) intention to receive approval from the Office of Management and Budget (OMB) to collect information for the Micro-Grants for Food Security Program (MGFSP) under its Grants Division. Due to the passing of the Agriculture Improvement Act of 2018 (Pub. L. 115–343) (Farm Bill), AMS Grants Division is implementing this new grant program under section 4206, which directs the Secretary of Agriculture to ''distribute funds to the agricultural department or agency of each eligible state for the competitive distribution of subgrants to eligible entities for fiscal year 2019 and each fiscal year thereafter.''

DATES: Comments on this notice must be received by July 27, 2020 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this information collection notice. Comments should be submitted online at *www.regulations.gov* or sent to Nicole Nelson Miller, Acting Grants Division Director, AMS Transportation and Marketing Program, 1400 Independence Avenue SW, Stop 0269, Washington, DC 20250–0264, or email *Nicole.NelsonMiller@usda.gov.* All comments should reference the Doc. No. AMS–TM–20–0043, the date, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Nicole Nelson Miller at the above physical address, or by email at *Nicole.NelsonMiller@usda.gov.*

SUPPLEMENTARY INFORMATION:

Overview of This Information Collection

Abstract

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), AMS is seeking approval from the OMB for a new information collection under OMB No. 0581–NEW needed for the implementation of the Micro-Grants for Food Security Program (MGFSP). Once approved, the collection will be merged with 0581–0240.

MGFSP operates pursuant to the authority of section 4206 of the Agriculture Improvement Act of 2018 (Pub. L. 115–343), (7 U.S.C. 7518) (Farm Bill) and is implemented through the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200). The AMS Grants Division requests to collect information from agricultural agencies or departments in eligible states, which include Alaska, American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Federated States of Micronesia, Guam, Hawaii, the Republic of the Marshall Islands, the Republic of Palau, and the United States Virgin Islands for this new grant program.

MGFSP is intended to increase the quantity and quality of locally grown food in food insecure communities, including through small-scale gardening, herding, and livestock operations, in eligible states. The Farm Bill authorized to be appropriated to the Secretary $10 million for fiscal year 2019 and each fiscal year thereafter. In fiscal year 2020, $5 million was appropriated.

Because MGFSP is voluntary, respondents request or apply for this specific non-competitive grant program, and in doing so, they provide information. AMS is the primary user of the information. The information collected is needed to certify that grant participants are complying with applicable program regulations, and the data collected is the minimum information necessary to effectively carry out the requirements of the program. The information collection requirements in this request are essential to carry out the intent of the 7 U.S.C. 7518, to provide the respondents the type of service they request, and to administer this program. The burden of the MGFSP is as follows:

Micro-Grants for Food Security Program (MGFSP)

Estimate of Burden: 2.65 hours per response.

Respondents: Grant applicants, grant recipients.

Estimated Number of Respondents: 10.

Estimated Total Annual Responses Including Recordkeeping: 120.

Estimated Number of Responses per Respondent: 11.

Estimated Total Annual Burden on Respondents and Recordkeepers: 318.33 hours.

Comments are invited on: (1) Whether the new collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the new 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Obtaining OMB's approval of this new information collection enables AMS Grants Division to publish a Request for Applications (RFA) to establish application requirements, the review and approval process, and grant administration procedures, which will enable eligible states to develop appropriate grant applications for the program so that AMS can adequately evaluate these new proposals and

obligate the funds as required by the Farm Bill.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020–11222 Filed 5–22–20; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–ST–20–0050]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget (OMB), for an extension of and revision to the currently approved information collection ''Laboratory Approval Programs.''

DATES: Comments on this notice must be received by July 27, 2020 to be assured of consideration.

Additional Information or Comments: Interested persons are invited to submit comments concerning this notice by using the electronic process available at *http://www.regulations.gov.* Written comments may also be submitted to Laboratory Approval and Testing Division, Science and Technology Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0272, Washington, DC 20250–0272; or by facsimile to (202) 720–4631. All comments should reference the docket number AMS–ST–20–0050, the date, and page number of this issue of the **Federal Register**. All comments will become a matter of public record and will be made available for public inspection at the above address during regular business hours and may be viewed at *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Title: Laboratory Approval Programs.

OMB Number: 0581–0251.

Expiration Date of Approval: September 30, 2020.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), AMS' Laboratory Approval Service (LAS) approves, or accredits, laboratories to perform testing services in support of domestic and international trade. At the request of industry, other Federal agencies, or foreign governments, AMS develops and administers laboratory approval programs (LAPs) to verify that the analysis of food and agricultural products meet country or customer-specified requirements. LAS ensures the testing of products marketed is conducted by qualified and approved laboratories. LAPs requirements include good laboratory, quality assurance and control practices; applicable domestic and international standards (such as ISO/IEC 17025); established methods and accepted equipment; and on-site audits. Laboratories voluntarily participate in the program and pay program fees. Currently, LAS administers four LAPs with 60 participants.

The information collection includes customer/business information and quality management system (QMS) documentation essential to examine laboratories for entrance and continual participation in the following programs:

(1) Aflatoxin Program—this program approves laboratories to perform aflatoxin testing in support of domestic and/or export trade of almonds, peanuts, and pistachio nuts. (a) Almond. At the request of the Almond Board of California (ABC), AMS administers the program for aflatoxin testing of almonds destined for export to the European Union (EU) through the Pre-Export Certification program of ABC. (b) Peanuts. AMS administers Minimum Quality and Handling Standards for Domestic and Imported Peanuts Marketed in the United States (7 CFR 996 Parts 996.1–996.75). The regulation requires domestically marketed peanuts for human consumption to be analyzed for aflatoxin by a USDA or USDA-approved laboratory. AMS consults with the Peanut Standards Board on program requirements. (c) Pistachio Nuts. AMS administers mandatory domestic and import aflatoxin requirements for pistachio nuts under Pistachios Grown in California, Arizona, and New Mexico (7 CFR part 983) and Specialty Crops, Import Regulations (7 CFR part 999, Section 999.600), respectively. All domestic and import shipments of pistachio nuts intended for human consumption must be tested for aflatoxin contamination. At the request of the Administrative Committee for Pistachios (ACP), laboratories may also participate in the program for pistachio nuts destined for EU through the Pistachio Export Aflatoxin Reporting (PEAR) program of ACP.

(2) Export Program—this program approves laboratories to perform testing of meat and poultry products offered for export certification by the Food Safety and Inspection Service (FSIS). LAS collaborates with FSIS, the Foreign Agricultural Service, and the meat and poultry industries to administer a flexible and comprehensive program to provide reliable analyses of pesticide residues, environmental contaminants, veterinary drug residues, antibiotic residues, microorganisms, and parasites.

(3) Microbiological Testing of Poultry Products for the Federal Purchase Program (FPP)—this program approves laboratories to perform microbiological testing of frozen, cooked, diced chicken procured for the Federal Purchase Program and is limited to the analysis of aerobic plate counts, coliform counts, coagulase positive *Staphylococcus aureus,* generic *Escherichia coli, Salmonella* species, and *Listeria monocytogenes.*

(4) Dairy Program—this program supports the Dairy Grading Branch for laboratories testing butter for quality and grading standards. LAS collaborates with the Dairy Grading Branch and the dairy industry to administer an audit program to provide reliable analysis for the grading of butter.

All LAPs follow similar general procedures for application process and evaluations for continual participation. Applicants (laboratories applying to be approved or accredited by AMS) and participants (laboratories approved or accredited under a LAP) are responsible for paying applicable program fees. An applicant or participant may withdraw or voluntarily request suspension at any time and if deemed necessary LAS can suspend or dismiss a participant.

The greatest information collection burden is during the application process. The application process can occur when an applicant seeks approval into a program and when a participant seeks to expand their scope of approval. Generally, the application process includes, submission of an application letter and application package, including customer/business information for billing and QMS documentation; and receive an audit by AMS. The customer/business information collected includes business legal name, Federal Tax ID Number, mailing address, billing address, management contacts and accounts payable contact. The burden hours incurred for an applicant to submit application package materials for application or expansion of scope is typically a one-time occurrence and is

essential for evaluating an applicant's ability to meet program requirements and gain approval.

Once an applicant is approved into the program, the information collection burden decreases for the continual participation process. A participant verifies intent to continue participation and its customer/business information annually, and on a periodic basis submits proficiency testing reports to evaluate analytical proficiency, and QMS documentation in response to audits by AMS. The information listed is essential to examine a participant's ability to continually meet program requirements and maintain program status.

Occasionally, a participant withdraws, is suspended, or is dismissed from a program. When a participant withdraws it submits a letter of request. When a participant requests voluntary suspension or is suspended by LAS it may request reinstatement of approval and must demonstrate its ability to meet program requirements through the continual participation process. On the rare occasion a participant fails to continually meet program requirements the participant may be notified of its danger of being dismissed. The dismissal process includes an evaluation using the continual participation process to substantiate reason for dismissal.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.24 hours per response.

Respondents: Laboratories.

Estimated Number of Respondents: 60.

Estimated Total Annual Responses: 538.

Estimated Number of Responses per Respondent: 8.97.

Estimated Total Annual Burden on Respondents: 1204.00.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including completion of analyses related documentation; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020–11187 Filed 5–22–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): 2020/2021 Income Eligibility Guidelines

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture (''Department'') announces adjusted income eligibility guidelines to be used by State agencies in determining the income eligibility of persons applying to participate in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). These income eligibility guidelines are to be used in conjunction with the WIC Regulations.

DATES: Implementation date July 1, 2020.

FOR FURTHER INFORMATION CONTACT: Sara Olson, Chief, Policy Branch, Supplemental Food Programs Division, FNS, USDA, 1320 Braddock Place, Alexandria, Virginia 22314, (703) 605–4013.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This notice is exempt from review by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of this Act.

Paperwork Reduction Act of 1995

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29100, June 24, 1983, and 49 FR 22675, May 31, 1984).

Description

Section 17(d)(2)(A) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786(d)(2)(A)), requires the Secretary of Agriculture to establish income criteria to be used with nutritional risk criteria in determining a person's eligibility for participation in the WIC Program. The law provides that persons will be income-eligible for the WIC Program if they are members of families that satisfy the income standard prescribed for reduced-price school meals under section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)). Under section 9(b), the income limit for reduced-price school meals is 185 percent of the Federal poverty guidelines, as adjusted.

Section 9(b) also requires that these guidelines be revised annually to reflect changes in the Consumer Price Index. The annual revision for 2020 was published by the Department of Health and Human Services (HHS) at 85 FR 3060, January 17, 2020. The guidelines published by HHS are referred to as the ''poverty guidelines.''

Program Regulations at 7 CFR 246.7(d)(1) specify that State agencies may prescribe income guidelines either equaling the income guidelines established under Section 9 of the Richard B. Russell National School Lunch Act for reduced-price school meals, or identical to State or local guidelines for free or reduced-price health care. However, in conforming WIC income guidelines to State or local health care guidelines, the State cannot establish WIC guidelines which exceed the guidelines for reduced-price school meals, or which are less than 100 percent of the Federal poverty guidelines. Consistent with the method used to compute income eligibility guidelines for reduced-price meals under the National School Lunch Program, the poverty guidelines were multiplied by 1.85 and the results rounded upward to the next whole dollar.

At this time, the Department is publishing the maximum and minimum WIC income eligibility guidelines by household size for the period of July 1, 2020 through June 30, 2021. Consistent with section 17(f)(17) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1786(f)(17)), a State agency may implement the revised WIC income eligibility guidelines concurrently with the implementation of income eligibility

guidelines under the Medicaid Program established under Title XIX of the Social Security Act (42 U.S.C. 1396, *et seq.*). State agencies may coordinate implementation with the revised Medicaid guidelines, *i.e.,* earlier in the year, but in no case may implementation take place later than July 1, 2020. State agencies that do not coordinate implementation with the revised Medicaid guidelines must implement the WIC income eligibility guidelines on or before July 1, 2020.

BILLING CODE 3410–30–P

INCOME ELIGIBILITY GUIDELINES
(Effective from July 1, 2020 to June 30, 2021)

Household Size	Federal Poverty Guidelines- 100%					Reduced Price Meals - 185%				
	Annual	Monthly	Twice-Monthly	Bi-Weekly	Weekly	Annual	Monthly	Twice-Monthly	Bi-Weekly	Weekly
48 Contiguous States, D.C., Guam and Territories										
1	$12,760	$1,064	$532	$491	$246	$23,606	$1,968	$984	$908	$454
2	17,240	1,437	719	664	332	31,894	2,658	1,329	1,227	614
3	21,720	1,810	905	836	418	40,182	3,349	1,675	1,546	773
4	26,200	2,184	1,092	1,008	504	48,470	4,040	2,020	1,865	933
5	30,680	2,557	1,279	1,180	590	56,758	4,730	2,365	2,183	1,092
6	35,160	2,930	1,465	1,353	677	65,046	5,421	2,711	2,502	1,251
7	39,640	3,304	1,652	1,525	763	73,334	6,112	3,056	2,821	1,411
8	44,120	3,677	1,839	1,697	849	81,622	6,802	3,401	3,140	1,570
Each add'l fam mem add	+ $4,480	+ $374	+ $187	+ $173	+ $87	+ $8,288	+ $691	+ $346	+ $319	+ $160
Alaska										
1	$15,950	$1,330	$665	$614	$307	$29,508	$2,459	$1,230	$1,135	$568
2	21,550	1,796	898	829	415	39,868	3,323	1,662	1,534	767
3	27,150	2,263	1,132	1,045	523	50,228	4,186	2,093	1,932	966
4	32,750	2,730	1,365	1,260	630	60,588	5,049	2,525	2,331	1,166
5	38,350	3,196	1,598	1,475	738	70,948	5,913	2,957	2,729	1,365
5	43,950	3,663	1,832	1,691	846	81,308	6,776	3,388	3,128	1,564
7	49,550	4,130	2,065	1,906	953	91,668	7,639	3,820	3,526	1,763
8	55,150	4,596	2,298	2,122	1,061	102,028	8,503	4,252	3,925	1,963
Each add'l fam mem add	+ $5,600	+ $467	+ $234	+ $216	+ $108	+ $10,360	+ $864	+ $432	+ $399	+ $200
Hawaii										
1	$14,680	$1,224	$612	$565	$283	$27,158	$2,264	$1,132	$1,045	$523
2	19,830	1,653	827	763	382	36,686	3,058	1,529	1,411	706
3	24,980	2,082	1,041	961	481	46,213	3,852	1,926	1,778	889
4	30,130	2,511	1,256	1,159	580	55,741	4,646	2,323	2,144	1,072
5	35,280	2,940	1,470	1,357	679	65,268	5,439	2,720	2,511	1,256
6	40,430	3,370	1,685	1,555	778	74,796	6,233	3,117	2,877	1,439
7	45,580	3,799	1,900	1,754	877	84,323	7,027	3,514	3,244	1,622
8	50,730	4,228	2,114	1,952	976	93,851	7,821	3,911	3,610	1,805
Each add'l fam mem add	+ $5,150	+ $430	+ $215	+ $199	+ $100	+ $9,528	+ $794	+ $397	+ $367	+ $184

Income Eligibility Guidelines
(Effective from July 1, 2020 to June 30, 2021)
Household Size Larger Than 8

Household Size	Federal Poverty Guidelines- 100%					Reduced Price Meals - 185%				
	Annual	Monthly	Twice-Monthly	Bi-Weekly	Weekly	Annual	Monthly	Twice-Monthly	Bi-Weekly	Weekly
48 Contiguous States, D.C., Guam and Territories										
9	$48,600	$4,050	$2,025	$1,870	$935	$89,910	$7,493	$3,747	$3,459	$1,730
10	53,080	4,424	2,212	2,042	1,021	98,198	8,184	4,092	3,777	1,889
11	57,560	4,797	2,399	2,214	1,107	106,486	8,874	4,437	4,096	2,048
12	62,040	5,170	2,585	2,387	1,194	114,774	9,565	4,783	4,415	2,208
13	66,520	5,544	2,772	2,559	1,280	123,062	10,256	5,128	4,734	2,367
14	71,000	5,917	2,959	2,731	1,366	131,350	10,946	5,473	5,052	2,526
15	75,480	6,290	3,145	2,904	1,452	139,638	11,637	5,819	5,371	2,686
16	79,960	6,664	3,332	3,076	1,538	147,926	12,328	6,164	5,690	2,845
Each add'l fam member add	+ $4,480	+ $374	+ $187	+ $173	+ $87	+ $8,288	+ $691	+ $346	+ $319	+ $160
Alaska										
9	$60,750	$5,063	$2,532	$2,337	$1,169	$112,388	$9,366	$4,683	$4,323	$2,162
10	66,350	5,530	2,765	2,552	1,276	122,748	10,229	5,115	4,722	2,361
11	71,950	5,996	2,998	2,768	1,384	133,108	11,093	5,547	5,120	2,560
12	77,550	6,463	3,232	2,983	1,492	143,468	11,956	5,978	5,518	2,759
13	83,150	6,930	3,465	3,199	1,600	153,828	12,819	6,410	5,917	2,959
14	88,750	7,396	3,698	3,414	1,707	164,188	13,683	6,842	6,315	3,158
15	94,350	7,863	3,932	3,629	1,815	174,548	14,546	7,273	6,714	3,357
16	99,950	8,330	4,165	3,845	1,923	184,908	15,409	7,705	7,112	3,556
Each add'l fam member add	+ $5,600	+ $467	+ $234	+ $216	+ $108	+ $10,360	+ $864	+ $432	+ $399	+ $200
Hawaii										
9	$55,880	$4,657	$2,329	$2,150	$1,075	$103,378	$8,615	$4,308	$3,977	$1,989
10	61,030	5,086	2,543	2,348	1,174	112,906	9,409	4,705	4,343	2,172
11	66,180	5,515	2,758	2,546	1,273	122,433	10,203	5,102	4,709	2,355
12	71,330	5,945	2,973	2,744	1,372	131,961	10,997	5,499	5,076	2,538
13	76,480	6,374	3,187	2,942	1,471	141,488	11,791	5,896	5,442	2,721
14	81,630	6,803	3,402	3,140	1,570	151,016	12,585	6,293	5,809	2,905
15	86,780	7,232	3,616	3,338	1,669	160,543	13,379	6,690	6,175	3,088
16	91,930	7,661	3,831	3,536	1,768	170,071	14,173	7,087	6,542	3,271
Each add'l fam member add	+ $5,150	+ $430	+ $215	+ $199	+ $100	+ $9,528	+ $794	+ $397	+ $367	+ $184

BILLING CODE 3410–30–C

The table of this Notice contains the income limits by household size for the 48 contiguous States, the District of Columbia, and all United States

Territories, including Guam. Separate tables for Alaska and Hawaii have been included for the convenience of the State agencies because the poverty guidelines for Alaska and Hawaii are higher than for the 48 contiguous States.

Authority: 42 U.S.C. 1786.

Pamilyn Miller,

Administrator,Food and Nutrition Service.

[FR Doc. 2020–11251 Filed 5–22–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Emergency Food Assistance Program; Availability of Foods for Fiscal Year 2020

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the surplus and purchased foods that the Department expects to make available for donation to States for use in providing nutrition assistance to the needy under The Emergency Food Assistance Program (TEFAP) in Fiscal Year (FY) 2020. The foods made available under this notice must, at the discretion of the State, be distributed to eligible recipient agencies (ERAs) for use in preparing meals and/or for distribution to households for home consumption.

FOR FURTHER INFORMATION CONTACT: Rachel Schoenian, Policy Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, Virginia 22314 or telephone (703) 305–2937.

SUPPLEMENTARY INFORMATION: In accordance with the provisions set forth in the Emergency Food Assistance Act of 1983 (EFAA), 7 U.S.C. 7501, *et seq.,* and the Food and Nutrition Act of 2008, 7 U.S.C. 2036, the Department makes foods available to States for use in providing nutrition assistance to those in need through TEFAP. In accordance with section 214 of the EFAA, 7 U.S.C. 7515, 60 percent of each State's share of TEFAP foods is based on the number of people with incomes below the poverty level within the State and 40 percent on the number of unemployed persons within the State. State officials are responsible for establishing the network through which the foods will be used by ERAs in providing nutrition assistance to those in need and for allocating foods among those ERAs. States have full discretion in determining the amount of foods that will be made available to ERAs for use in preparing meals and/or for distribution to households for home consumption. The types of foods the Department expects to make available to States for distribution through TEFAP in FY 2020 are listed in the table below.

Surplus Foods

Surplus foods donated for distribution under TEFAP are Commodity Credit Corporation (CCC) foods purchased under the authority of section 416 of the Agricultural Act of 1949, 7 U.S.C. 1431 (section 416) and foods purchased under the surplus removal authority of section 32 of the Act of August 24, 1935, 7 U.S.C. 612c (section 32). The types of foods typically purchased under section 416 include dairy, grains, oils, and peanut products. The types of foods purchased under section 32 include meat, poultry, fish, vegetables, dry beans, juices, and fruits.

In FY 2019 and FY 2020, the Department is using CCC authority in the CCC Charter Act of 1948, 15. U.S.C. 714, to implement a Food Purchase and Distribution Program (FPDP). The FPDP purchases surplus foods affected by trade retaliation for distribution through TEFAP and other federal nutrition programs.

Approximately $243.58 million in surplus and $305.15 million in FPDP foods acquired in FY 2019 are being delivered to States in FY 2020. Surplus foods include Alaska pollock, apricots, beans, cheese, cherries, chicken, eggs, orange juice, peaches, pears, plums, raisins, salmon, strawberries, and walnuts. FPDP foods include apples, beans, beef, butter, cheese, corn, grapes, hazelnuts, lentils, milk, oranges, peanut butter, pecans, pistachios, plums, pork, potatoes, raisins, and rice. Other surplus and FPDP foods may be made available to TEFAP throughout the year. The Department would like to point out that food acquisitions are based on changing agricultural market conditions; therefore, the availability of foods is subject to change.

Purchased Foods

In accordance with section 27 of the Food and Nutrition Act of 2008, 7 U.S.C. 2036, the Secretary is directed to purchase $317.5 million worth of foods in FY 2020 for distribution through TEFAP. These foods are made available to States in addition to those surplus and FPDP foods which otherwise might be provided to States for distribution under TEFAP.

For FY 2020, the Department anticipates purchasing the foods listed in the following table for distribution through TEFAP. The amounts of each item purchased will depend on the prices the Department must pay, as well as the quantity of each item requested by the States. Changes in agricultural market conditions may result in the availability of additional types of foods or the non-availability of one or more types listed in the table.

FY 2020 USDA Foods Available List for The Emergency Food Assistance Program (TEFAP)

FRUITS:	VEGETABLES:
Apples, Braeburn, Fresh	Beans, Green, Low-sodium, Canned.
Apples, Empire, Fresh	Carrots, Diced, No Salt Added, Frozen.
Apples, Fuji, Fresh	Carrots, Sliced, Low-sodium, Canned.
Apples, Gala, Fresh	Corn, Whole Kernel, No Salt Added, Canned.
Apples, Granny Smith, Fresh	Corn, Cream, Low sodium, Canned.
Apples, Red Delicious, Fresh	Mixed Vegetables, 7-Way Blend, Low-sodium, Canned.
Apples, Fresh	Peas, Green, Low-sodium, Canned.
Apple Juice, 100%, Unsweetened	Peas, Green, No Salt Added, Frozen.
Apple Slices, Unsweetened, Frozen (IQF)	Potatoes, Dehydrated Flakes.
Applesauce, Unsweetened, Canned	Potatoes, Round, Fresh.
Applesauce, Unsweetened, Cups, Shelf-Stable	Potatoes, Russet, Fresh.
Apricots, Halves, Extra Light Syrup, Canned	Potatoes, Sliced, Low-sodium, Canned.
Cherry Apple Juice, 100%, Unsweetened	Pumpkin, No Salt Added, Canned.
Cranberry Apple Juice, 100%, Unsweetened	Spaghetti Sauce, Low-sodium, Canned.
Cranberries, Dried, Individual Portion	Spinach, Low-sodium, Canned.
Grape Juice, Concord, 100%, Unsweetened	Tomato Juice, 100%, Low-sodium.
Grapefruit Juice, 100%, Unsweetened	Tomato Sauce, Low-sodium, Canned.
Fruit and Nut Mix, Dried	Tomato Sauce, Low-sodium, Canned (K) (H).

FY 2020 USDA FOODS AVAILABLE LIST FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP)—Continued

- Mixed Fruit, Extra Light Syrup, Canned
- Oranges, Fresh
- Orange Juice, 100%, Unsweetened
- Peaches, Sliced, Extra Light Syrup, Canned
- Pears, Bartlett, Fresh
- Pears, Bosc, Fresh
- Pears, D'Anjou, Fresh
- Pears, Fresh
- Pears, Extra Light Syrup, Canned
- Plums, Pitted, Dried
- Raisins, Unsweetened, Individual Portion
- Raisins, Unsweetened

PROTEIN FOODS:

- Alaska Pollock Fish, Whole Grain, Breaded Sticks, Frozen
- Alaska Pollock Fish, Fillets, Frozen
- Beef, Canned/Pouch
- Beef, Fine Ground, 85% Lean/15% Fat, Frozen
- Beef, Fine Ground, 85% Lean/15% Fat, Frozen, LFTB OPT, Frozen.
- Beef Stew, Canned/Pouch
- Catfish, Fillets, Frozen
- Chicken, Pouch
- Chicken, Split Breast, Frozen
- Chicken, Whole, Frozen
- Eggs, Fresh
- Egg Mix, Dried
- Peanut Butter, Smooth
- Peanut Butter, Smooth (K)
- Peanut Butter, Smooth, Individual Portion
- Peanuts, Roasted, Unsalted
- Pork, Canned/Pouch
- Pork, Ham, Frozen
- Salmon, Pink, Canned
- Salmon, Pink, Canned (K)
- Tuna, Chunk Light, Canned (K)

DAIRY:

- Cheese, American, Reduced Fat, Loaves, Refrigerated
- Milk, 1%, Shelf-Stable UHT
- Milk, 1%, Individual Portion, Shelf-Stable UHT

OILS:

- Oil, Vegetable

OTHER:

- Soup, Cream of Chicken, Reduced Sodium
- Soup, Cream of Mushroom, Condensed, Reduced Sodium
- Tomato Soup, Condensed, Low-sodium, Canned.
- Tomatoes, Diced, No Salt Added, Canned.
- Vegetable Soup, Condensed, Low-Sodium, Canned.

LEGUMES:

- Beans, Black, Low-sodium, Canned.
- Beans, Black-eyed Pea, Low-sodium, Canned.
- Beans, Black-eyed Pea, Dry.
- Beans, Garbanzo, Canned.
- Beans, Great Northern, Dry.
- Beans, Kidney, Light Red, Low-sodium, Canned.
- Beans, Kidney, Light Red, Dry.
- Beans, Lima, Baby, Dry.
- Beans, Pinto, Low-sodium, Canned.
- Beans, Pinto, Dry.
- Beans, Refried, Low-sodium, Canned.
- Beans, Vegetarian, Low-sodium, Canned.
- Lentils, Dry.

GRAINS:

- Bakery Mix, Lowfat.
- Cereal, Corn Flakes.
- Cereal, Corn/Rice Biscuits.
- Cereal, Corn Squares.
- Cereal, Oat Circles.
- Cereal, Rice Crisp.
- Cereal, Wheat Bran Flakes.
- Cereal, Wheat Farina, Enriched.
- Cereal, Wheat, Shredded.
- Crackers, Unsalted.
- Flour, All Purpose, Enriched, Bleached.
- Flour, White Whole Wheat.
- Grits, Corn, White.
- Grits, Corn, Yellow.
- Oats, Rolled, Quick Cooking.
- Pasta, Egg Noodles.
- Pasta, Macaroni, Enriched.
- Pasta, Macaroni, Whole Grain.
- Pasta, Macaroni and Cheese.
- Pasta, Rotini, Whole Grain.
- Pasta, Spaghetti, Enriched.
- Pasta, Spaghetti, Whole Grain.
- Rice, Brown, Long-Grain, Parboiled.
- Rice, Medium Grain.
- Rice, Long Grain.
- Tortillas, Whole Grain, Frozen.

KEY:
H—Halal Certification Required
K—Kosher Certification Required
IQF—Individually Quick Frozen
UHT—Ultra-High Temperature Pasteurization
LFTB OTP—Lean Finely Textured Beef Optional

Pamilyn Miller,

Administrator, Food and Nutrition Service.

[FR Doc. 2020–11249 Filed 5–22–20; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Collaborative Forest Restoration Program Technical Advisory Panel; Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Collaborative Forest Restoration Program Technical Advisory Panel (Panel) will hold a virtual meeting. The Panel is established consistent with the Federal Advisory Committee Act of 1972 (FACA), and Title VI of the Community Forest Restoration Act (the Act). Additional information concerning the Panel, including the meeting summary/minutes, can be found by visiting the Panel's website at: *https://www.fs.usda.gov/main/r3/workingtogether/grants.*

DATES: The meeting will be held on June 23–25, 2020 (Tuesday–Thursday), with meetings each day from 9:00 a.m. to 5:00 p.m.

All meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held with virtual attendance only. For virtual meeting information, please contact the person listed under the **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at USDA Forest Service Region 3 Regional Office. Please

call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Ian Fox, Designated Federal Officer, by phone at 505–842–3425 or via email at *ian.fox@usda.gov.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

(1) Review Panel Bylaws, Charter, and what it means to be a Federal Advisory Committee;

(2) Evaluate and score the 2019 and 2020 CFRP grant applications to determine which applications best meet the program objectives;

(3) Develop prioritized 2019 and 2020 CFRP project funding recommendations for the Secretary;

(4) Develop an agenda and identify members for the 2020 CFRP Sub-Committee for the review of multi-party monitoring reports from completed projects; and

(5) Discuss the proposal review process used by the Panel to identify what went well and what could be improved.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 8, 2020, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Ian Fox, Designated Federal Officer, USDA Forest Service, Region 3 Regional Office, 333 Broadway Bouleveard Southwest, Albuqueque, New Mexico 87102; or by email to *ian.fox@usda.gov.*

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case-by-case basis.

Dated: May 14, 2020.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2020–11141 Filed 5–22–20; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Illinois Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights and the Federal Advisory Committee Act that the Illinois Advisory Committee (Committee) will hold a meeting via teleconference on Thursday, June 11, 2020 at 12:00 p.m. Central Time, the purpose of the meeting is to review the draft report on Fair Housing in Illinois.

DATES: The meeting will be held on Thursday, June 11, 2020 at 12:00 p.m. Central Time. *Public Call Information:* Dial: 800–367–2403, Conference ID: 8048973.

FOR FURTHER INFORMATION CONTACT: David Barreras, Designated Federal Official, at *dbarreras@usccr.gov* or 202–499–4066.

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion. This meeting is available to the public through the call in information listed above. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement to the Committee as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Carolyn Allen at *callen@usccr.gov* in the Regional Program Unit Office/Advisory Committee Management Unit. Persons who desire additional information may contact the Regional Program Unit at 202–499–4066.

Records generated from this meeting may be inspected and reproduced at the Chicago office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Illinois Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Chicago Office at the above email or phone number.

Agenda

I. Welcome and Roll Call
II. Discussion of Draft Report on Fair Housing in Illinois
III. Public Comment
IV. Adjournment

Dated: May 20, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–11244 Filed 5–22–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Notice of Request for Public Comments on Section 232 National Security Investigation of Imports of Mobile Cranes

AGENCY: Bureau of Industry and Security, Office of Technology Evaluation, U.S. Department of Commerce.

ACTION: Notice of request for public comments.

SUMMARY: On May 19, 2020, in response to a petition, the Secretary of Commerce (the ''Secretary'') initiated an investigation to determine the effects on the national security from imports of mobile cranes. This investigation has been initiated under section 232 of the Trade Expansion Act of 1962, as amended.

Interested parties are invited to submit written comments, data, analyses, or other information pertinent to the investigation to the Department of Commerce's (the ''Department'') Bureau of Industry and Security by July 10, 2020. Rebuttal comments will be due by

August 10, 2020. While the Department is interested in any information related to this investigation that the public can provide, this notice identifies particular issues of significance.

DATES: The due date for filing comments is July 10, 2020. The due date for rebuttal comments is August 10, 2020. Rebuttal comments may only address issues raised in comments filed on or before July 10, 2020.

ADDRESSES:

Submissions: All written comments on the notice must be submitted in English and must be addressed to Section 232 Mobile Crane Investigation and filed through the Federal eRulemaking Portal: *https://www.regulations.gov.* To submit comments via *https://www.regulations.gov,* enter docket number BIS–2020–0009 on the home page and click ''search.'' The site will provide a search results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled ''Comment Now!'' (For further information on using *https://www.regulations.gov,* please consult the resources provided on the website by clicking on ''How to Use This Site.'')

FOR FURTHER INFORMATION CONTACT: Industrial Studies Division, Bureau of Industry and Security, U.S. Department of Commerce, (202) 482–0194, *Mobilecranes232@bis.doc.gov.* Unless otherwise protected by law, any information received from the public during the course of this investigation may be made publicly available. For more information about the section 232 program, including the regulations and the text of previous investigations, please see *www.bis.doc.gov/232.*

SUPPLEMENTARY INFORMATION:

Background

On May 19, 2020, in response to a petition, the Secretary initiated an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security from imports of mobile cranes. If the Secretary finds that mobile cranes are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall so advise the President in his report on the findings of the investigation.

Written Comments

This investigation is being undertaken in accordance with part 705 of the National Security Industrial Base Regulations (15 CFR parts 700 to 709) (''NSIBR''). Interested parties are invited to submit written comments, data, analyses, or information pertinent to this investigation to the Department's Office of Technology Evaluation no later than July 10, 2020. Rebuttal comments submitted in response to issues raised in comments received on or before July 10, 2020 may be filed no later than August 10, 2020.

The Department is particularly interested in comments and information directed to the criteria listed in § 705.4 of the NSIBR as they affect national security, including the following:

(i) Quantity of or other circumstances related to the importation of mobile cranes;

(ii) Domestic production and productive capacity needed for mobile cranes to meet projected national defense requirements;

(iii) Existing and anticipated availability of human resources, products, raw materials, production equipment, and facilities to produce mobile cranes;

(iv) Growth requirements of the mobile crane industry to meet national defense requirements and/or requirements for supplies and services necessary to assure such growth including investment, exploration, and development;

(v) The impact of foreign competition on the economic welfare of the mobile crane industry;

(vi) The displacement of any domestic mobile crane production causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects;

(vii) Relevant factors that are causing or will cause a weakening of our national economy; and

(viii) Any other relevant factors, including the use and importance of mobile cranes in critical infrastructure sectors identified in Presidential Policy Directive 21 (Feb. 12, 2013) (for a listing of those sectors see *https://www.dhs.gov/cisa/critical-infrastructure-sectors*).

Requirements for Written Comments

The *https://www.regulations.gov* website allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. The Department prefers that comments be provided in an attached document. The Department prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application format other than those two, please indicate the name of the application in the ''Type Comment'' field. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible please include any exhibits, annexes, or other attachments in the same file as part of the submission itself rather than in separate files. Comments will be placed in the docket and open to public inspection, except information determined to be confidential as set forth in § 705.6 of the NSIBR. Comments may be viewed on *https://www.regulations.gov* by entering docket number BIS–2020–0009 in the search field on the home page.

Material submitted by members of the public that is properly marked business confidential information and accepted as such by the Department will be exempted from public disclosure as set forth in § 705.6 of the NSIBR. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential submission which can be placed in the public file on *https://www.regulations.gov.* Communications from agencies of the United States Government will not be made available for public inspection. For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. The non-confidential version must be clearly marked ''PUBLIC''. The file name of the non-confidential version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or rebuttal comments. All filers should name their files using the name of the person or entity submitting the comments. If a public hearing is held in support of this investigation, a separate **Federal Register** notice will be published providing the date and information about the hearing.

The Bureau of Industry and Security does not maintain a separate public inspection facility. Requesters should first view the Bureau's web page, which can be found at *https://efoia.bis.doc.gov/* (see ''Electronic FOIA'' heading). If requesters cannot access the website, they may call 202–482–0795 for assistance. The records related to this assessment are made

accessible in accordance with the regulations published in part 4 of title 15 of the Code of Federal Regulations (15 CFR 4.1 *et seq.*).

Richard E. Ashooh,

Assistant Secretary for Export Administration.

[FR Doc. 2020–11144 Filed 5–22–20; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 200514–0140]

RIN 0694–XC058

Notice of Inquiry Regarding the Exclusion Process for Section 232 Steel and Aluminum Import Tariffs and Quotas

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of inquiry with request for comment.

SUMMARY: In rendering decisions on requests for exclusions from the tariffs and quotas imposed on imports of steel and aluminum articles, the Bureau of Industry and Security (BIS) is seeking public comment on the appropriateness of the information requested and considered in applying the exclusion criteria, and the efficiency and transparency of the process employed.

DATES: Comments must be received by BIS no later than July 10, 2020.

ADDRESSES: Comments on this rule may be submitted to the Federal rulemaking portal (*www.regulations.gov*). The *regulations.gov* ID for this rule is: BIS–2020–0012. Please refer to RIN 0694–XC058 in all comments and in the subject line of email comments.

Material submitted by members of the public that is properly marked business confidential information and accepted as such by the Department will be exempted from public disclosure as provided for by § 705.6 of the National Security Industrial Base Regulations (15 CFR parts 700 to 709) (''NSIBR''). Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential submission which can be placed in the public file on *http://www.regulations.gov.* Communications from agencies of the United States Government will not be made available for public inspection. For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. The non-confidential version must be clearly marked ''PUBLIC''. The file name of the non-confidential version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or rebuttal comments. All filers should name their files using the name of the person or entity submitting the comments. Any submissions with file names that do not begin with a ''P'' or ''BC'' will be assumed to be public and will be placed in the public file on *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For questions regarding this Notice of Inquiry, contact Erika Maynard at 202–482–5572 or via email *Erika.Maynard@bis.doc.gov.*

SUPPLEMENTARY INFORMATION: On January 11, 2018, the Secretary of Commerce (Secretary) transmitted a report to the President on his investigation into the effect of imports of steel articles on the national security of the United States. On January 19, 2018, the Secretary similarly transmitted a report to the President on his investigation into the effect of imports of aluminum articles on the national security of the United States. Both reports were issued pursuant to Section 232 of the Trade Expansion Act of 1962, as amended.

In Proclamation 9704 of March 8, 2018 (Adjusting Imports of Aluminum Into the United States), and Proclamation 9705 of March 8, 2018 (Adjusting Imports of Steel Into the United States), the President concurred in the Secretary's findings that aluminum articles and steel articles were being imported into the United States in such quantities and under such circumstances as to threaten to impair the national security of the United States. The President therefore decided to take initial action to address the threatened impairment by adjusting the imports of aluminum articles, as defined in Clause 1 of Proclamation 9704, as amended, by imposing a 10 percent ad valorem tariff on such articles imported from most countries, beginning March 23, 2018. The President similarly decided to take initial action by adjusting the imports of steel articles, as defined in Clause 1 of Proclamation 9705, as amended, by imposing a 25 percent ad valorem tariff on such articles imported from most countries, beginning March 23, 2018. In subsequent Proclamations, the President imposed quotas on imports of steel and aluminum from Argentina, and steel from Brazil and the Republic of Korea.

Exclusion Process

Proclamations 9704 and 9705 authorized the Secretary to provide relief from the additional duties imposed on steel and aluminum imports for any steel or aluminum determined not to be produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality or based on specific national security considerations, after a request for relief is made by a directly affected party located in the United States.

On March 19, 2018, the Bureau of Industry and Security issued the interim final rule *Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamations Adjusting Imports of Steel into the United States and Adjusting Imports of Aluminum into the United States; and the filing of Objections to Submitted Exclusion Requests for Steel and Aluminum* (83 FR 12106) which established the exclusion request process authorized by Proclamations 9704 and 9705.

On August 29, 2018, Proclamations 9776 and 9777 authorized the Secretary to provide relief from quantitative restrictions (quotas) on steel and aluminum imports established by prior proclamations using the same criteria set forth in Proclamations 9704 and 9705 and further authorized all relief granted to be retroactive to the date the request was accepted by the Department of Commerce.

On September 11, 2018, BIS issued a second interim final rule *Submission of Exclusion Requests and Objections to Submitted Requests for Steel and Aluminum* (83 FR 46026), which revised the exclusion request process, including the addition of rebuttal and surrebuttal submissions.

On June 10, 2019, BIS issued a third interim final rule *Implementation of New Commerce Section 232 Exclusions Portal* (84 FR 26751), which transitioned the exclusion request process from the regulations.gov platform to the Section 232 Exclusions Portal.

To further inform the public on how to use the exclusion process BIS has posted website guidance, Frequently Asked Questions, and training videos.

As of March 23, 2020, BIS has received 179,128 exclusion requests, with 157,983 for steel and 21,145 for aluminum. Of those requests, 34,970

were rejected and 33,297 received objections. BIS has posted 114,009 decisions, with 78,569 exclusions being granted and 25,440 exclusion requests being denied.

BIS is seeking public comment on the appropriateness of the factors considered, and the efficiency and transparency of the process employed, in rendering decisions on requests for exclusions from the tariffs and quotas imposed on imports of steel and aluminum articles.

Specific topics for potential comments include: (1) The information sought on the exclusion request, objection, rebuttal and surrebuttal forms; (2) expanding or restricting eligibility requirements for requestors and objectors; (3) the Section 232 Exclusions Portal; (4) the requirements set forth in **Federal Register** Notices, 83 FR 12106, 83 FR 46026, and 84 FR 26751; (5) the factors considered in rendering decisions on exclusion requests; (6) the information published with the decisions; (7) the BIS website guidance and training videos; (8) the definition of ''product'' governing when separate exclusion requests must be submitted; and (9) incorporation of steel and aluminum derivative products into the product exclusion process.

Comments can also address potential revisions to the exclusion process, including, but not limited to: (1) One-year blanket approvals of exclusion requests for product types that have received no objections as of a baseline date (see Annex 1 and 2); (2) one-year blanket denials of exclusion requests for product types that have received 100 percent objection rates and never been granted as of a baseline date (see Annex 3 and 4); (3) time-limited annual or semi-annual windows during which all product-specific exclusion requests and corresponding objections may be submitted and decided; (4) issuing an interim denial memo to requesters who receive a partial approval of their exclusion request until they purchase the domestically available portion of their requested quantity; (5) requiring requestors to make a good faith showing of the need for the product in the requested quantity, as well as that the product will in fact be imported in the quality and amount, and during the time period, to which they attest in the exclusion request (*e.g.,* a ratified contract, a statement of refusal to supply the product by a domestic producer); (6) requiring objectors to submit factual evidence that they can in fact manufacture the product in the quality and amount, and during the time period, to which they attest in the objection; (7) setting a limit on the total quantity of product that a single company could be granted an exclusion for based on an objective standard, such as a specified percentage increase over a three year average; (8) requiring that requesters citing national security reasons as a basis for an exclusion request provide specific, articulable and verifiable facts supporting such assertion (*e.g.,* a Department of Defense contract requiring the product; a letter of concurrence from the head of a U.S. government agency or department that national security necessitates that the product be obtained in the quality, quantity and time frame requested); (9) clarifying that the domestic product is ''reasonably available'' if it can be manufactured and delivered in a time period that is equal to or less than that of the imported product, as provided by requestor in its exclusion request; (10) requiring that requestors, at the time of submission of their exclusion requests, demonstrate that they have tried to purchase this product domestically; (11) in the rebuttal/surrebuttal phase, requiring that both requestor and objector demonstrate in their filings that they have attempted to negotiate in good faith an agreement on the said product (*i.e.,* producing legitimate commercial correspondence).

Any specific details about the commenters' experience with the exclusion/objection process as background to their comment to this NOI would be helpful.

Richard E. Ashooh,

Assistant Secretary for Export Administration.

Annex 1: Steel HTS Codes With 0% Objection Rates

232 Process Statistics—Objection Rate by Steel HTSUS, as of 3/23/20

HTSUS code	HTS description	Requests	Requests with objections	Objection rate (%)	Volume requested (mt)	Volume with objections (mt)	Volume objection rate (%)	Percent granted despite objection *
7208370060	FLAT–ROLLED IRON/NA STL, WDTH >/= 600MM, HOT–RLD, NOT CLAD/PLATED/COATED, COILS, NOT PCKLD, THK 4.75–10MM, NESOI.	2		0	454		0	0
7208380015	FLAT–ROLLED IRON/NA STL, WDTH >/= 600MM, HOT–RLD, NOT CLAD/PLATED/COATED, COILS, THK 3–4.75MM, HIGH–STRENGTH STL.	2		0	1,000		0	0
7208380030	FLAT–ROLLED IRON/NA STL, WDTH >/= 600MM, HOT–RLD, NOT CLAD/PLATED/COATED, COILS, THK 3–4.75MM, UNTRIMMED EDGES.	4		0	49,000		0	0
7208390015	FLAT–ROLLED IRON/NA STL, WDTH >/= 600MM, HOT–RLD, NOT CLAD/PLATED/COATED, COILS, THK < 3MM, HIGH–STRENGTH STL.	4		0	2,000		0	0
7208390090	FLAT–ROLLED IRON/NA STL, WDTH >/= 600MM, HOT–RLD, NOT CLAD/PLATED/COATED, COILS, THK < 3MM, NESOI.	2		0	3,591		0	0
7209170030	FLAT–RLD IRON/NA STL, WDTH >/= 600MM, COLD–RLD, NOT CLAD/PLATD/COATED, COILS, THK 0.5–1MM, HI–STRENGTH, ANNEALED.	2		0	2,890		0	0
7209270000	FLAT–ROLLED IRON/NONALLOY STL, WDTH >/= 600MM, COLD–RLD, NOT CLAD/PLATED/COATED, NOT COILS, THK 0.5–1MM.	5		0	50		0	0

232 PROCESS STATISTICS—OBJECTION RATE BY STEEL HTSUS, AS OF 3/23/20—Continued

HTSUS code	HTS description	Requests	Requests with objections	Objection rate (%)	Volume requested (mt)	Volume with objections (mt)	Volume objection rate (%)	Percent granted despite objection *
7209900000	FLAT–ROLLED IRON/NONALLOY STL, WDTH >/= 600MM, COLD–RLD, NOT CLAD/PLATED/COATED, WHETHER OR NOT IN COILS, NESOI.	33	.....	0	1,319	.....	0	0
7210706030	FLAT–ROLLED IRON/NA STL, WDTH >/= 600MM, PAINTD/VARNSHD/COATD W/PLASTICS, ELECTROLYTICALLY PLATD/COATD W/ZINC.	2	.....	0	8,500	.....	0	0
7211140090	FLAT–ROLLED IRON/NONALLOY STL, WDTH < 600MM, NOT CLAD/PLATED/COATED, HOT–RLD, THK >/= 4.75MM, COILS.	2	.....	0	20	.....	0	0
7211234500	FLAT–ROLLED IRON/NONALLOY STL, WDTH < 300MM, NOT CLAD/PLATED/COATED, COLD–RLD, <0.25% CRBN, THK </= 0.25MM.	1	.....	0	273	.....	0	0
7211296080	FLAT–ROLLED IRON/NONALLOY STL, WDTH 300–600MM, NOT CLAD/PLATED/COATED, COLD–RLD, >/= 0.25% CRBN, THK </= 1.25MM.	70	.....	0	29,953	.....	0	0
7212200000	FLAT–ROLLED IRON/NONALLOY STL, WDTH < 600MM, ELECTROLYTICALLY PLATED/COATED WITH ZINC.	36	.....	0	26,869	.....	0	0
7212600000	FLAT–ROLLED IRON/NONALLOY STL, WDTH < 600MM, CLAD, NESOI.	232	.....	0	11,031	.....	0	0
7213200080	BARS/RODS IRON/NONALLOY STL, HOT–RLD, IRR COILS, FREE–CUTTING STL, NESOI.	4	.....	0	365	.....	0	0
7213913020	BARS/RODS IRON/NA STL, IRR COILS, HOT–RLD, CIRC CS <14MM DIAM, NOT TEMPRD/TREATD/PARTLY MFTD, WELDING QUALITY WIRE ROD.	29	.....	0	149,700	.....	0	0
7215500018	OTHER BARS/RODS IRON/NONALLOY STL, COLD–FORMED/FINISHED, NOT COILS, < 0.25% CARBON, DIAM 76–228MM.	74	.....	0	300	.....	0	0
7215500090	OTHER BARS/RODS IRON/NONALLOY STL, COLD–FORMED/FINISHED, NOT COILS, >/= 0.6% CARBON.	9	.....	0	720	.....	0	0
7216100010	U SECTIONS IRON/NONALLOY STL, HOT–ROLLED/DRAWN/EXTRUDED, HEIGHT < 80MM.	4	.....	0	4	.....	0	0
7216330090	H SECTIONS IRON/NONALLOY STL, HOT–RLD/DRWN/EXTRD, HEIGHT >/= 80MM, NESOI.	26	.....	0	491	.....	0	0
7216400010	L SECTIONS IRON/NONALLOY STL, HOT–ROLLED/DRAWN/EXTRUDED, HEIGHT >/= 80MM.	5	.....	0	5	.....	0	0
7217104045	ROUND WIRE IRON/NONALLOY STL, NOT PLATED/COATED, < 0.25% CARBON, DIAM < 1.5MM, HEAT–TREATED, NESOI.	6	.....	0	93	.....	0	0
7217104090	ROUND WIRE IRON/NONALLOY STL, NOT PLATED/COATED, < 0.25% CARBON, DIAM < 1.5MM, NOT HEAT–TREATED.	3	.....	0	1,200	.....	0	0
7217106000	OTHER WIRE IRON/NONALLOY STL, NOT PLATED/COATED, < 0.25% CARBON.	11	.....	0	36,420	.....	0	0
7217107000	FLAT WIRE IRON/NONALLOY STL, NOT PLATED/COATED, >/= 0.25% CARBON.	500	.....	0	18,359	.....	0	0
7217108025	ROUND WIRE IRON/NONALLOY STL, NOT PLATED/COATED, > 0.6% CARBON, HEAT–TREATED, DIAM < 1.0MM.	6	.....	0	2,344	.....	0	0
7217108030	ROUND WIRE IRON/NONALLOY STL, NOT PLATED/COATED, > 0.6% CARBON, HEAT–TREATED, DIAM 1.0–1.5MM.	42	.....	0	2,669	.....	0	0
7217108060	ROUND WIRE IRON/NONALLOY STL, NOT PLATED/COATED, > 0.6% CARBON, NOT HEAT–TREATED, DIAM < 1.0MM.	198	.....	0	12,092	.....	0	0

232 PROCESS STATISTICS—OBJECTION RATE BY STEEL HTSUS, AS OF 3/23/20—Continued

HTSUS code	HTS description	Requests	Requests with objections	Objection rate (%)	Volume requested (mt)	Volume with objections (mt)	Volume objection rate (%)	Percent granted despite objection *
7217108075	ROUND WIRE IRON/NONALLOY STL, NOT PLATED/COATED, > 0.6% CARBON, NOT HEAT–TREATED, DIAM 1.0–1.5MM.	82		0	11,173		0	0
7217108090	ROUND WIRE IRON/NONALLOY STL, NOT PLATED/COATED, > 0.6% CARBON, NOT HEAT–TREATED, DIAM >/= 1.5MM.	116		0	9,598		0	0
7217109000	OTHER WIRE IRON/NONALLOY STL, NOT PLATED/COATED, >/= 0.25% CARBON, NESOI.	99		0	5,768		0	0
7217201500	FLAT WIRE IRON/NONALLOY STL, PLATED/COATED WITH ZINC.	61		0	22,661		0	0
7217204550	ROUND WIRE IRON/NONALLOY STL, PLATED/COATED WITH ZINC, DIAM 1.0–1.5MM, 0.25–0.6% CARBON.	1		0	2		0	0
7217204560	ROUND WIRE IRON/NONALLOY STL, PLATED/COATED WITH ZINC, DIAM 1.0–1.5MM, >/= 0.6% CARBON.	38		0	3,678		0	0
7217304541	ROUND WIRE IRON/NONALLOY STL, PLATED/COATED W/OTH BASE METALS, DIAM 1.0–1.5MM, < 0.25% CARBON.	9		0	463		0	0
7217901000	Wire, Iron Or Nonalloy Steel, Coated With Plastics.	44		0	9,544		0	0
7217905030	WIRE IRON/NONALLOY STL, PLATED/COATED, < 0.25% CARBON, NESOI.	26		0	2,304		0	0
7217905060	WIRE IRON/NONALLOY STL, PLATED/COATED, 0.25–0.6% CARBON, NESOI.	15		0	4,999		0	0
7217905090	WIRE IRON/NONALLOY STL, PLATED/COATED, >/= 0.6% CARBON, NESOI.	21		0	2,355		0	0
7218910030	SEMIFINISHED STAINLESS STL, RECTANGULAR CROSS SECTION, WDTH < 4X THK, CS AREA >/= 232 CM2.	1		0	3,622		0	0
7219110030	FLAT–ROLLED STAINLESS STL, WDTH 600–1575MM, HOT–RLD, COILS, THK > 10MM.	34		0	3,241		0	0
7219110060	FLAT–ROLLED STAINLESS STL, WDTH > 1575MM, HOT–RLD, COILS, THK > 10MM.	39		0	4,107		0	0
7219120021	FLAT–ROLLED STAINLESS STL, WDTH 1370–1575MM, HOT–RLD, COILS, THK 6.8–10MM.	10		0	1,185		0	0
7219120026	FLAT–ROLLED STAINLESS STL, WDTH > 1575MM, HOT–RLD, COILS, THK 6.8–10MM.	50		0	10,630		0	0
7219120051	FLAT–ROLLED STAINLESS STL, WDTH 1370–1575MM, HOT–RLD, COILS, THK 4.75–6.8MM.	16		0	2,136		0	0
7219120071	FLAT–ROLLED STAINLESS STL, WDTH 600–1370MM, HOT–RLD, COILS, THK 4.75–10MM, > 0.5% NICKEL, NESOI.	13		0	1,341		0	0
7219120081	FLAT–ROLLED STAINLESS STL, WDTH 600–1370MM, HOT–RLD, COILS, THK 4.75–10MM, NESOI.	3		0	8,620		0	0
7219130081	FLAT–ROLLED STAINLESS STL, WDTH 600–1370MM, HOT–RLD, COILS, THK 3–4.75MM, NESOI.	2		0	54		0	0
7219210005	FLAT–ROLLED STAINLESS STL, WDTH >/= 600MM, HOT–RLD, NOT COILS, THK > 10MM, HIGH–NICKEL ALLOY STL.	2		0	38		0	0
7219220005	FLAT–ROLLED STAINLESS STL, WDTH >/= 600MM, HOT–RLD, NOT COILS, THK 4.75–10MM, HIGH–NICKEL ALLOY STL.	6		0	111		0	0
7219220015	FLAT–ROLLED STAINLESS STL, WDTH 600–1575MM, HOT–RLD, NOT COILS, THK 4.75–10MM, > 0.5% NICKEL, 1.5–5% MOLYBDENUM.	10		0	541		0	0

232 PROCESS STATISTICS—OBJECTION RATE BY STEEL HTSUS, AS OF 3/23/20—Continued

HTSUS code	HTS description	Requests	Requests with objections	Objection rate (%)	Volume requested (mt)	Volume with objections (mt)	Volume objection rate (%)	Percent granted despite objection *
7219220035	FLAT–ROLLED STAINLESS STL, WDTH 600–1575MM, HOT–RLD, NOT COILS, THK 4.75–10MM, > 0.5% NICKEL, NESOI.	29		0	1,482		0	0
7219220040	FLAT–ROLLED STAINLESS STL, WDTH 1575–1880MM, HOT–RLD, NOT COILS, THK 4.75–10MM, > 0.5% NICKEL, NESOI.	15		0	1,364		0	0
7219240060	FLAT–ROLLED STAINLESS STL, WDTH 600–1370MM, HOT–RLD, NOT COILS, THK < 3MM.	22		0	543		0	0
7219310010	FLAT–ROLLED STAINLESS STL, WDTH >/= 600MM, COLD–RLD, THK >/= 4.75MM, COILS.	54		0	11,621		0	0
7219320020	FLAT–ROLLED STAINLESS STL, WDTH >/= 1370MM, COLD–RLD, THK 3–4.75MM, COILS, > 0.5% NICKEL.	54		0	6,431		0	0
7219320036	FLAT–ROLLED STAINLESS STL, WDTH 600–1370MM, COLD–RLD, THK 3–4.75MM, COILS, > 0.5% NICKEL, 1.5–5% MOLYBDENUM.	14		0	4,346		0	0
7219320038	FLAT–ROLLED STAINLESS STL, WDTH 600–1370MM, COLD–RLD, THK 3–4.75MM, COILS, > 0.5% NICKEL, NESOI.	20		0	1,798		0	0
7219320045	FLAT–ROLLED STAINLESS STL, WDTH >/= 1370MM, COLD–RLD, THK 3–4.75MM, NOT COILS.	15		0	332		0	0
7219330025	FLAT–ROLLED STAINLESS STL, WDTH >/= 1370MM, COLD–RLD, THK 1–3MM, COILS, </= 0.5% NICKEL.	21		0	3,970		0	0
7219330042	FLAT–ROLLED STAINLESS STL, WDTH 600–1370MM, COLD–RLD, THK 1–3MM, COILS, </= 0.5% NICKEL; > 15% CHROMIUM.	15		0	2,236		0	0
7219340020	FLAT–ROLLED STAINLESS STL, WDTH >/= 600MM, COLD–RLD, THK 0.5–1MM, COILS, > 0.5% NICKEL, 1.5–5% MOLYBDENUM.	9		0	1,140		0	0
7219350005	FLAT–ROLLED STAINLESS STL, WDTH >/= 600MM, COLD–RLD, THK < 0.5MM, COILS, 0.5–24% NICKEL, 1.5–5% MOLYBDENUM.	13		0	8,110		0	0
7219900060	OTHER FLAT–ROLLED STAINLESS STL, WDTH >/= 600MM, FURTHER WORKED THAN COLD–RLD, </= 0.5% NICKEL; > 15% CHROMIUM.	5		0	38		0	0
7220121000	FLAT–ROLLED STAINLESS STL, WDTH 300–600MM, HOT–RLD, THK < 4.75MM.	32		0	6,916		0	0
7220125000	FLAT–ROLLED STAINLESS STL, WDTH < 300MM, HOT–RLD, THK < 4.75MM.	14		0	852		0	0
7220206010	FLAT–ROLLED STAINLESS STL, WDTH < 300MM, COLD–RLD, THK > 1.25MM, > 0.5% NICKEL, 1.5–5% MOLYBDENUM.	52		0	18,005		0	0
7220206060	FLAT–ROLLED STAINLESS STL, WDTH < 300MM, COLD–RLD, THK > 1.25MM, </= 0.5% NICKEL; > 15% CHROMIUM.	23		0	1,058		0	0
7220206080	FLAT–ROLLED STAINLESS STL, WDTH < 300MM, COLD–RLD, THK > 1.25MM, </= 0.5% NICKEL, NESOI.	1		0	12		0	0
7220207060	FLAT–ROLLED STAINLESS STL, WDTH < 300MM, COLD–RLD, THK 0.25–1.25MM, </= 0.5% NICKEL, < 15% CHROMIUM.	172		0	11,768		0	0
7220208000	FLAT–ROLLED STAINLESS STL, WDTH < 300MM, COLD–RLD, THK </= 0.25MM, RAZOR BLADE STL.	170		0	63,021		0	0
7220900060	OTHER FLAT–ROLLED STAINLESS STL, WDTH < 600MM, FURTH WRKD THAN COLD–RLD, NICKEL CONTENT NESOI, < 15% CHROMIUM.	561		0	7,212		0	0

232 PROCESS STATISTICS—OBJECTION RATE BY STEEL HTSUS, AS OF 3/23/20—Continued

HTSUS code	HTS description	Requests	Requests with objections	Objection rate (%)	Volume requested (mt)	Volume with objections (mt)	Volume objection rate (%)	Percent granted despite objection *
7221000045	BARS/RODS STAINLESS STL, HOT–RLD, IRR COILS, NOT HIGH–NICKEL ALLOY, CIRC CS >/= 19MM DIAM.	114		0	19,047		0	0
7222300001	OTHER BARS/RODS STAINLESS STL, FURTH WRKD THAN COLD–FRMD/FNSHD, ELECTROSLAG/VACUUM ARC REMELTED, NESOI.	39		0	101		0	0
7222403045	SHAPES/SECTIONS STAINLESS STL, HOT–RLD, NOT DRILLED/PUNCHED/ADVANCED, MAX CS >/= 80MM.	48		0	4,387		0	0
7222403085	SHAPES/SECTIONS STAINLESS STL, HOT–RLD, NOT DRILLED/PUNCHED/ADVANCED, MAX CROSS SECTION < 80MM.	44		0	2,205		0	0
7222406000	Angles Shapes And Sections Stainless Steel Nesoi.	625		0	2,948		0	0
7223005000	FLAT WIRE OF STAINLESS STEEL	170		0	9,894		0	0
7224100005	INGOTS AND OTHER PRIMARY FORMS OF HIGH–NICKEL ALLOY STEEL.	3		0	743		0	0
7225403005	FLAT–ROLLED OTH ALLOY STL, WDTH >/= 600MM, HOT–RLD, NOT COILS, THK >/= 4.75MM, HIGH–NICKEL ALLOY STL.	1		0			0	0
7225501110	FLAT–ROLLED OTH ALLOY STL, WDTH >/= 600MM, COLD–RLD, TOOL STEEL, HIGH–SPEED STL.	15		0	103		0	0
7225506000	FLAT–ROLLED OTH ALLOY STL, WDTH >/= 600MM, COLD–RLD, THK >/= 4.75MM, NESOI.	6		0	286		0	0
7226918000	FLAT–ROLLED OTH ALLOY STL, WDTH < 300MM, HOT–RLD, NOT TOOL STL, THK < 4.75MM.	14		0	625		0	0
7226923030	FLAT–ROLLED OTH ALLOY STL, WDTH < 300MM, COLD–RLD, TOOL STEEL OTH THAN HIGH–SPEED, BALL–BEARING STL.	26		0	1,606		0	0
7226923060	FLAT–ROLLED OTH ALLOY STL, WDTH < 300MM, COLD–RLD, TOOL STEEL OTH THAN HIGH–SPEED, NESOI.	168		0	19,874		0	0
7226928005	FLAT–ROLLED OTH ALLOY STL, WDTH < 300MM, COLD–RLD, NOT TOOL STL, THK > 0.25MM, HIGH–NICKEL ALLOY STL.	10		0	199		0	0
7226990110	FLAT–ROLLED OTH ALLOY STL, WDTH < 600MM, FURTH WRKD THAN COLD–RLD, ELECTROLYTICALLY PLATD/COATD W/ZINC, NESOI.	6		0	6,461		0	0
7227100000	BARS/RODS OTH ALLOY STL, HOT–RLD, IRR COILS, HIGH–SPEED STL.	693		0	5,976		0	0
7227200030	BARS/RODS SILICO–MANGANESE STL, IRR COILS, HOT–RLD, WELDING QUALITY WIRE RODS, STAT NOTE 6.	8		0	161,800		0	0
7227901060	BARS/RODS TOOL STL (NOT HIGH–SPEED), HOT–RLD, IRR COILS, NOT TEMPRD/TREATD/PARTLY MFTD, NESOI.	178		0	19,659		0	0
7227906020	BARS/RODS OTHER ALLOY STL, IRR COILS, HOT–RLD, NOT TOOL STL, WELDING QUALITY WIRE RODS.	17		0	17,646		0	0
7228308005	OTHER BARS/RODS OTHER ALLOY STL, HOT–ROLLED/DRAWN/EXTRUDED, HIGH–NICKEL ALLOY STL.	3		0	15		0	0
7228501040	OTHER BARS/RODS TOOL STL (NOT HIGH–SPEED), COLD–FRMD/FNSHD, MAX CS < 18MM, NESOI.	35		0	10,133		0	0
7229200015	ROUND WIRE SI–MN STL, DIAM </= 1.6MM, < 020% C, > 0.9% MN, > 0.6% SI, FOR ELEC ARC WELDING, NOT PLATD/COATED W/ COPPER.	1		0	1,500		0	0
7229901000	FLAT WIRE OF OTHER ALLOY STEEL	30		0	1,045		0	0

232 PROCESS STATISTICS—OBJECTION RATE BY STEEL HTSUS, AS OF 3/23/20—Continued

HTSUS code	HTS description	Requests	Requests with objections	Objection rate (%)	Volume requested (mt)	Volume with objections (mt)	Volume objection rate (%)	Percent granted despite objection *
7229905016	ROUND WIRE OTHER ALLOY STL, DIAM < 1.0MM.	80		0	421		0	0
7229905031	ROUND WIRE OTHER ALLOY STL, DIAM 1.0–1.5MM.	78		0	622		0	0
7302101015	OTHER RAILS IRON/NONALLOY STL, NEW, NOT HEAT TREATED, > 30KG/M.	3		0	480		0	0
7302101045	OTHER RAILS IRON/NONALLOY STL, NEW, HEAT TREATED, > 30KG/M.	8		0	465		0	0
7302105020	RAILS OF ALLOY STEEL, NEW	2		0	796		0	0
7302901000	SLEEPERS (CROSS–TIES) OF IRON OR STEEL.	3		0	21,498		0	0
7304243010	CASING (OIL/GAS DRILLING) STAINLESS STL, SEAMLESS, THREADED/COUPLED, OUTSIDE DIAM < 215.9MM, WALL THK < 12.7MM.	34		0	20,849		0	0
7304243020	CASING (OIL/GAS DRILLING) STAINLESS STL, SEAMLESS, THREADED/COUPLED, OUTSIDE DIAM < 215.9MM, WALL THK >/= 12.7MM.	2		0	160		0	0
7304243040	CASING (OIL/GAS DRILLING) STAINLESS STL, SEAMLESS, THREADED/COUPLED, OUTSIDE DIAM 215.9–285.8MM, WALL THK ≤/= 12.7MM.	2		0	860		0	0
7304244040	CASING (OIL/GAS DRILLING) STAINLESS STL, SEAMLESS, NOT THREADED/COUPLED, OS DIAM 215.9–285.8MM, WALL THK ≤/= 12.7MM.	8		0	7,855		0	0
7304244060	CASING (OIL/GAS DRILLING) STAINLESS STL, SEAMLESS, NOT THREADED/COUPLED, OS DIAM 285.8–406.4MM, WALL THK ≤/= 12.7MM.	2		0	5,000		0	0
7304246030	TUBING (OIL/GAS DRILLING) STAINLESS STL, SEAMLESS, OUTSIDE DIAM <≠= 114.3MM, WALL THK > 9.5 MM.	74		0	71,809		0	0
7304293120	CASING (OIL/GAS DRILLING) OTH ALLOY STL, SEAMLESS, THREADED/COUPLED, OS DIAM < 215.9MM, WALL THK >/= 12.7MM.	4		0	1,028		0	0
7304293160	CASING (OIL/GAS DRILLING) OTH ALLOY STL, SEAMLESS, THREADED/COUPLED, OS DIAM 285.8–406.4MM, WALL THK >/= 12.7MM.	7		0	2,625		0	0
7304293180	CASING (OIL/GAS DRILLING) OTH ALLOY STL, SEAMLESS, THREADED/COUPLED, OUTSIDE DIAM > 406.4MM.	4		0	4,500		0	0
7304390002	TUBES/PIPES/HLLW PRFLS IRON/NA STL, SMLESS, CIRC CS, NOT COLD–TRTD, SUITABLE FOR BOILERS ETC, OS DIAM < 38.1MM.	15		0	3,417		0	0
7304390016	TUBES/PIPES/HOLLOW PROFILES IRON/NA STL, SEAMLESS, CIRC CS, NOT COLD–TRTD, GALVANIZED, OS DIAM </= 114.3MM..	8		0	211		0	0
7304413005	TUBES/PIPES/HOLLOW PRFLS STAINLESS STL, SEAMLESS, CIRC CS, COLD–DRWN/RLD, EXT DIAM < 19MM, HIGH–NICKEL ALLOY STL.	5		0	237		0	0
7304515005	TUBES/PIPES/HOLLOW PROFILES OTH ALLOY STL, SEAMLESS, CIRC CS, COLD–DRWN/RLD, HIGH–NICKEL ALLOY STL.	44		0	4,965		0	0
7304592030	TUBES/PIPES/HLLW PRFLS OTH ALLOY STL, SMLESS, CIRC CS, NOT COLD–TRTD, SUITABLE FOR BOILERS ETC, HEAT–RESISTING STL.	1,071		0	169,986		0	0
7304592080	TUBES/PIPES/H PRFLS ALLOY STL, SMLSS, CIRC CS, NOT COLD–TRTD, SUIT FOR BOILERS ETC, NOT HT–RSST STL, OS DIAM > 406.4MM.	1,082		0	89,791		0	0

232 PROCESS STATISTICS—OBJECTION RATE BY STEEL HTSUS, AS OF 3/23/20—Continued

HTSUS code	HTS description	Requests	Requests with objections	Objection rate (%)	Volume requested (mt)	Volume with objections (mt)	Volume objection rate (%)	Percent granted despite objection *
7304598010	TUBES/PIPES/HOLLOW PROFILES OTH ALLOY STL, SEAMLESS, CIRC CS, NOT COLD–TREATED, OUTSIDE DIAM < 38.1MM, NESOI.	83		0	19,487		0	0
7304598045	TUBES/PIPES/HLLW PRFLS OTH ALLOY STL, SMLESS, CIRC CS, NOT CLD–TRTD, OS DIAM 190.5–285.8MM, WALL THK < 12.7MM, NESOI.	65		0	84,783		0	0
7304598060	TUBES/PIPES/HLLW PRFLS OTH ALLOY STL, SMLESS, CIRC CS, NOT CLD–TRTD, OS DIAM 285.8–406.4MM, WALL THK < 12.7MM, NESOI.	96		0	119,499		0	0
7304901000	TUBES/PIPES/HOLLOW PROFILES IRON/NONALLOY STL, SEAMLESS, NONCIRCULAR CROSS SECTION, WALL THK >/= 4MM.	15		0	4,440		0	0
7304905000	TUBES/PIPES/HOLLOW PROFILES IRON/NONALLOY STL, SEAMLESS, NOT CIRCULAR CS, WALL THK < 4MM, NESOI.	6		0	223		0	0
7305316090	OTHER TUBES/PIPES ALLOY STL (NOT STAINLESS), CIRC CS, EXT DIAM > 406.4MM, LONGITUDINALLY WELDED, NESOI.	7		0	1,421		0	0
7305391000	OTHER TUBES/PIPES IRON/NONALLOY STL, CIRC CS, EXT DIAM > 406.4MM, WELDED OTH THAN LONGITUDINALLY, NESOI.	1		0	8		0	0
7306191010	LINE PIPE (OIL/GAS PIPELINES) IRON/NONALLOY STL, WELDED/RIVETED/SIM CLOSED, OUTSIDE DIAM </= 114.3MM.	1		0	8		0	0
7306213000	CASING (OIL/GAS DRILLING) STAINLESS STL, WELDED, THREADED/COUPLED.	1		0	400		0	0
7306401010	OTH TUBES/PIPES/HOLLOW PRFLS STAINLESS STL, WELDED, CIRC CS, WALL THK < 1.65MM, < 0.5% NICKEL, 1.5–5% MOLYBDENUM.	15		0	358		0	0
7306401090	OTH TUBES/PIPES/HOLLOW PRFLS STAINLESS STL, WELDED, CIRC CS, WALL THK < 1.65MM, </= 0.5% NICKEL.	76		0	5,117		0	0
7306617060	OTH TUBES/PIPES/HOLLOW PROFILES OTH ALLOY STL (NOT STAINLESS), WELDED, SQ/RECT CS, WALL THK < 4MM.	28		0	500		0	0
7306695000	OTH TUBES/PIPES/HOLLOW PROFILES IRON/NONALLOY STL, WELDED, OTH NONCIRCULAR CS, WALL THK < 4MM.	4		0	31,500		0	0
7306697060	OTH TUBES/PIPES/HOLLOW PROFILES OTH ALLOY STL (NOT STAINLESS), WELDED, OTH NONCIRCULAR CS, WALL THK < 4MM.	8		0	32,594		0	0
7306901000	OTH TUBES/PIPES/HOLLOW PROFILES IRON/NONALLOY STL, RIVETED/SIMILARLY CLOSED (NOT WELDED), NESOI.	585		0	23,065		0	0

* Percent of requests granted despite receiving one or more objections, out of the total number of requests with objections and rendered decisions.

Annex 2: Aluminum HTS Codes With 0% Objection Rates

232 PROCESS STATISTICS—OBJECTION RATE BY ALUMINUM HTSUS, AS OF 3/23/20

HTSUS code	HTS description	Requests	Requests with objections	Objection rate (%)	Volume requested (mt)	Volume with objections (mt)	Volume objection rate (%)	Percent granted despite objection *
7601106030	ALUMINUM ALLOY OF GREATER THAN 99.8 PERCENT ALUMINUM.	3		0	349		0	0

232 PROCESS STATISTICS—OBJECTION RATE BY ALUMINUM HTSUS, AS OF 3/23/20—Continued

HTSUS code	HTS description	Requests	Requests with objections	Objection rate (%)	Volume requested (mt)	Volume with objections (mt)	Volume objection rate (%)	Percent granted despite objection *
7601209080	ALUMINUM ALLOY, SHEET INGOT (SLAB) OF A KIND DESCRIBED IN STATISTICAL NOTE 3 TO THIS CHAPTER.	7		0	6,880		0	0
7601209095	ALUMINUM ALLOY, UNWROUGHT, NESOI.	1		0	5		0	0
7604210000	ALUMINUM ALLOY HOLLOW PROFILES.	76		0	38,723		0	0
7604293090	ALUMINUM ALLOY BARS AND RODS HAVING A ROUND CROSS SECTION, NESOI.	27		0	1,043		0	0
7604295050	ALUMINUM ALLOY BARS/RODS HAVING OTHER THAN ROUND CROSS SECTION, HEAT–TREATABLE INDUSTRIAL ALLOYS.	4		0	5		0	0
7604295060	ALUMINUM ALLOY BARS A RODS HAVING OTHR THAN ROUND CROSS SCTN W A MAX CROSS–SECTIONAL DIMENSION OF 10MM OR MORE.	17		0	85		0	0
7604295090	ALUMINUM ALLOY BARS AND RODS HAVING OTHER THAN ROUND CROSS SECTION, NESOI.	2		0	741		0	0
7605290000	ALUMINUM WIRE ALLOY OF WHICH THE MAXIMUM CROSS–SECTIONAL DIMENSION IS 7MM OR LESS.	15		0	202		0	0
7606116000	ALUMINUM PLATES SHEETS AND STRIP RECTANGULAR (INCLUDING SQUARE) NOT ALLOYED CLAD, WTH A THICKNESS OVER 0.2MM.	18		0	2,390		0	0
7606123015	ALUMINUM PLATES SHEETS & STRIP RECTANGULAR (INC SQUARE) NOT CLAD,THICKNESS MORE THAN 6.3MM, HIGH-STRENGTH HEAT-TREATABLE ALLOY, STAT NOTE 5, CH 76.	8		0	44		0	0
7607116010	ALUMINUM FOIL, BOXED, WEIGHING LT = 11.3 KG, OF A THICKNESS GT 0.01 MM AND LT = 0.15 MM, ROLLED, NOT BACKED.	8		0	1,015		0	0
7607191000	ALUMINUM FOIL OF A THICKNESS NOT EXCEEDING 0.2MM NOT BACKED, ETCHED CAPACITOR FOIL.	22		0	11,350		0	0
7607196000	ALUMINUM FOIL NESOI NOT BACKED.	71		0	23,244		0	0
7607201000	ALUMINUM FOIL OF A THICKNESS NOT EXCEEDING 0.2MM BACKED, COVERED OR DECORATED WITH A CHARACTER, DESIGN, FANCY EFFECT OR PATTERN.	3		0	389		0	0
7607205000	ALUMINUM FOIL OF A THICKNESS NOT EXCEEDING 0.2MM BACKED, OTHER THAN COVERED OR DECORATED WITH A CHARACTER, DESIGN, FANCY EFFECT OR PATTERN.	84		0	41,696		0	0
7608200090	TUBES AND PIPES ALUM AL EXCPT SEAMLESS.	45		0	5,621		0	0
7609000000	ALUMINUM TUBE OR PIPE FITTINGS (COUPLINGS, ELBOWS SLEEVES).	1,469		0	188,157		0	0
7616995160	ALUMINUM CASTINGS	2		0	242		0	0
7616995170	ALUMINUM FORGINGS	8		0	12,597		0	0

* Percent of requests granted despite receiving one or more objections, out of the total number of requests with objections and rendered decisions.

Annex 3: Steel HTS Codes With 100% Objection Rates

232 PROCESS STATISTICS—OBJECTION RATE BY STEEL HTSUS, AS OF 3/23/20

HTSUS code	HTS description	Requests	Requests with objections	Objection Rate (%)	Volume requested (mt)	Volume with objections (mt)	Volume objection rate (%)	Percent granted despite objection *
7207120010	SEMIFINISHED IRON/NONALLOY STL, <0.25% CARBON, RECTANGULAR CROSS SECTION, WDTH <4X THK.	20	20	100	1,128,815	1,128,815	100	0
7208106000	FLAT–ROLLED IRON/NA STL, WDTH >/= 600MM, HOT-RLD, NOT CLAD/PLATD/COATD, COILS, PATTERNS IN RELIEF, THK <4.75MM.	3	3	100	499	499	100	0
7209160091	FLAT-RLD IRON/NA STL, WDTH >/= 600MM, COLD–RLD, NOT CLAD/PLATD/COATED, COILS, THK 1–3MM, NOT HI-STRENGTH, NOT ANNEALED.	4	4	100	4,246	4,246	100	0
7209182585	FLAT–ROLLD IRON OR NONALLOY STEEL COILS 600MM OR MORE WIDE COLD-RLLD NOT CLAD, PLATED OR COATED, LESS THAN 0.361MM THICK(BLACKPLATE), NESOI.	2	2	100	2,782	2,782	100	0
7209186090	FLAT-RLD IRON/NA STL, WDTH >/= 600MM, COLD-RLD, NOT CLAD/PLATED/COATED, COILS, THK 0.361–0.5MM, NOT ANNEALED, NESOI.	20	20	100	666,193	666,193	100	0
7210110000	FLAT-ROLLED IRON/NONALLOY STL, WDTH >/= 600MM, PLATED/COATED WITH TIN, THK >/0.5MM.	9	9	100	22,100	22,100	100	11
7210610000	FLAT-ROLLED IRON/NONALLOY STL, WDTH >/= 600MM, PLATED/COATED WITH ALUMINUM–ZINC ALLOYS.	11	11	100	124,100	124,100	100	40
7212303000	FLAT-ROLLED IRON/NONALLOY STL, WDTH <300MM, PLATED/COATED WITH ZINC (NOT ELECTROLYTICALLY), THK <25MM.	1	1	100	1,800	1,800	100	0
7217104040	ROUND WIRE IRON/NONALLOY STL, NOT PLATED/COATED, <0.25% CARBON, DIAM <1.5MM, HEAT–TREATED, COILS WGHT </= 2KG.	3	3	100	2,080	2,080	100	0
7218990090	SEMIFINISHED STAINLESS STL, CROSS SECTION OTHER THAN RECT/SQ/CIRC, NESOI.	1	1	100	1,814	1,814	100	0
7226119060	FLAT-ROLLED OTH ALLOY STL, WDTH <300MM, SILICON ELECTRICAL STL, GRAIN–ORIENTED, THK >0.25MM.	1	1	100	130	130	100	0
7226191000	FLAT-ROLLED OTH ALLOY STL, WDTH 300–600MM, SILICON ELECTRICAL STL, NOT GRAIN–ORIENTED.	3	3	100	6,852	6,852	100	0
7304292020	CASING (OIL/GAS DRILLING) IRON/NA STL, SEAMLESS, NOT THREADED/COUPLED, OS DIAM <215.9MM, WALL THK >/= 12.7MM.	3	3	100	18,000	18,000	100	0
7304292030	CASING (OIL/GAS DRILLING) IRON/NA STL, SEAMLESS, NOT THREADED/COUPLED, OS DIAM 215.9–285.8MM, WALL THK <12.7MM.	12	12	100	200,153	200,153	100	0
7304292050	CASING (OIL/GAS DRILLING) IRON/NA STL, SEAMLESS, NOT THREADED/COUPLED, OS DIAM 285.8–406.4MM, WALL THK <12.7MM.	4	4	100	35,000	35,000	100	0
7304295045	TUBING (OIL/GAS DRILLING) IRON/NONALLOY STL, SEAMLESS, OUTSIDE DIAM 114.3–215.9MM.	2	2	100	5,000	5,000	100	0
7304390006	TUBES/PIPES/HLLW PRFLS IRON/NA STL, SMLESS, CIRC CS, NOT COLD–TRTD, SUITABLE FOR BOILERS ETC, OS DIAM 190.5–285.8MM.	1	1	100	4,000	4,000	100	0
7304390008	TUBES/PIPES/HLLW PRFLS IRON/NA STL, SMLESS, CIRC CS, NOT COLD–TRTD, SUITABLE FOR BOILERS ETC, OS DIAM >285.8MM.	1	1	100	4,000	4,000	100	0

232 PROCESS STATISTICS—OBJECTION RATE BY STEEL HTSUS, AS OF 3/23/20—Continued

HTSUS code	HTS description	Requests	Requests with objections	Objection Rate (%)	Volume requested (mt)	Volume with objections (mt)	Volume objection rate (%)	Percent granted despite objection *
7306195110	LINE PIPE (OIL/GAS PIPELINES) ALLOY STL, WELDED/RIVETED/SIM CLOSED, OUTSIDE DIAM.	3	3	100	60	60	100	0
7306298110	OTHER TUBING (OIL/GAS DRILLING) OTH ALLOY STL, WELDED/RIVETED/SIMILARLY CLOSED, IMPORTED WITH COUPLING.	2	2	100	573	573	100	0

* Percent of requests granted despite receiving one or more objections, out of the total number of requests with objections and rendered decisions.

Annex 4: Aluminum HTS Codes With 100% Objection Rates

232 PROCESS STATISTICS—OBJECTION RATE BY ALUMINUM HTSUS, AS OF 3/23/20

HTSUS code	HTS description	Requests	Requests with objections	Objection rate (%)	Volume requested (mt)	Volume with objections (mt)	Volume objection rate (%)	Percent granted despite objection *
7606123055	ALUMINUM ALLOY CAN STOCK, NOT CLAD, LID STOCK.	3	3	100	45,000	45,000	100	33

* Percent of requests granted despite receiving one or more objections, out of the total number of requests with objections and rendered decisions.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–967; C–570–968]

Aluminum Extrusions From the People's Republic of China: Notice of Second Amended Final Scope Ruling Pursuant to Court Decision

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On May 22, 2018, the Court of Appeals for the Federal Circuit (the CAFC) reversed and remanded the Court of International Trade's (CIT) earlier decision regarding the Department of Commerce's (Commerce) scope ruling under the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (China) involving Meridian Products, LLC's (Meridian's) Type B door handles. The CAFC instructed the CIT to vacate Commerce's initial remand redetermination that the CIT had previously sustained, reinstate Commerce's original scope ruling, and remand for further proceedings consistent with its opinion. In the original scope ruling, Commerce found that Meridian's Type B door handles were covered by the scope of the AD and CVD orders. In Commerce's redetermination upon remand from the CAFC, Commerce found that the extruded aluminum component of each Type B handle is within the scope of the AD and CVD orders while the other components (plastic end caps and screws) are not. On April 6, 2020, the CIT sustained Commerce's remand redetermination. Accordingly, Commerce is issuing a second amended final scope ruling.

DATES: Applicable May 26, 2020.

FOR FURTHER INFORMATION CONTACT: Eric Greynolds, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6071.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 2013, Commerce issued a final scope ruling in which it determined that three types of kitchen appliance door handles (Types A, B, and C) imported by Meridian are within the scope of the *Orders* [1] and do not meet the scope exclusions for ''finished merchandise'' and ''finished goods kits.'' [2] Meridian challenged Commerce's final scope ruling at the CIT.

On December 7, 2015, the CIT affirmed, in part, Commerce's Kitchen Appliance Door Handles Scope Ruling finding that Meridian's Type A handles (consisting of a single piece of aluminum extrusion) and Type C handles (consisting of a single piece of aluminum extrusion packed as a ''kit'' with a tool and an instruction manual) are within the scope of the *Orders* based on a plain reading of the scope language.[3] The CIT, however, remanded Commerce's determination that Meridian's Type B handles are also within the scope of the *Orders.* The CIT also instructed Commerce to provide clarification on its scope ruling in view of the CIT's decision that Type B handles are ''assemblies'' not within the scope of orders, because the extruded aluminum handles are packaged with two plastic injection molded end caps and two screws.[4] The CIT further found that, assuming *arguendo* that Meridian's Type B handles were covered by the scope language, Commerce erred in finding that the products did not satisfy the scope's ''finished merchandise'' exclusion.[5]

On March 23, 2016, Commerce issued its Final Results of Redetermination, in which it found, under respectful protest, that Meridian's Type B handles are not covered by the scope of the *Orders,*

[1] *See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order,* 76 FR 30650 (May 26, 2011); *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order,* 76 FR 30653 (May 26, 2011) (collectively, *Orders*).

[2] *See* Memorandum, ''Final Scope Ruling on Meridian Kitchen Appliance Door Handles,'' dated June 21, 2013 (Kitchen Appliance Door Handles Scope Ruling) at 12–15.

[3] *See Meridian Products LLC* v. *United States,* Court No. 13–00246, Slip Op. 15–135 at 6–9.

[4] *Id.* at 10–13.

[5] *Id.* at 13–16.

because the general scope language did not cover such products. As a result, Commerce did not consider whether Meridian's Type B handles were subject to the exclusion for ''finished merchandise.'' [6] On July 18, 2016, the CIT sustained Commerce's findings in the Final Results of Redetermination that Meridian's Type B handles are not covered by the scope of the *Orders*.[7] Commerce subsequently published notice of the CIT's decision not in harmony with Commerce's final scope ruling and notice of amended final scope ruling pursuant to the CIT's decision.[8]

The Aluminum Extrusion Fair Trade Committee (AEFTC), the petitioner in the underlying investigations, appealed. On May 22, 2018, the CAFC reversed and remanded the CIT's final judgement, instructed the CIT to vacate Commerce's remand redetermination, and ordered the CIT to reinstate Commerce's original scope ruling and remand for further proceedings consistent with the opinion.[9] The CAFC held that Commerce's original scope ruling determination (*i.e.,* that Type B handles are included within the general scope of the *Orders*) was reasonable and supported by substantial evidence.[10] The CAFC remanded for Commerce to clarify whether Type B handles are fully and permanently assembled at the time of entry.[11] The CAFC reasoned if Commerce determined that the Type B handles are imported unassembled, the original scope ruling controls, but if Commerce determined that the Type B handles were imported fully and permanently assembled, then Commerce must address whether the Type B handles are excluded from the scope as ''finished merchandise.'' [12]

On May 15, 2019, Commerce issued its Second Remand Redetermination in response to the CAFC's remand order.[13] In the Second Remand Redetermination, Commerce determined that the finished merchandise exclusion does not apply to the Type B handles and that the extruded aluminum component of each Type B handle is within the scope of the *Orders,* while the other components (plastic end caps and screws) are not.[14] On April 6, 2020, the CIT sustained Commerce's ruling in the Second Remand Redetermination.[15] No party contested Commerce's Second Remand Redetermination.[16]

Amended Final Scope Ruling

There is now a final court decision with respect to Commerce's Kitchen Appliance Door Handles Scope Ruling. Therefore, Commerce issues this second amended final scope ruling and finds that the extruded aluminum component of each Type B handle is within the scope of the *Orders,* while the other components (plastic end caps and screws) are not.

Accordingly, Commerce will instruct U.S. Customs and Border Protection to continue to suspend liquidation of Meridian's Type B handles until appropriate liquidation instructions are sent. As of the date of publication of this notice in the **Federal Register**, the cash deposit rate for entries of the extruded aluminum component of Meridian's Type B handles will be the applicable cash deposit rate of the exporters of the merchandise from China to the United States.

Notification to Interested Parties

This notice is issued and published in accordance with section 516A(c)(1) and (e)(1) of the Tariff Act of 1930, as amended.

Dated: May 18, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–11205 Filed 5–22–20; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See* Final Results of Redetermination Pursuant to Court Remand, *Meridian Products, LLC* v. *United States,* Court No. 13–00246, Slip Op. 15–135 (CIT December 7, 2015) (Final Results of Redetermination).

[7] *See Meridian Products, LLC* v. *United States,* Court No. 13–00246, Slip Op. 16–71 at 11.

[8] *See Aluminum Extrusions from the People's Republic of China: Notice of Court Decision Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision,* 81 FR 52402 (August 8, 2016).

[9] *See Meridian Products, LLC* v. *United States,* 890 F.3d 1272, 1282 (CAFC 2018).

[10] *Id.,* 890 F.3d at 1281.

[11] *Id.*

[12] *Id.*

[13] *See* Final Results of Second Remand Redetermination Pursuant to Court Remand, *Meridian Products, LLC* v. *United States,* 890 F. 3d 1272 (CAFC 2018) (Second Remand Redetermination).

[14] *Id.*

[15] *See Meridian Products, LLC* v. *United States,* Court No. 13–00246, Slip Op. 20–43 (CIT April 6, 2020).

[16] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–894]

Forged Steel Fluid End Blocks From India: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of forged steel fluid end blocks (fluid end blocks) from India. The period of investigation (POI) is April 1, 2018 through March 31, 2019. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable May 26, 2020.

FOR FURTHER INFORMATION CONTACT: William Langley or Nicholas Czajkowski, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3861 or (202) 482–1395, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on January 15, 2020.[1] On February 27, 2020, Commerce postponed the preliminary determination of this investigation to May 18, 2020.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix

[1] *See Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy and the People's Republic of China: Initiation of Countervailing Duty Investigations,* 85 FR 2385 (January 15, 2020) (*Initiation Notice*).

[2] *See Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy and the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigations,* 85 FR 11336 (February 27, 2020).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Forged Steel Fluid End Blocks from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement & Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are forged steel fluid end blocks from India. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.*

For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the revised scope in Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[7]

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determinations in the concurrent antidumping duty (AD) investigations of fluid end blocks from Germany, India, and Italy based on a request made by the petitioners.[8] Consequently, the final CVD determination will be issued on the same date as the final AD determinations, which are currently scheduled to be issued no later than September 29, 2020, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily calculated a rate for Bharat Forge Limited (Bharat Forge), the only mandatory respondent that was individually examined. The only rate that is not zero, *de minimis,* or based entirely on facts otherwise available is the rate calculated for Bharat Forge. Consequently, the rate calculated for Bharat Forge is also assigned as the rate for all other producers and exporters.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate *ad valorem* (percent)
Bharat Forge Limited[9]	4.69
All Others	4.69

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register.** Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. As explained in the Preliminary Decision Memorandum, Ultra Engineers (Ultra) reports that it is not a producer or exporter of fluid end blocks from India.[10] As provided in section 782(i)(1) of the Act, we intend to verify Ultra's claim that it did not produce or sell the subject merchandise during the POI.

Public Comment

All interested parties will have the opportunity to submit case and rebuttal briefs on the preliminary scope determination. The deadline to submit these comments will be no later than 30 days after the publication of the preliminary determinations of the CVD investigations of fluid end blocks from Germany, India, Italy, and China in the **Federal Register**. Scope rebuttal briefs (which are limited to issues raised in the scope briefs) may be submitted no later than seven days after the deadline for the scope briefs. These deadlines apply to the AD and CVD fluid end blocks investigations, regardless of the deadlines of the preliminary determinations in the AD investigations. For all scope briefs and rebuttals thereto, parties must file identical documents simultaneously on the records of all the ongoing AD and CVD fluid end blocks investigations. No new factual information or business proprietary information may be included in either scope briefs or rebuttal scope briefs.

[4] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*AD Preamble*).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy, and the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit, and section 771(5A) of the Act regarding specificity.

[8] *See* Petitioners' Letter, ''Forged Steel Fluid End Blocks from China, Germany, India, and Italy: Petitioner's Request for Alignment of the Countervailing Duty Investigations with the Concurrent Antidumping Duty Investigations,'' dated April 1, 2020.

[9] As discussed in the Preliminary Decision Memorandum, Commerce has found the following company to be cross-owned with Bharat Forge Limited: Saarloha Advanced Materials Private Limited.

[10] *See* Preliminary Decision Memorandum at section II.B., ''Treatment of Ultra Engineers.''

Case briefs or other written comments regarding non-scope matters may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[11] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information, until July 17, 2020, unless extended.[12]

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. Pursuant to section 705(b)(2) of the Act, if the final determination is affirmative, the ITC will make its final injury determination before the later of 120 days after the date of this preliminary determination or 45 days after Commerce's final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: May 18, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are forged steel fluid end blocks (fluid end blocks), whether in finished or unfinished form, and which are typically used in the manufacture or service of hydraulic pumps.

The term ''forged'' is an industry term used to describe the grain texture of steel resulting from the application of localized compressive force. Illustrative forging standards include, but are not limited to, American Society for Testing and Materials (ASTM) specifications A668 and A788.

For purposes of this investigation, the term ''steel'' denotes metal containing the following chemical elements, by weight: (i) Iron greater than or equal to 60 percent; (ii) nickel less than or equal to 8.5 percent; (iii) copper less than or equal to 6 percent; (iv) chromium greater than or equal to 0.4 percent, but less than or equal to 20 percent; and (v) molybdenum greater than or equal to 0.15 percent, but less than or equal to 3 percent. Illustrative steel standards include, but are not limited to, American Iron and Steel Institute (AISI) or Society of Automotive Engineers (SAE) grades 4130, 4135, 4140, 4320, 4330, 4340, 8630, 15–5, 17–4, F6NM, F22, F60, and XM25, as well as modified varieties of these grades.

The products covered by this investigation are: (1) Cut-to-length fluid end blocks with an actual height (measured from its highest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), an actual width (measured from its widest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), and an actual length (measured from its longest point) of 11 inches (279.4 mm) to 75 inches (1,905.0 mm); and (2) strings of fluid end blocks with an actual height (measured from its highest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), an actual width (measured from its widest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), and an actual length (measured from its longest point) up to 360 inches (9,144.0 mm).

The products included in the scope of this investigation have a tensile strength of at least 70 KSI (measured in accordance with ASTM A370) and a hardness of at least 140 HBW (measured in accordance with ASTM E10).

A fluid end block may be imported in finished condition (*i.e.,* ready for incorporation into a pump fluid end assembly without further finishing operations) or unfinished condition (*i.e.,* forged but still requiring one or more finishing operations before it is ready for incorporation into a pump fluid end assembly). Such finishing operations may include: (1) Heat treating; (2) milling one or more flat surfaces; (3) contour machining to custom shapes or dimensions; (4) drilling or boring holes; (5) threading holes; and/or (6) painting, varnishing, or coating.

Excluded from the scope of this investigation are fluid end block assemblies which (1) include (a) plungers and related housings, adapters, gaskets, seals, and packing nuts, (b) valves and related seats, springs, seals, and cover nuts, and (c) a discharge flange and related seals, and (2) are otherwise ready to be mated with the ''power end'' of a hydraulic pump without the need for installation of any plunger, valve, or discharge flange components, or any other further manufacturing operations.

The products included in the scope of this investigation may enter under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7218.91.0030, 7218.99.0030, 7224.90.0015, 7224.90.0045, 7326.19.0010, 7326.90.8688, or 8413.91.9055. While these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2020–11229 Filed 5–22–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–428–848]

Forged Steel Fluid End Blocks From the Federal Republic of Germany: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of forged steel fluid end blocks (fluid end blocks) from the Federal Republic of Germany (Germany) for the period of investigation (POI) January 1, 2018 through December 31, 2018. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable May 26, 2020.

FOR FURTHER INFORMATION CONTACT: Bob Palmer or Joseph Dowling, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue

[11] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[12] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 29615 (May 18, 2020).

NW, Washington, DC 20230; telephone: (202) 482–9068 or (202) 482–1646, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on January 15, 2020.[1] On February 27, 2020, Commerce postponed the preliminary determination of this investigation to May 18, 2020.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is forged steel fluid end blocks from Germany. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.*

For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the revised scope in Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that confers a benefit to the recipient, and that the subsidy is specific.[7]

Commerce notes that, in making these findings, it relied, in part, on facts available and, because Commerce finds that one of the respondents did not act to the best of its ability to respond to Commerce's requests for information, Commerce drew an adverse inference where appropriate in selecting from among the facts otherwise available.[8] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determinations in the concurrent antidumping duty (AD) investigations of forged steel fluid end blocks from Germany, India, and Italy, based on a request made by the petitioners.[9] Consequently, the final CVD determination will be issued on the same date as the final AD determinations, which are currently scheduled to be issued no later than September 29, 2020, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for BGH Edelstahl Siegen GmbH and Schmiedewerke Gröditz GmbH that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged sales data.[10]

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate *ad valorem* (percent)
BGH Edelstahl Siegen GmbH[11]	5.25
Schmiedewerke Gröditz GmbH[12] ...	6.06
voestalpine Bohler Group	10.04
All Others	5.61

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act,

[1] *See Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy and the People's Republic of China: Initiation of Countervailing Duty Investigations,* 85 FR 2385 (January 15, 2020) (*Initiation Notice*).

[2] *See Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy, and the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigations: Postponement of Preliminary Determination in the Countervailing Duty Investigations,* 85 FR 11336 (February 27, 2020).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Forged Steel Fluid End Blocks from the Federal Republic of Germany,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy, and the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* sections 776(a) and (b) of the Act.

[9] *See* Petitioners' Letter, ''Forged Steel Fluid End Blocks from China, Germany, India, and Italy: Petitioner's Request for Alignment of the Countervailing Duty Investigations with the Concurrent Antidumping Duty Investigations,'' dated April 1, 2020.

[10] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged sales values. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data were available, Commerce used the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* the All-Others' Rate Calculation Memorandum, dated concurrently with this notice.

[11] As discussed in the Preliminary Decision Memorandum, Commerce has found the following

Continued

Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

All interested parties will have the opportunity to submit case and rebuttal briefs on the preliminary scope determination. The deadline to submit these comments will be no later than 30 days after the publication of the preliminary determinations of the CVD investigations of fluid end blocks from Germany, India, Italy, and China in the **Federal Register**. Scope rebuttal briefs (which are limited to issues raised in the scope briefs) may be submitted no later than seven days after the deadline for the scope briefs. These deadlines apply to the AD and CVD fluid end blocks investigations, regardless of the deadlines of the preliminary determinations in the AD investigations. For all scope briefs and rebuttals thereto, parties must file identical documents simultaneously on the records of all the ongoing AD and CVD fluid end blocks investigations. No new factual information or business proprietary information may be included in either scope briefs or rebuttal scope briefs.

Case briefs or other written comments regarding non-scope matters may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[13] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information, until July 17, 2020, unless extended.[14]

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. Pursuant to section 705(b)(2) of the Act, if the final determination is affirmative, the ITC will make its final injury determination before the later of 120 days after the date of this preliminary determination or 45 days after Commerce's final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: May 18, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are forged steel fluid end blocks (fluid end blocks), whether in finished or unfinished form, and which are typically used in the manufacture or service of hydraulic pumps.

The term ''forged'' is an industry term used to describe the grain texture of steel resulting from the application of localized compressive force. Illustrative forging standards include, but are not limited to, American Society for Testing and Materials (ASTM) specifications A668 and A788.

For purposes of this investigation, the term ''steel'' denotes metal containing the following chemical elements, by weight: (i) Iron greater than or equal to 60 percent; (ii) nickel less than or equal to 8.5 percent; (iii) copper less than or equal to 6 percent; (iv) chromium greater than or equal to 0.4 percent, but less than or equal to 20 percent; and (v) molybdenum greater than or equal to 0.15 percent, but less than or equal to 3 percent. Illustrative steel standards include, but are not limited to, American Iron and Steel Institute (AISI) or Society of Automotive Engineers (SAE) grades 4130, 4135, 4140, 4320, 4330, 4340, 8630, 15–5, 17–4, F6NM, F22, F60, and XM25, as well as modified varieties of these grades.

The products covered by this investigation are: (1) Cut-to-length fluid end blocks with an actual height (measured from its highest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), an actual width (measured from its widest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), and an actual length (measured from its longest point) of 11 inches (279.4 mm) to 75 inches (1,905.0 mm); and (2) strings of fluid end blocks with an actual height (measured from its highest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), an actual width (measured from its widest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), and an actual length (measured from its longest point) up to 360 inches (9,144.0 mm).

The products included in the scope of this investigation have a tensile strength of at least 70 KSI (measured in accordance with ASTM A370) and a hardness of at least 140 HBW (measured in accordance with ASTM E10).

A fluid end block may be imported in finished condition (*i.e.,* ready for incorporation into a pump fluid end assembly without further finishing operations) or unfinished condition (*i.e.,* forged but still requiring one or more finishing operations before it is ready for incorporation into a pump fluid end assembly). Such finishing operations may include: (1) Heat treating; (2) milling one or more flat surfaces; (3) contour machining to custom shapes or dimensions; (4) drilling or boring holes; (5) threading holes; and/or (6) painting, varnishing, or coating.

Excluded from the scope of this investigation are fluid end block assemblies

companies to be cross-owned with BGH Edelstahl Siegen GmbH: Boschgotthardshütte O. Breyer GmbH, BGH Edelstahlwerke GmbH, Rohstoff-, Press- und Schneidbetrieb Siegen GmbH, and SRG Schrott und Recycling GmbH.

[12] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Schmiedewerke Gröditz GmbH: GMH Schmiedetechnik GmbH, Georgsmarienhütte Holding GmbH, and GHM Recycling GmbH.

[13] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[14] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 29615 (May 18, 2020).

which (1) include (a) plungers and related housings, adapters, gaskets, seals, and packing nuts, (b) valves and related seats, springs, seals, and cover nuts, and (c) a discharge flange and related seals, and (2) are otherwise ready to be mated with the ''power end'' of a hydraulic pump without the need for installation of any plunger, valve, or discharge flange components, or any other further manufacturing operations.

The products included in the scope of this investigation may enter under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7218.91.0030, 7218.99.0030, 7224.90.0015, 7224.90.0045, 7326.19.0010, 7326.90.8688, or 8413.91.9055. While these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2020–11206 Filed 5–22–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–116]

Forged Steel Fluid End Blocks From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of forged steel fluid end blocks (fluid end blocks) from the People's Republic of China (China). The period of investigation is January 1, 2018 through December 31, 2018. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable May 26, 2020.

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

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on January 15, 2020.[1] On February 27, 2020, Commerce postponed the preliminary determination of this investigation to May 18, 2020.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are forged steel fluid end blocks from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.*

For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the revised scope in Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[7]

Commerce notes that, in making these findings, it relied, in part, on facts available and, because Commerce finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, Commerce drew an adverse inference where appropriate in selecting from among the facts otherwise available.[8] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determinations in the concurrent antidumping duty (AD) investigations of forged steel fluid end blocks from Germany, India, and Italy, based on a request made by the petitioners.[9] Consequently, the final

[1] *See Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy and the People's Republic of China: Initiation of Countervailing Duty Investigations,* 85 FR 2385 (January 15, 2020) (*Initiation Notice*).

[2] *See Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy, and the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigations,* 85 FR 11336 (February 27, 2020).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Forged Steel Fluid End Blocks from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy, and the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* sections 776(a) and (b) of the Act.

[9] *See* Petitioner's Letter, ''Forged Steel Fluid End Blocks from China, Germany, India, and Italy:

Continued

CVD determination will be issued on the same date as the final AD determinations, which are currently scheduled to be issued no later than September 29, 2020, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for Nanjing Develop Advanced Manufacturing Co., Ltd. (Nanjing Develop) and Shanghai Qinghe Machinery Co., Ltd. (Qinghe) that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged data for the value of their exports to the United States of subject merchandise.[10]

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate *ad valorem* (percent)
Nanjing Develop Advanced Manufacturing Co., Ltd.[11]	16.18
Shanghai Qinghe Machinery Co., Ltd.[12]	22.21
China Machinery Industrial Products Co., Ltd., Anhui Tianyu Petroleum Equipment Manufacturing Co., Ltd., CNCCC Sichuan Imp & Exp Co., Ltd., GE Petroleum Equipment (Beijing) Co., Ltd., Jiaxing Shenghe Petroleum Machinery Co., Ltd., Ningbo Minmetals & Machinery Imp & Exp Co., Ltd.,[13] Qingdao RT G&M Co., Ltd., Shandong Fenghuang Foundry Co., Ltd., Shandongshengjin Ruite Energy Equipment Co., Ltd. (part of Shengli Oilfield R&T Group), Shanghai Baisheng Precision Machine, Shanghai Boss Petroleum Equipment, Shanghai CP Petrochemical and General Machinery Co., Ltd., Suzhou Douson Drilling & Production Equipment Co., Ltd., Zhangjiagang Haiguo New Energy Equipment Manufacturing Co., Ltd., Anhui Yingliu Electromechanical Co., Ltd., Daye Special Steel Co., Ltd., (Citic Specific Steel Group), Suzhou Fujie Machinery Co., Ltd., (Fujie Group)	138.53
All Others	21.57

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

All interested parties will have the opportunity to submit case and rebuttal briefs on the preliminary scope determination. The deadline to submit these comments will be no later than 30 days after the publication of the preliminary determinations of the CVD investigations of fluid end blocks from Germany, India, Italy, and China in the **Federal Register**. Scope rebuttal briefs (which are limited to issues raised in the scope briefs) may be submitted no later than seven days after the deadline for the scope briefs. These deadlines apply to the AD and CVD fluid end blocks investigations, regardless of the deadlines of the preliminary determinations in the AD investigations. For all scope briefs and rebuttals thereto, parties must file identical documents simultaneously on the records of all the ongoing AD and CVD fluid end blocks investigations. No new factual information or business proprietary information may be included in either scope briefs or rebuttal scope briefs.

Case briefs or other written comments regarding non-scope matters may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[14] Pursuant to 19 CFR

Petitioner's Request for Alignment of the Countervailing Duty Investigations with the Concurrent Antidumping Duty Investigations,'' dated April 1, 2020.

[10] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values of exports to the United States of subject merchandise. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data were available, Commerce used the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* the All-Others' Rate Calculation Memorandum.

[11] As discussed in the Preliminary Decision Memorandum, Commerce has found the following company to be cross-owned with Nanjing Develop Advanced Manufacturing Co., Ltd.: Nanjing Develop Industrial and Commercial Co., Ltd.

[12] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Shanghai Qinghe Machinery Co., Ltd.: Haimo Technologies Group Corp. and Lanzhou Chenglin Oil Drilling Equipment Co., Ltd.

[13] Ningbo Minmetals & Machinery Imp & Exp Co Ltd. was listed twice in the petition under two different physical addresses. The quantity and value questionnaire was delivered to this company at both addresses, with no response from either location.

[14] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Note that Commerce has extended its temporary modification of certain requirements for serving documents containing business proprietary information until July 17, 2020.[15]

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. Pursuant to section 705(b)(2) of the Act, if the final determination is affirmative, the ITC will make its final injury determination before the later of 120 days after the date of this preliminary determination or 45 days after Commerce's final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: May 18, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are forged steel fluid end blocks (fluid end blocks), whether in finished or unfinished form, and which are typically used in the manufacture or service of hydraulic pumps.

The term ''forged'' is an industry term used to describe the grain texture of steel resulting from the application of localized compressive force. Illustrative forging standards include, but are not limited to, American Society for Testing and Materials (ASTM) specifications A668 and A788.

For purposes of this investigation, the term ''steel'' denotes metal containing the following chemical elements, by weight: (i) Iron greater than or equal to 60 percent; (ii) nickel less than or equal to 8.5 percent; (iii) copper less than or equal to 6 percent; (iv) chromium greater than or equal to 0.4 percent, but less than or equal to 20 percent; and (v) molybdenum greater than or equal to 0.15 percent, but less than or equal to 3 percent. Illustrative steel standards include, but are not limited to, American Iron and Steel Institute (AISI) or Society of Automotive Engineers (SAE) grades 4130, 4135, 4140, 4320, 4330, 4340, 8630, 15–5, 17–4, F6NM, F22, F60, and XM25, as well as modified varieties of these grades.

The products covered by this investigation are: (1) Cut-to-length fluid end blocks with an actual height (measured from its highest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), an actual width (measured from its widest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), and an actual length (measured from its longest point) of 11 inches (279.4 mm) to 75 inches (1,905.0 mm); and (2) strings of fluid end blocks with an actual height (measured from its highest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), an actual width (measured from its widest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), and an actual length (measured from its longest point) up to 360 inches (9,144.0 mm).

The products included in the scope of this investigation have a tensile strength of at least 70 KSI (measured in accordance with ASTM A370) and a hardness of at least 140 HBW (measured in accordance with ASTM E10).

A fluid end block may be imported in finished condition (*i.e.,* ready for incorporation into a pump fluid end assembly without further finishing operations) or unfinished condition (*i.e.,* forged but still requiring one or more finishing operations before it is ready for incorporation into a pump fluid end assembly). Such finishing operations may include: (1) Heat treating; (2) milling one or more flat surfaces; (3) contour machining to custom shapes or dimensions; (4) drilling or boring holes; (5) threading holes; and/or (6) painting, varnishing, or coating.

Excluded from the scope of this investigation are fluid end block assemblies which (1) include (a) plungers and related housings, adapters, gaskets, seals, and packing nuts, (b) valves and related seats, springs, seals, and cover nuts, and (c) a discharge flange and related seals, and (2) are otherwise ready to be mated with the ''power end'' of a hydraulic pump without the need for installation of any plunger, valve, or discharge flange components, or any other further manufacturing operations.

The products included in the scope of this investigation may enter under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7218.91.0030, 7218.99.0030, 7224.90.0015, 7224.90.0045, 7326.19.0010, 7326.90.8688, or 8413.91.9055. While these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2020–11231 Filed 5–22–20; 8:45 am]

BILLING CODE 3510–DS–P

[15] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 29615 (May 18, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–853, A–570–117]

Wood Mouldings and Millwork Products From Brazil and the People's Republic of China: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable May 26, 2020.

FOR FURTHER INFORMATION CONTACT: George Ayache (Brazil) or Brian Smith (the People's Republic of China (China)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2623 or (202) 482–1766, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 28, 2020, the Department of Commerce (Commerce) initiated less-than-fair-value (LTFV) investigations of imports of wood mouldings and millwork products (millwork products) from Brazil and China.[1] The deadline for the preliminary determinations is June 16, 2020.

[1] *See Wood Mouldings and Millwork Products from Brazil and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations,* 85 FR 6502 (February 5, 2020) (*Initiation Notice*).

Postponement of Preliminary Determinations

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 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.

On April 27, 2020, the petitioner [2] submitted a timely request that Commerce postpone the preliminary determinations in these LTFV investigations.[3] The petitioner stated that it requests postponement due to the amount of time that Commerce will need to conduct a complete and thorough analysis, including the issuance of supplemental questionnaires in both investigations.[4] The petitioner requests that Commerce fully extend the deadline for the preliminary determinations by 50 days.

For the reasons stated above, and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations by 50 days (*i.e.,* 190 days after the date on which these investigations were initiated). As a result, Commerce will issue its preliminary determinations no later than August 5, 2020. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations in these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: May 19, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–11209 Filed 5–22–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–841]

Forged Steel Fluid End Blocks From Italy: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of forged steel fluid end blocks (fluid end blocks) from Italy. The period of investigation is January 1, 2018 to December 31, 2018. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable May 26, 2020.

FOR FURTHER INFORMATION CONTACT: Nicholas Czajkowski or Ethan Talbott, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1395 or (202) 482–1030, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on January 15, 2020.[1] On February 27, 2020, Commerce postponed the preliminary determination to May 18, 2020.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are forged steel fluid end blocks from Italy. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.*

For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the revised scope in Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section

[2] The petitioner is the Coalition of American Millwork Producers.

[3] *See* Petitioner's Letters, ''Wood Mouldings and Millwork Products from Brazil: Request for Postponement of the Preliminary Determination,'' and ''Wood Mouldings and Millwork Products from the People's Republic of China: Request for Postponement of the Preliminary Determination,'' both dated April 27, 2020.

[4] *Id.*

[1] *See Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy and the People's Republic of China: Initiation of Countervailing Duty Investigations,* 85 FR 2385 (January 15, 2020) (*Initiation Notice*).

[2] *See Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy and the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigations,* 85 FR 11336 (February 27, 2020).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Forged Steel Fluid End Blocks from Italy,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice.*

[6] *See* Memorandum, ''Forged Steel Fluid End Blocks from the Federal Republic of Germany, India, Italy, and the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[7]

Commerce notes that, in making these findings, it relied, in part, on facts available and, because Commerce finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, Commerce drew an adverse inference where appropriate in selecting from among the facts otherwise available.[8] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final countervailing duty (CVD) determination in this investigation with the final determinations in the companion antidumping duty (AD) investigations of fluid end blocks from Germany, India, and Italy based on a request made by the petitioners.[9] Consequently, the final CVD determination will be issued on the same date as the final AD determinations, which are currently scheduled to be issued no later than September 29, 2020, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for Lucchini Mame Forge S.p.A (LMA) and Metalcam S.p.A (Metalcam) that are not zero, *de minimis,* or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged data for the value of their exports to the United States of subject merchandise.[10]

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate *ad valorem* (percent)
Lucchini Mame Forge S.p.A.[11]	3.39
Metalcam S.p.A.[12]	3.05
All Others	3.13
Companies Subject to AFA (non-respondent companies): Forge Mochieri S.p.A., Imer International S.p.A., Galperti Group, Mimest S.p.A., P.Technologies S.r.L	43.75

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

All interested parties will have the opportunity to submit case and rebuttal briefs on the preliminary scope determination. The deadline to submit these comments will be no later than 30 days after the publication of the preliminary determinations of the CVD investigations of fluid end blocks from Germany, India, Italy, and China in the **Federal Register**. Scope rebuttal briefs (which are limited to issues raised in the scope briefs) may be submitted no later than seven days after the deadline for the scope briefs. These deadlines apply to the AD and CVD fluid end blocks investigations, regardless of the deadlines of the preliminary determinations in the AD investigations. For all scope briefs and rebuttals thereto, parties must file identical documents simultaneously on the records of all the ongoing AD and CVD fluid end blocks investigations. No new factual information or business proprietary information may be included in either scope briefs or rebuttal scope briefs.

Case briefs or other written comments regarding non-scope matters may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[13] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

[7] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[8] *See* sections 776(a) and (b) of the Act.

[9] *See* Petitioners' Letter, ''Forged Steel Fluid End Blocks from China, Germany, India, and Italy: Petitioner's Request for Alignment of the Countervailing Duty Investigations with the Concurrent Antidumping Duty Investigations,'' dated April 1, 2020.

[10] With two respondents under examination, Commerce normally calculates (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values of exports to the United States of subject merchandise. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data were available, Commerce used the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* the All-Others' Rate Calculation Memorandum.

[11] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with LMA: Lucchini RS S.p.A., Lucchini Industries, Bicomet S.p.A. and Setrans SrL.

[12] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Metalcam: Adamello Meccanica S.r.l. and B.S. S.r.l.

[13] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until July 17, 2020, unless extended.[14]

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. Pursuant to section 705(b)(2) of the Act, if the final determination is affirmative, the ITC will make its final injury determination before the later of 120 days after the date of this preliminary determination or 45 days after Commerce's final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: May 18, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are forged steel fluid end blocks (fluid end blocks), whether in finished or unfinished form, and which are typically used in the manufacture or service of hydraulic pumps.

The term ''forged'' is an industry term used to describe the grain texture of steel resulting from the application of localized compressive force. Illustrative forging standards include, but are not limited to, American Society for Testing and Materials (ASTM) specifications A668 and A788.

For purposes of this investigation, the term ''steel'' denotes metal containing the following chemical elements, by weight: (i) Iron greater than or equal to 60 percent; (ii) nickel less than or equal to 8.5 percent; (iii) copper less than or equal to 6 percent; (iv) chromium greater than or equal to 0.4 percent, but less than or equal to 20 percent; and (v) molybdenum greater than or equal to 0.15 percent, but less than or equal to 3 percent. Illustrative steel standards include, but are not limited to, American Iron and Steel Institute (AISI) or Society of Automotive Engineers (SAE) grades 4130, 4135, 4140, 4320, 4330, 4340, 8630, 15–5, 17–4, F6NM, F22, F60, and XM25, as well as modified varieties of these grades.

The products covered by this investigation are: (1) Cut-to-length fluid end blocks with an actual height (measured from its highest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), an actual width (measured from its widest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), and an actual length (measured from its longest point) of 11 inches (279.4 mm) to 75 inches (1,905.0 mm); and (2) strings of fluid end blocks with an actual height (measured from its highest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), an actual width (measured from its widest point) of 8 inches (203.2 mm) to 40 inches (1,016.0 mm), and an actual length (measured from its longest point) up to 360 inches (9,144.0 mm).

The products included in the scope of this investigation have a tensile strength of at least 70 KSI (measured in accordance with ASTM A370) and a hardness of at least 140 HBW (measured in accordance with ASTM E10).

A fluid end block may be imported in finished condition (*i.e.,* ready for incorporation into a pump fluid end assembly without further finishing operations) or unfinished condition (*i.e.,* forged but still requiring one or more finishing operations before it is ready for incorporation into a pump fluid end assembly). Such finishing operations may include: (1) Heat treating; (2) milling one or more flat surfaces; (3) contour machining to custom shapes or dimensions; (4) drilling or boring holes; (5) threading holes; and/or (6) painting, varnishing, or coating.

Excluded from the scope of this investigation are fluid end block assemblies which (1) include (a) plungers and related housings, adapters, gaskets, seals, and packing nuts, (b) valves and related seats, springs, seals, and cover nuts, and (c) a discharge flange and related seals, and (2) are otherwise ready to be mated with the ''power end'' of a hydraulic pump without the need for installation of any plunger, valve, or discharge flange components, or any other further manufacturing operations.

The products included in the scope of this investigation may enter under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7218.91.0030, 7218.99.0030, 7224.90.0015, 7224.90.0045, 7326.19.0010, 7326.90.8688, or 8413.91.9055. While these HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2020–11230 Filed 5–22–20; 8:45 am]

BILLING CODE 3510–DS–P

[14] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 29615 (May 18, 2020).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA164]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Marine Corps Training Exercises at Cherry Point Range Complex, North Carolina

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that we have issued an incidental harassment authorization (IHA) to the U.S. Marine Corps (USMC) to incidentally harass marine mammals during training exercises at Marine Corps Air Station (MCAS) Cherry Point Range Complex, North Carolina. The USMC's activities are considered military readiness activities pursuant to the MMPA, as amended by the National Defense Authorization Act for Fiscal Year 2004 (NDAA).

DATES: The authorization is effective for a period of one year, from May 18, 2020, through May 17, 2021.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-us-*

marine-corps-training-activities-cherry-point-range-complex. In case of problems accessing these documents, please call the contact listed above.

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

The NDAA (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity.'' The activity for which incidental take of marine mammals is being requested addressed here qualifies as a military readiness activity. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On September 28, 2019, NMFS received a request from the USMC for an IHA to take marine mammals incidental to training exercises conducted at MCAS Cherry Point Range Complex in North Carolina. Following NMFS' review of the request, USMC submitted a revised application that was deemed adequate and complete on January 22, 2020. The USMC's request is for take of bottlenose dolphin (*Tursiops truncatus*) by Level A and Level B harassment. Neither the USMC nor NMFS expect serious injury or mortality to result from this activity. Therefore, an IHA is appropriate. The IHA is effective for a period of one year from the date of issuance.

NMFS previously issued incidental take authorizations to the USMC for the same activities, including three IHAs associated with training activities from 2010–2014 (75 FR 72807, November 26, 2010; 77 FR 87, January 3, 2012; and 78 FR 42042, July 15, 2013) and incidental take regulations and a subsequent Letter of Authorization issued in association with training activities conducted from 2015–2020 (80 FR 13264, March 13, 2015). Monitoring reports submitted by the USMC are available online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-us-marine-corps-training-activities-pamlico-sound-north.*

Description of Proposed Activity

The USMC conducts training to meet its statutory responsibility to organize, train, equip, and maintain combat-ready forces. The training activities include air-to-surface and surface-to-surface weapons delivery, weapons firing, and water-based training occurring at the Brant Island Bombing Target (BT–9) and Piney Island Bombing Range (BT–11) located within the MCAS Cherry Point Range Complex in Pamlico Sound, North Carolina. The USMC training activities are military readiness activities under the MMPA as defined by the NDAA (Pub. L. 108–136).

The training activities could occur at any time during the one year period of effectiveness of the IHA. Activities are typically conducted during daylight hours but may occur at night. The USMC's BT–9 and BT–11 bombing targets (See Figures 1–1 and 2–1 in the USMC application) are located in inshore waters of Pamlico Sound, North Carolina in the vicinity of the convergence of the Neuse River and Pamlico River, North Carolina. For additional detail regarding the specific geographic region, please see the notice of proposed IHA (85 FR 14886; March 16, 2020).

A detailed description of the specified activity was provided in the notice of proposed IHA (85 FR 14886; March 16, 2020). No changes have been made to the specified activity. Therefore, we provide only a brief summary here and refer the reader to the notice of proposed IHA for additional detail. The USMC training activities have the potential to affect marine mammals present within the BT–9 and BT–11 bombing targets. These activities fall into two categories based on the ordnance delivery method: (1) Surface-to-surface gunnery exercises; and (2) air-to-surface bombing exercises. Note that deployment of live ordnance is only permitted at BT–9; all munitions fired at BT–11 are inert.

Gunnery exercises are the only category of surface-to-surface activity currently conducted within BT–9 or BT–11. BT–9 is the most common target used for gunnery exercises. Surface-to-surface gunnery firing exercises typically involve Special Boat Team personnel firing munitions from a machine gun and 40 mm grenade launchers at a water-based target or throwing concussion grenades into the water (*e.g.,* not at a specific target) from a small boat.

The direct-fire gunnery exercises (*i.e.,* all targets are within the line of sight of the military personnel) at BT–9, which are usually live-fire exercises, would typically use 7.62 millimeter (mm) or .50 caliber (cal) machine guns; 40 mm grenade machine guns; or G911 concussion hand grenades.

Air-to-surface training exercises involve fixed-, rotary-, or tilt-wing aircraft firing munitions at targets on the water's surface or on land (in the case of BT–11). There are four types of air-to-surface activities conducted within BT–9 and BT–11. They include: Mine laying, bombing, gunnery, or rocket exercises.

Mine laying exercises are simulations using inert mine shapes only, meaning that mine detonations would not occur during training and no take of marine mammals is expected to occur incidental to these exercises. Pilots train to destroy or disable enemy ships or boats during bombing exercises. These exercises, conducted at BT–9 or BT–11, normally involve the use of two to four fixed-wing aircraft approaching the target area and delivering inert bombs. During air-to-surface gunnery exercises with cannons, pilots train to destroy or disable enemy ships, boats, or floating/near-surface mines from aircraft with mounted cannons equal to or larger than 20 mm and using inert munitions.

During air-to-surface gunnery exercises with machine guns, pilots train to destroy or disable enemy ships, boats, or floating/near-surface mines with aircraft using mounted machine guns. The USMC typically uses rotary-wing aircraft to conduct gunnery exercises at BT–9 or BT–11. Each gunner would expend approximately 800 rounds of 7.62 mm ammunition or 200 rounds of .50 cal ammunition in each exercise. Rocket exercises are similar to the bombing exercises but

may use live or inert munitions. Fixed- and rotary-wing aircraft crews launch rockets at surface maritime targets, day and night, to train for destroying or disabling enemy ships or boats.

There are several varieties of ordnance and net explosive weights (for live munition used at BT–9) can vary according to type. The estimated amount of ordnance to be annually expended at BT–9 and BT–11 under the activity is 1,238,614 and 1,254,684, respectively (Tables 1 and 2). All ordnance expended at BT–11 would be inert. There are five types of explosive sources used at BT–9: 2.75-in Rocket High Explosives (HE), 5-in Rocket HE, 30 mm HE, 40 mm HE, and G911 grenades. The estimated ordnance expenditure at BT–9 includes less than 2 percent high explosive rounds and less than 0.1 percent each of live rockets and grenades. The approximate quantities of ordnance listed in Tables 1 and 2 represent conservative figures, meaning that the volume of each type of inert and explosive ordnance is the largest number that personnel could expend but is not necessarily expected. Only 36 percent of expended ordnance at BT–11 is assumed to potentially strike water, as the remainder of the target is on land.

TABLE 1—TYPE OF ORDNANCE, NET EXPLOSIVE WEIGHT, AND LEVELS OF ANNUAL EXPENDITURES AT BT–9

Proposed ordnance	Net explosive weight in pounds	Proposed number of rounds
Small arms excluding .50 cal (7.62 mm)	N/A, inert	525,610
.50 cal	N/A, inert	568,515
Large arms—live (30 mm)	0.1019	3,432
Large arms—live (40 mm)	0.1199	10,420
Large arms—inert	N/A	120,405
Rockets—live (2.75-inch)	4.8	220
Rockets—live (5-inch)	15.0	68
Rockets—inert	N/A	844
Grenades—live (G911)	0.5	144
Bombs—inert	N/A	4,460
Pyrotechnics—inert	N/A	2,500

TABLE 2—TYPE OF ORDNANCE, NET EXPLOSIVE WEIGHT, AND LEVELS OF ANNUAL EXPENDITURES AT BT–11

Proposed ordnance	Net explosive weight in pounds	Proposed number of rounds
Small arms excluding .50 cal (7.62 mm)	N/A, inert	1,250,000
.50 cal	N/A, inert	425,000
Large arms—inert	N/A	240,334
Rockets—inert	N/A	6,250
Bombs and grenades—inert	N/A	22,114
Pyrotechnics—inert	N/A	8,912

Take of marine mammals is not anticipated to result from direct strike by inert ordnance or as a result of vessel strike during small boat maneuvers. The USMC has estimated that the probability of direct strike of a dolphin by inert ordnance during any given ordnance deployment is 2.61×10^{-7} or 9.4×10^{-8} at BT–9 and BT–11, respectively. These estimated probabilities result in estimated numbers of ordnance strikes of <0.5 at both target areas and, therefore, in context of the required mitigation requirements, the USMC's conclusion is that no take is reasonably anticipated to occur as a result of direct strike from inert ordnance. Please see the USMC application for further detail on the analysis. The USMC has also determined that vessel strike is not a reasonably anticipated outcome of the specified activity, due to the limited number of small boat maneuvers and low concentrations of dolphins expected to be present. No incidents of direct strike from inert ordnance or of vessel strike have been recorded during prior years of activity monitoring. NMFS concurs with these determinations, and vessel maneuvers and inert ordnance are not discussed further in this document.

Required mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting).

Comments and Responses

A notice of proposed IHA was published in the **Federal Register** on March 16, 2020 (85 FR 14886). During the 30-day public comment period, NMFS received a letter from the Marine Mammal Commission (Commission). Please see the Commission's letter for full details regarding their recommendations and rationale. The letter is available online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-us-marine-corps-training-activities-cherry-point-range-complex.* A summary of the Commission's recommendations as well as NMFS' responses is below.

Comment—The Commission recommends that NMFS address, in its **Federal Register** notices for proposed authorizations and rulemakings regarding ongoing activities for which authorizations have lapsed or new activities for which authorizations have yet to be issued but the activities have begun, whether action proponents are conducting the proposed activities and what, if any, measures are being implemented to avoid unauthorized taking until the necessary authorizations and rulemakings are issued.

Response—NMFS does not concur with the Commission and does not adopt the recommendation. We reiterate our response to the Commission's informal inquiry regarding the same topic, *i.e.,* that it is not within NMFS' authority to monitor the activities undertaken by the USMC or any other entity outside the framework of an issued incidental take authorization, nor

is it NMFS' responsibility to report to the Commission regarding the actions of the USMC or any other entity outside the framework of an issued incidental take authorization. Although the Commission notes its disagreement with our initial response regarding this topic, it does not provide any rationale for its recommendation. Responsibility for compliance with the MMPA, *e.g.,* avoiding unauthorized taking of marine mammals, rests with any entity conducting activities that may affect marine mammals. With regard to the USMC in particular, the MMPA vests the Commission with the role of recommending to Federal officials actions that it deems necessary or desirable for the protection and conservation of marine mammals. Concerns that the Commission may have regarding USMC activities undertaken outside the framework of an issued incidental take authorization should be directed to the USMC.

Comment—The Commission recommends that NMFS include in all draft and final incidental harassment authorizations the explicit requirements to cease activities if a marine mammal is injured or killed during the specified activities until NMFS reviews the circumstances involving any injury or death that is likely attributable to the activities and determines what additional measures are necessary to minimize additional injuries or deaths.

Response—NMFS concurs with the Commission's recommendation as it relates to this IHA and has added the referenced language to the Monitoring and Reporting section of this notice and the Reporting section of the issued IHA. We will continue to evaluate inclusion of this language in future IHAs and do not concur with the blanket recommendation that all IHAs include such a requirement.

Comment—The Commission recommends that NMFS refrain from issuing the authorization until it has provided the relevant mortality and Level A and B harassment zones, including those zones based on onset criteria, for consideration and public comment.

Response—NMFS has provided the modeled distances for relevant mortality and Level A and Level B harassment zones, including distances based on both onset and 50-percent criteria, where applicable. All impact distances are significantly smaller than the required 914-m safety zone. See Table 5. However, NMFS does not concur with the Commission's recommendation to refrain from issuing the IHA until this information is provided for additional public review. This modeling was performed through use of the Navy Acoustic Effects Model (NAEMO), which has been extensively and appropriately evaluated, validated, and reviewed. NAEMO modeling has been used in numerous documents subject to public review. Modeling components of NAEMO are all based on standard physics or mathematical models generally accepted in the field and based on peer-reviewed models, and numerous, rigorous robustness checks have been performed for the multiple modeling components. The Commission does not provide sufficient rationale for the recommendation to provide opportunity for additional public review, and we do not adopt it.

Comment—The Commission recommends that NMFS (1) explain why, if the constants and exponents for onset mortality and onset slight lung injury thresholds associated with U.S. Navy Phase III activities have been amended to account for lung compression with depth, they result in lower rather than higher absolute thresholds when animals occur at depths greater than 8 m, (2) specify what additional assumptions were made to explain this result, and (3) use onset mortality, onset slight lung injury, and onset gastrointestinal (GI) tract injury thresholds rather than the 50-percent thresholds to estimate both the numbers of marine mammal takes and the respective ranges to effect.

The Commission further recommends that, if NMFS does not implement the recommendation to use onset criteria as suggested by the Commission, NMFS (1) specify why it is basing its explosive thresholds for Level A harassment on onset PTS and Level B harassment on onset TTS and onset behavioral response, while the explosive thresholds for mortality and Level A harassment are based on the 50-percent criteria for mortality, slight lung injury, and GI tract injury, (2) provide scientific justification supporting that slight lung and GI tract injuries are less severe than PTS and thus the 50-percent rather than onset criteria are more appropriate for estimating Level A harassment for those types of injuries, and (3) justify why the number of estimated mortalities should be predicated on at least 50 percent rather than 1 percent of the animals dying.

Response—The first part of the Commission's comment concerns what it asserts is a counterintuitive result when modeling effects to marine mammals occurring at depths exceeding 8 m. The maximum depth in the area where USMC training activities occur is 4 m. Therefore, the Commission's comment is not relevant to this action, and it is unclear why it is presenting this concern in relation to this action. Derivation of the Navy's explosive injury equations are discussed in detail in the Navy's 2017 technical report titled *Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (Phase III),* as is the rationale for updating the associated constants and exponents and other assumptions. All of this has been subject to public review in other, more relevant regulatory processes, as well as by subject matter experts.

NMFS does not concur with the recommendation to base take estimates on the onset (*i.e.,* one percent risk) injury/mortality criteria rather than the 50-percent thresholds. Modeled range to one percent risk of mortality and injury is typically used to inform the development of mitigation zones for explosives. In all cases, the safety zone implemented by the USMC extends significantly beyond the range to one percent risk of non-auditory injury, even for a calf. Given the implementation and expected effectiveness of this mitigation, the application of the indicated threshold is appropriate for the purposes of estimating take. While the approaches for evaluating non-auditory injury and mortality are based on different types of data and analyses, and are not identical, NMFS disagrees with the Commission's assertion that the approaches are inconsistent. Both approaches consider a combination of thresholds and mitigation (where applicable) to inform take estimates and the Commission provides little rationale for the recommendation to depart from established practice in assessing potential non-auditory injury or mortality. Therefore, NMFS rejects the Commission's demands for extensive justification of established practice.

Comment—The Commission recommends that NMFS (1) encourage USMC to ensure that passive acoustic monitoring (PAM) devices are operational, (2) remind USMC that it is required to abide by and provide all of the information stipulated under section 6 of the authorization, and (3) add the requirement to report whether the animals were detected during the day or night and whether the sighting was made with the range cameras, PAM, vessel, or aircraft to the other information listed under condition 6(a)(iv) of the authorization.

Response—NMFS concurs with the Commission's recommendations and will encourage and remind USMC as suggested. The USMC expects that PAM deployments will be fully operational before the end of 2020. The recommended reporting requirement

has been added to the conditions of the IHA.

Comment—The Commission recommends that NMFS require USMC to conduct post-activity monitoring immediately after the activities cease for the day rather than the following morning.

Response—Post-activity monitoring is already occurring after each event. Range Officers in Charge (ROIC) are required to ensure the target area remains clear during live-fire operations delivered via aircraft or vessel. At the conclusion of live-fire operations, ROICs are required to conduct a final range sweep and inspection of the target area prior to the next scheduled event. During the course of the day, water targets are continuously monitored before, during, and after live-fire events by the operators and by range personnel. Any dead/injured dolphins would be found during these monitoring events and immediately reported to the appropriate personnel.

The morning range sweeps are conducted by a hired contractor in a small fixed-wing aircraft. Contracting of a post-activity sweep each day would be impractical due to variations in scheduling. Having that contractor on ''stand-by'' each day would be cost prohibitive. The requirements for a post-activity sweep would include specialized equipment (night vision, thermal cameras, etc.), as most would be done after dark. Military assets are much more capable of conducting post-activity sweeps.

Comment—The Commission recommends that NMFS increase the Level A harassment takes of bottlenose dolphins from two to average group size in the project area.

Response—NMFS does not concur with the Commission's recommendation and does not adopt it. We reiterate the explanation provided in response to the Commission's informal inquiry, *i.e.,* that while group size may be a useful, if coarse, proxy for minimum instantaneous exposure numbers in certain circumstances, the context in this circumstance is different and does not support an assumption that the average group size, which is larger than the estimated number of exposures, should be viewed as the minimum. In this case, groups of bottlenose dolphin would likely be easily identified during pre-exercise monitoring, thus triggering stand-down until clearance of the safety zone. Further, this assumption treats groups as immutable, when in reality groups split, reform, and individual members of groups maintain varying spacing throughout an activity, whether traveling, foraging, resting, etc. In addition, the thresholds for incurring PTS are not solely based on an instantaneous exposure to some level of sound (as the Level B harassment thresholds are), they are based on an accrual of energy that results from a combination of the animal's proximity to the source and the time spent there. Therefore, if one animal enters a zone and also stays for a sufficient amount of time to be exposed above the Level A harassment threshold, there is no reason to assume that the entire group does so. Finally, for this activity, all impact zones are significantly smaller than the required safety zone. It is unlikely that any Level A harassment would be incurred, much less that an entire group of dolphins would experience auditory injury.

Comment—The Commission recommends that NMFS require USMC to (1) use either direct strike or dynamic Monte Carlo models to determine the probability of ordnance strike or (2) incorporate size of the various ordnance types relative to the number of ordnance to be expended, if it retains the existing calculations of direct strike.

Response—The Commission provides no justification as to why the occurrence of direct ordnance strike should be considered reasonably likely, in context of the pre-clearance mitigation requirements, such that an analysis of the type suggested would be warranted. Regardless of the analysis presented by USMC, there is no reason to expect that direct strike by ordnance would occur, and there is no evidence that such an event has ever occurred during the many years of training activities conducted by USMC at MCAS Cherry Point. Therefore, NMFS does not concur that the recommendation is warranted and does not adopt it.

Comment—The Commission recommends that NMFS refrain from issuing renewals for any authorization and instead use its abbreviated **Federal Register** notice process. The Commission further recommends that, if NMFS continues to propose to issue renewals, NMFS should (1) stipulate that a renewal is a one-time opportunity (a) in all **Federal Register** notices requesting comments on the possibility of a renewal, (b) on its web page detailing the renewal process, and (c) in all draft and final authorizations that include a term and condition for a renewal and, (2) if NMFS refuses to stipulate a renewal being a one-time opportunity, explain why it will not do so.

Response—NMFS does not agree with the Commission and, therefore, does not adopt the Commission's recommendations. NMFS will provide a detailed explanation of its decision within 120 days, as required by section 202(d) of the MMPA.

Changes to the Proposed Authorization

As discussed in the preceding comment responses, NMFS has changed the proposed conditions of authorization by adding a requirement to cease activities if an injured or dead marine mammal is discovered and the injury or death is likely attributable to the specified activities until NMFS reviews the circumstances of the incident and determines what, if any, additional measures are necessary to ensure compliance with the IHA. In addition, NMFS has added requirements to report whether detected marine mammals were detected during the day or night and whether the detection was made with range cameras, acoustic monitoring, vessel, or aircraft.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected stocks of bottlenose dolphin. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*www.fisheries.noaa.gov/find-species*).

Table 3 lists all species with expected potential for occurrence in the project area and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality or serious injury is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats. All managed stocks in this region are assessed in NMFS' U.S. Atlantic SARs (*e.g.,* Hayes *et al.,* 2018). All values presented in Table 3 are the most recent available at the time of publication and are available in the

draft 2019 Atlantic SARs, which are available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports.*

TABLE 3—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Annual M/SI [4]
Superfamily Odontoceti (toothed whales, dolphins, and porpoises) Family Delphinidae						
Bottlenose dolphin	*Tursiops truncatus truncatus*	Northern Migratory Coastal	-/D; Y	6,639 (0.41, 4,759, 2016)	48	6.1–13.2
		Southern Migratory Coastal	-/D; Y	3,751 (0.06, 2,353, 2016)	23	0–14.3
		Northern North Carolina Estuarine (NNCES).	-/-; Y	823 (0.06, 782, 2013)	7.8	0.8–18.2
		Southern North Carolina Estuarine (SNCES).	-/-; Y	Unknown	Unknown	0.4–0.6

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future.

[2] CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate.

[3] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

[4] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a range.

Additional detailed information regarding the potentially affected stocks of bottlenose dolphin was provided in the notice of proposed IHA (85 FR 14886; March 16, 2020). No new information is available, and we do not reprint that discussion here. Please see the notice of proposed IHA for additional information.

Biologically Important Areas—LaBrecque *et al.* (2015) recognize multiple biologically important areas (BIA) for small and resident populations of bottlenose dolphins in the mid- and south Atlantic. Small and resident population BIAs are areas and times within which small and resident populations occupy a limited geographic extent, and are therefore necessarily important areas for those populations. Here, these include areas defined for the SNCES and NNCES populations and correspond with the stock boundaries described in the notice of proposed IHA.

Unusual Mortality Events (UME)—A UME is defined under the MMPA as ''a stranding that is unexpected; involves a significant die-off of any marine mammal population; and demands immediate response.'' Beginning in July 2013, elevated strandings of bottlenose dolphins were observed along the Atlantic coast from New York to Florida. The investigation was closed in 2015, with the UME ultimately being attributed to cetacean morbillivirus (though additional contributory factors are under investigation; *www.fisheries.noaa.gov/national/marine-life-distress/2013-2015-bottlenose-dolphin-unusual-mortality-event-mid-atlantic;* accessed February 24, 2020). Dolphin strandings during 2013–15 were greater than six times higher than the annual average from 2007–12, with the most strandings reported from Virginia, North Carolina, and Florida. A total of approximately 1,650 bottlenose dolphins stranded from June 2013 to March 2015. Only one offshore ecotype dolphin has been identified, meaning that over 99 percent of affected dolphins were of the coastal ecotype. Research, to include analyses of stranding samples and post-UME monitoring and modeling of surviving populations, will continue in order to better understand the impacts of the UME on the affected stocks. Notably, an earlier major UME in 1987–88 was also caused by morbillivirus, and led to the current designation of all coastal stocks of Atlantic bottlenose dolphin as depleted under the MMPA. Over 740 stranded dolphins were recovered during that event.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans).

Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 4.

TABLE 4—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range*
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.

TABLE 4—MARINE MAMMAL HEARING GROUPS—Continued

[NMFS, 2018]

Hearing group	Generalized hearing range*
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall et al. 2007) and PW pinniped (approximation).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Bottlenose dolphins are categorized as mid-frequency cetaceans.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

Sections 6, 7, and 9 of the USMC's application includes a summary of the ways that components of the specified activity may impact marine mammals and their habitat, including specific discussion of potential effects to marine mammals from noise and other stressors produced through the use of munitions in training exercises, and a summary of the results of monitoring during previous years' training exercises. We have reviewed the USMC's discussion of potential effects for accuracy and completeness in its application and refer to that information rather than repeating it here. In addition, the notice of proposed IHA provided a brief technical background on sound, on the characteristics of certain sound types, and on metrics used in the notice, as well as a brief overview of the potential effects to marine mammals associated with use of explosive munitions and the associated criteria for evaluation of these potential effects. Please see that notice for additional information.

Alternatively, NMFS has included a lengthy discussion of the potential effects of similar activities on marine mammals, including specifically from training exercises using munitions, in other **Federal Register** notices, including prior notices for the same specified activity. For full detail, we refer the reader to these notices. For previous discussion provided in context of the same specified activity, please see 79 FR 41374 (July 15, 2014). This previous discussion of potential effects remains relevant. For more recent discussion of similar effects incorporating the most current literature, please see, *e.g.,* 85 FR 5782 (January 31, 2020); 83 FR 29872 (June 26, 2018); 82 FR 61372 (December 27, 2017), or view documents available online at *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.*

The Estimated Take section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by the specified activity. The Negligible Impact Analysis and Determination section includes an analysis of how these activities will impact marine mammals and considers the content of this section, the Estimated Take section, and the Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations.

Estimated Take

This section provides an estimate of the number of incidental takes authorized through the IHA, which will inform NMFS' negligible impact determination.

Harassment is the only type of take expected to result from these activities. For this military readiness activity, the MMPA defines *harassment* as (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where the behavioral patterns are abandoned or significantly altered (Level B harassment).

Authorized takes are primarily by Level B harassment, in the form of disruption of behavioral patterns and temporary threshold shift, for individual marine mammals resulting from exposure to acoustic stressors. A small amount of Level A harassment, in the form of permanent threshold shift, is anticipated and authorized. No Level A harassment is anticipated to occur in the form of GI tract or lung injury. No serious injury or mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take from exposure to sound by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. For this IHA, the U.S. Navy employed a sophisticated model known as the Navy Acoustic Effects Model (NAEMO) for assessing the impacts of underwater sound. The USMC then incorporated these results into their application.

Acoustic Thresholds

Using the best available science, NMFS applies acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment). Thresholds have also been developed to identify the pressure levels above which animals may incur different types of tissue damage from exposure to pressure waves from explosive detonation. The thresholds and metrics used in estimating the numbers of takes that could occur, and which are authorized through the IHA, were described in detail in the notice of proposed IHA (85 FR 14886; March 16, 2020). Please see that notice for additional information.

Marine Mammal Occurrence

Additional information regarding marine mammal occurrence and available sources of data was provided in the notice of proposed IHA (85 FR 14886; March 16, 2020), and is not

repeated here. A density of 0.183 dolphins per square kilometer was used year-round (Read *et al.,* 2003). In order to apportion any predicted exposures to the potentially affected stocks, USMC calculated monthly stock-specific proportions of each stock expected to be present in the vicinity of the training exercises, based on relative stock-specific abundance and available information about stock movements and seasonal occurrence in the area. Please see Table 3–2 in the USMC application.

Exposure Modeling

NAEMO is the standard model used by the Navy to estimate the potential acoustic effects of proposed Navy training and testing activities on marine mammals and was employed by the Navy in this case to evaluate the potential effects of the USMC training activities. In NAEMO, source characteristics are integrated with environmental data (bathymetry, sound speed, bottom characterization, and wind speed) to calculate the three-dimensional sound field for each source. Marine species density information is then processed to develop a series of distribution files for each species present in the study area. Each distribution file varies the abundance and placement of the animals based on uncertainty defined in the density and published group size. The scenario details, three-dimensional sound field data, and marine species distributions are then combined in NAEMO to build virtual three-dimensional representations of each event and environment. This information is then processed by NAEMO to determine the number of marine species exposed in each scenario.

The NAEMO simulation process is run multiple times for each season to provide an average of potential effects on marine species. Each iteration reads in the species dive data and introduces variations to the marine species distributions in addition to the initial position and direction of each platform and ordnance within the designated area. Effects criteria and thresholds are then applied to quantify the predicted number of marine mammal effects. Results from each iteration are averaged to provide the number of marine species effects for a given period.

As noted previously, all ordnance expenditure at BT–11 is inert and, therefore, only ordnance use at BT–9 is considered in the effects analysis described here. The following types of ordnance were modeled for take estimation: 2.75-in Rocket HE, 5-in Rocket HE, G911 Grenades, 30 mm HE, and 40 mm HE. All explosives are modeled as detonating at a 0.1-meter depth. For further detail regarding the modeling, including details concerning environmental data sources, please the USMC application. It is important to note that the modeling results are based on assumed net explosive weights (NEW) associated with appropriate standardized impulsive ''bins,'' rather than on modeling performed using exact NEWs. For 30/40-mm rounds and 5-in rockets, this assumed NEW is greater than exact NEW (assumed and exact NEW are equal for 2.75-in rockets). Therefore, modeling results used in this analysis are conservative. Table 5 shows the modeled distances to various effects, including range to 1-percent and 50-percent criteria (where applicable), and Table 6 shows quantitative exposure modeling results.

TABLE 5—RANGE TO EFFECT MODELING RESULTS (M) [1]

Munition		Mortality		Slight lung injury		GI tract injury		PTS		TTS		Behavior
		1%	50%	1%	50%	1%	50%	SEL	Peak	SEL	Peak	
30/40-mm [2]	Adult	1	1	3	3	19	12	40-174	32	194-401	51	268-644
	Calf	3	3	7	5							
2.75-in rocket.	Adult	4	3	9	6	32	22	89	56	291	92	356
	Calf	8	6	15	12							
5-in rocket	Adult	9	7	15	12	53	34	160	95	377	165	549
	Calf	15	12	25	22							

[1] Values given are as modeled for winter. In all cases, modeled summer values are less than or equal to winter values.
[2] A range is provided for SEL-based criteria, based on assumed clusters of ordnance delivery (min = 1; max = 25).

TABLE 6—QUANTITATIVE EXPOSURE MODELING RESULTS

Species	Level B harassment		Level A harassment			Mortality
	Behavioral	TTS	PTS	GI tract injury	Lung injury	
Bottlenose dolphin	72.09	29.99	1.81	0.13	0.01	<0.01

The exposure modeling results shown in Table 6 support bottlenose dolphin take authorization numbers of 102 incidents of Level B harassment and 2 incidents of Level A harassment (PTS only). No incidents of GI tract injury or lung injury are anticipated or authorized.

Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)). The NDAA for FY 2004 amended the MMPA as it relates to military readiness activities and the incidental take authorization process such that ''least practicable impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where

applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat, as well as subsistence uses. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Mitigation for Marine Mammals and Their Habitat

NMFS and the USMC have worked to identify potential practicable and effective mitigation measures. These measures include the following:

Visual Monitoring—Range operators conduct or direct visual surveys to monitor the target areas for protected species before and after each exercise. Range operation and control personnel monitor the target area through two tower-mounted safety and surveillance cameras. In addition, when small boats are part of planned exercises and already on range, visual checks by boat crew will be performed.

The remotely operated range cameras are high-resolution cameras that allow viewers to see animals at the surface and breaking the surface (though not underwater). The camera system has night vision (IR) capabilities. Lenses on the camera system have a focal length of 40 mm to 2200 mm (56x), with view angles of 18 degrees 10′ and 13 degrees 41′ respectively. The field of view when zoomed in on the Rattan Bay targets will be 23 feet (ft) wide by 17 ft high, and on the mouth of Rattan Bay itself 87 ft wide by 66 ft high. Observers using the cameras are able to clearly identify ducks floating on waters near the target.

In the event that a marine mammal is sighted within 914 m (3,000 ft) of the BT–9 target area, personnel will declare the area as fouled and cease training exercises. Personnel will commence operations in BT–9 only after the animal has moved 914 m (3,000 ft) away from the target area.

For BT–11, in the event that a marine mammal is sighted anywhere within the confines of Rattan Bay, personnel will declare the water-based targets within Rattan Bay as fouled and cease training exercises. Personnel will commence operations in BT–11 only after the animal has moved out of Rattan Bay.

Range Sweeps—MCAS Cherry Point contracts range sweeps with commercial support aircraft each weekday morning prior to the commencement of the day's range operations. The pilot and aircrew are trained in spotting objects in the water. The primary goal of the pre-exercise sweep is to ensure that the target area is clear of unauthorized vessels or persons and protected species. Range sweeps will not occur on weekend mornings.

The sweeps are flown at 100 to 300 ft (30–90 m) above the water surface, at airspeeds between 60 to 100 knots (69 to 115 mph). The crew communicates directly with range personnel and can provide immediate notification to range operators of a fouled target area due to the presence of protected species.

Aircraft Cold Pass—Standard operating procedures for waterborne targets require the pilot to perform a visual check prior to ordnance delivery to ensure the target area is clear of unauthorized civilian boats and personnel, and protected species. This is referred to as a ''cold'' or clearing pass. Pilots requesting entry onto the BT–9 and BT–11 airspace must perform a low-altitude, cold first pass (a pass without any release of ordnance) immediately prior to ordnance delivery at the bombing targets both day and night.

Pilots will conduct the cold pass with the aircraft (helicopter or fixed-winged) flying straight and level at altitudes of 61 to 914 m (200 to 3,000 ft) over the target area. The viewing angle is approximately 15 degrees. A blind spot exists to the immediate rear of the aircraft. Based upon prevailing visibility, a pilot can see more than one mile forward upon approach. If marine mammals are not present in the target area, the Range Controller may grant ordnance delivery as conditions warrant.

Delay of Exercises—The USMC will consider an active range as fouled and not available for use if a marine mammal is present within 914 m (3,000 ft) of the target area at BT–9 or anywhere within Rattan Bay (BT–11). Therefore, if USMC personnel observe a marine mammal within 914 m (3,000 ft) of the target at BT–9 or anywhere within Rattan Bay at BT–11 during the cold pass or from range camera detection, they will delay training until the marine mammal moves beyond and on a path away from 914 m (3,000 ft) from the BT–9 target or moved out of Rattan Bay at BT–11. This mitigation applies to air-to-surface and surface-to-surface exercises day or night.

Approximately 15 percent of training activities take place during nighttime hours. During these training events, monitoring procedures mirror day time operations as range operators first visually search the target area with the high-resolution camera. Pilots will then conduct a low-altitude first cold pass and utilize night vision capabilities to visually check the target area for any surfacing mammals.

Vessel Operation—All vessels used during training operations will abide by NMFS' Southeast Regional Viewing Guidelines designed to prevent harassment to marine mammals.

Stranding Network Coordination—The USMC will coordinate with the local NMFS Stranding Coordinator to discuss any unusual marine mammal behavior and any stranding, beached live/dead, or floating marine mammals that may occur at any time during training activities or within 24 hours after completion of training.

Based on our evaluation of the required measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved

understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

The USMC will conduct the following monitoring activities:

Protected Species Observer Training—Operators of small boats, and other personnel monitoring for marine mammals from watercraft shall be required to take the U.S. Navy's Marine Species Awareness Training. Pilots conducting range sweeps shall be instructed on marine mammal observation techniques during routine Range Management Department briefings. This training would make personnel knowledgeable of marine mammals, protected species, and visual cues related to the presence of marine mammals and protected species.

Pre- and Post-Exercise Monitoring—The USMC will conduct pre-exercise monitoring the morning of an exercise and post-exercise monitoring the morning following an exercise, unless an exercise occurs on a Friday, in which case the post-exercise sweep would take place the following Monday. If the crew sights marine mammals during a range sweep, they would collect sighting data and immediately provide the information to range personnel who would take appropriate management action. Range staff would relay the sighting information to training Commanders scheduled on the range after the observation. Range personnel will enter the data into the USMC sighting database. Sighting data includes the following (collected to the best of the observer's ability): (1) Location (either an approximate location or latitude and longitude); (2) the platform that sighted the animal; (3) date and time and whether the sighting was during day or night; (4) how the animal was detected (*e.g.,* range cameras, acoustic monitoring, vessel, aircraft); (5) species; (6) number of animals; (7) the animals' direction of travel and/or behavior; and (8) weather.

Long-Term Monitoring—MCAS Cherry Point has contracted Duke University to develop and test a real-time passive acoustic monitoring system that will allow automated detection of bottlenose dolphin whistles. The work has been performed in two phases. Phase I was the development of an automated signal detector (a software program) to recognize the whistles of dolphins at BT–9 and BT–11. Phase II included the assembly and deployment of a real-time monitoring unit on one of the towers on the BT–9 range. The knowledge base gain from this effort helped direct current monitoring initiatives and activities within the MCAS Cherry Point Range Complex. The current system layout includes a pair of autonomous monitoring units at BT–9 and a single unit in Rattan Bay, BT–11. The system is not currently functional due to storm related damage and communication link issues. It may be on-line during the course of the IHA period. In that case, the Passive Acoustic Monitoring system will serve as an additional mitigation measure to reduce impacts.

Reporting—The USMC will submit a report to NMFS no later than 90 days following expiration of this IHA. This report must summarize the type and amount of training exercises conducted, all marine mammal observations made during monitoring, and if mitigation measures were implemented. The report will also address the effectiveness of the monitoring plan in detecting marine mammals.

Reporting Injured or Dead Marine Mammals

In the event that personnel involved in the training activities discover an injured or dead marine mammal, the USMC shall report the incident to the Office of Protected Resources (OPR), NMFS and to the regional stranding coordinator as soon as feasible. If the death or injury was clearly caused by the specified activity, the USMC must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHA. The USMC must not resume their activities until notified by NMFS.

The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

In order to evaluate the number of takes that might be expected to accrue

to the different potentially affected stocks, the USMC estimated the proportion of dolphins present (based on density information from Read *et al.,* 2003) that would belong to each of the potentially affected stocks. Please see Table 3–2 of the USMC's application. Based on these assumptions, we assume that the total authorized take of 102 incidents of Level B harassment and 2 incidents of Level A harassment would proportionally impact the various stocks as shown in Table 7.

TABLE 7—PROPORTIONAL EFFECTS TO STOCKS

Stock	Level B harassment		Level A harassment (PTS)
	Behavioral	TTS	
Northern migratory	38.68	15.19	1.23
Southern migratory	25.86	10.39	0.45
NNCES	6.74	3.70	0.06
SNCES	0.82	0.70	0.06

NMFS expects short-term effects such as stress during underwater detonations. However, the time scale of individual explosions is very limited, and the USMC disperses its training exercises in space and time. Consequently, repeated exposure of individual bottlenose dolphins to sounds from underwater explosions is not likely and most acoustic effects are expected to be short-term and localized. NMFS does not expect long-term consequences for populations because the BT–9 and BT–11 areas continue to support bottlenose dolphins in spite of ongoing missions. The best available data do not suggest that there is a decline in the Pamlico Sound population due to these exercises.

The probability that detonation events will overlap in time and space with marine mammals is low, particularly given the densities of marine mammals in the vicinity of BT–9 and BT–11 and the implementation of monitoring and mitigation measures. Moreover, NMFS does not expect animals to experience repeat exposures to the same sound source, as bottlenose dolphins would likely move away from the source after being exposed. In addition, NMFS expects that these isolated exposures, when received at distances associated with Level B harassment (behavioral), would cause brief startle reactions or short-term behavioral modification by the animals. These brief reactions and behavioral changes would likely cease when the exposures cease. The Level B harassment takes would likely result in dolphins being temporarily affected by bombing or gunnery exercises.

Individual bottlenose dolphins may sustain some level of temporary threshold shift (TTS) from underwater detonations. TTS can last from a few minutes to days, be of varying degree, and occur across various frequency bandwidths. Although the degree of TTS depends on the received noise levels and exposure time, studies show that TTS is reversible. NMFS expects the animals' sensitivity to recover fully in minutes to hours based on the fact that the proposed underwater detonations are small in scale and isolated. In summary, we do not expect that these levels of received impulse noise from detonations would affect annual rates of recruitment or survival. The potential for permanent hearing impairment and injury is low due to the incorporation of the required mitigation measures.

NMFS considers if the specified activities occur during and within habitat important to vital life functions to better inform the negligible impact determination. Read *et al.* (2003) concluded that dolphins rarely occur in open waters in the middle of North Carolina sounds and large estuaries, but instead are concentrated in shallow water habitats along shorelines. However, no specific areas have been identified as vital reproduction or foraging habitat.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- Impacts will be limited to Level B harassment, primarily in the form of behavioral disturbance, and only two incidents of Level A harassment in the form of PTS;
- Of the number of total takes authorized, the expected proportions that may accrue to individual affected stocks are low relative to the estimated abundances of the affected stocks;
- There will be no loss or modification of habitat and minimal, temporary impacts on prey; and
- Mitigation requirements would minimize impacts.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by these actions. Therefore, we have determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, we must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment. In 2015, NMFS developed an Environmental Assessment (EA) evaluating the impacts of authorizing take of marine mammals incidental to the USMC's training activities at MCAS Cherry Point. Following review of this analysis, NMFS determined that the activity would not have a significant effect on the quality of the human environment and issued a Finding of No Significant Impact (FONSI).

Following review of public comments received, NMFS has determined that there are no substantive changes to the evaluated action or new environmental impacts; and, therefore, the previous NEPA analysis remains valid. The 2015 EA and FONSI are posted online at *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.*

Endangered Species Act (ESA)

No marine mammal species listed under the ESA are expected to be affected by these activities. Therefore, we have determined that section 7 consultation under the ESA is not required.

Authorization

NMFS has issued an IHA to the USMC for conducting training activities in Pamlico Sound for a period of one year, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: May 19, 2020.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–11224 Filed 5–22–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA201]

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold the 136th meeting of its Scientific and Statistical Committee (SSC) to discuss fishery management issues and make recommendations for future management of fisheries in the Western Pacific Region.

DATES: The meeting will be held between June 9 and 11, 2020. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held by web conference via WebEx. Instructions for connecting to the web conference and providing oral public comments will be posted on the Council website at *www.wpcouncil.org.* For assistance with the web conference connection, contact the Council office at (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; phone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The 136th SSC meeting will be held between 11 a.m. and 5 p.m. (Hawaii Standard Time) on June 9 to 11, 2020.

An opportunity to submit public comment will be provided throughout the agendas. The order in which agenda items are addressed may change and will be announced in advance at the meeting. The meeting will run as late as necessary to complete scheduled business.

Background documents for the 136th SSC meeting will be available at *www.wpcouncil.org.* Instructions for providing oral public comments during the meeting will be posted on the Council website. This meeting will be recorded for the purposes of generating the meeting report.

Agenda for 136th Scientific and Statistical Committee Meeting

Tuesday, June 9, 2020, 11 a.m. to 5 p.m.

1. Introductions
2. Approval of Draft Agenda and Assignment of Rapporteurs
3. Status of the 135th SSC Meeting Recommendations
4. Report from Pacific Islands Fisheries Science Center Director
5. Program Planning and Research
   - A. Review of the Standardized Bycatch Reporting Methodology
   - B. Implementation of the Small-Boat Electronic Reporting App
   - C. 2019 Annual Stock Assessment Fishery Evaluation Report and Recommendations
   - 1. Archipelagic Report Overview and Highlights
   - 2. Pelagic Report Overview and Highlights
   - D. President Executive Order to Increase America's Competitiveness in the Seafood Industry and Protect our Supply Chain
   - E. Stock Definitions in the Bottomfish and Pelagic Fisheries
   - F. Public Comment
   - G. SSC Discussion and Recommendations
6. Island Fisheries
   - A. Main Hawaiian Island (MHI) *Aprion virescens* (uku) Fishery
   - 1. Report on the Western Pacific Stock Assessment Review of the MHI Uku Fishery
   - 2. Peer-Reviewed Benchmark Assessment of Uku Fishery in the MHI
   - B. American Samoa Bottomfish Fishery
   - 1. Status of the Interim Measure
   - 2. Status of the Annual Catch Limit Specification
   - 3. Development of the American Samoa Bottomfish Rebuilding Plan
   - C. Public Comment
   - D. SSC Discussion and Recommendations

Wednesday, June 10, 2020, 11 a.m.–5 p.m.

7. Protected Species
   - A. Assessing Population Level Impacts of Marine Turtle Interactions in the American Samoa Longline Fishery
   - B. Summary of Available Information on Sea Turtle Interactions in Foreign Pelagic Fisheries
   - C. Endangered Species Act (ESA) Consultations
   - 1. Status of Ongoing Consultations
   - 2. Considerations for Developing Reasonable and Prudent Measures and/or Reasonable and Prudent Alternatives
   - a. Overview
   - b. Report of the SSC Working Group
   - D. ESA and Marine Mammal Protection Act Updates
   - E. Public Comment
   - F. SSC Discussion and Recommendations
8. Pelagic Fisheries
   - A. Report on Impacts to Pelagic Fisheries from COVID–19
   - B. Council Pelagic Research Initiatives
   - C. Status Determination of Oceanic Whitetip Shark and Western and Central North Pacific Ocean Striped Marlin
   - D. Satellite Tagging of Striped Marlin in the Hawaii Longline Fishery

Thursday, June 11, 2020, 11 a.m.–5 p.m.

   - E. Southwest Fisheries Science Center Pelagic Fisheries Research of Interest
   - F. International Fisheries
   - 1. Western Central Pacific Fisheries Commission
   - a. Pre-Assessment Workshop for Bigeye and Yellowfin Tunas
   - b. Council Tropical Tunas Concept Paper
   - c. Permanent Advisory Committee
   - 2. International Workshop on Area-Based Management of Blue Water Fisheries
   - G. Public Comment
   - H. SSC Discussion and Recommendations
9. Other Business
   - A. September 2020 SSC Meetings Dates
10. Summary of SSC Recommendations to the Council

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: May 20, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–11254 Filed 5–22–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Trademark Trial and Appeal Board (TTAB) Actions

ACTION: Notice of an extension of a currently approved information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension of an existing information collection: 0651–0040 (Trademark Trial and Appeal Board (TTAB) Actions).

DATES: Written comments must be submitted on or before July 27, 2020.

ADDRESSES: You may submit comments by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0040 comment'' in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to LaToya Brown, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–4283; or by email to *LaToya.Brown@uspto.gov* with ''0651–0040 comment'' in the subject line. Additional information about this information collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by the Trademark Act of 1946, Sections 13, 14, and 20, 15 U.S.C. 1063, 1064, and 1070, respectively. Under the Trademark Act, any individual or entity that adopts a trademark or service mark to identify their goods or services may apply to federally register their mark. Section 14 of the Trademark Act allows individuals and entities to file a petition to cancel a registration of a mark, while Section 13 allows individuals and entities who believe that they would be damaged by the registration of a mark to file an opposition, or an extension of time to file an opposition, to the registration of a mark. Section 20 of the Trademark Act allows individuals and entities to file an appeal from any final decision of the Trademark Examining Attorney assigned to review an application for registration of a mark.

The USPTO administers the Trademark Act of 1946 through the regulations at 37 CFR part 2, which contains the various rules that govern the filings identified above and other submissions filed in connection with inter partes and ex parte proceedings. These petitions, notices, extensions, and additional papers are filed with the Trademark Trial and Appeal Board (TTAB), an administrative tribunal empowered to determine the right to register and subsequently determine the validity of a trademark.

The information in this collection must be submitted electronically through the Electronic System for Trademark Trials and Appeals (ESTTA). If applicants or entities wish to submit the petitions, notices, extensions, and additional papers in inter partes and ex parte cases, they must use the forms provided through ESTTA.

The responses in this information collection is a matter of public record, and is used by the public for a variety of private business purposes related to establishing and enforcing trademark rights. This information is important to the public, as both common law trademark owners and federal trademark registrants must actively protect their own rights.

II. Method of Collection

Items in this information collection may be submitted via mail, hand delivery, or electronic submission.

III. Data

OMB Number: 0651–0040.

Form Number(s):

- PTO 2188 (Petition for Cancellation)
- PTO 2120 (Notice of Opposition)
- PTO 2153 (Request for Extension of Time to File an Opposition)
- PTO 2151 (Papers in Inter Partes Cases)
- PTO 2190 (Notice of Appeal)
- PTO 2189 (Ex Parte Appeal General Filing)

Type of Review: Revision of a currently approved information collection.

Affected Public: Private sector; individuals and households.

Estimated Number of Respondents: 70,475 respondents. The USPTO estimates that the majority (95%) of respondents will be from the private sector, but that about 5% will be individuals and households.

Estimated Number of Responses: 83,100 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public from 10 to 30 minutes (0.17 to 0.50 hours), depending on the complexity of the situation, to gather the necessary information, prepare the appropriate documents, and submit the information required for this information collection.

Estimated Total Annual Respondent Burden Hours: 21,133 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: $5,798,746. The USPTO estimates that it will take a combined effort by attorneys and paraprofessional/paralegals to complete the requirements in this information collection. The hourly rate for attorneys is $400, published in the 2019 Report of the Economic Survey from the Law Practice Management Committee of the American Intellectual Property Law Association (AIPLA). The hourly rate for paraprofessional/paralegals is $145 as published in the 2018 Utilization and Compensation Survey by the National Association of Legal Assistants (NALA). After calculating the average of these rates, the USPTO estimates that the hourly rate will be $272.50. Using this hourly rate, the USPTO estimates that the total respondent cost burden for this information collection will be $5,798,746 per year.

TABLE 1—BURDEN HOUR/BURDEN COST TO RESPONDENTS

[Private sector]

Item No.	Item	Respondents	Responses (yr) (a)	Hours (b)	Burden (hrs/yr) (c) (a) × (b)	Rate ($/hr) (d)	Total cost ($/hr) (e) (c) × (d)
1	Petition to Cancel	Same as line 4	2,660	0.50	1,330	$272.50	$362,425

TABLE 1—BURDEN HOUR/BURDEN COST TO RESPONDENTS—Continued
[Private sector]

Item No.	Item	Respondents	Responses (yr) (a)	Hours (b)	Burden (hrs/yr) (c) (a) × (b)	Rate ($/hr) (d)	Total cost ($/hr) (e) (c) × (d)
2	Notice of Opposition	Same as line 4	7,030	0.50	3,515	272.50	957,838
3	Request for Extension of Time to File an Opposition.	20,425	20,425	0.17	3,472	272.50	946,120
4	Submissions in Inter Partes Cases • Answers. • Amendments to Pleadings. • Amendment of Application or Registration During Proceeding. • Motions (such as consent motions, motions to extend, motions to suspend, etc.). • Evidence. • Briefs. • Oral hearing requests. • Surrender of Registration. • Abandonment of Application. • Documents Related to Concurrent Use Applications. • Notice of Intent to Appeal a TTAB decision.	39,900	39,900	0.25	9,975	272.50	2,718,188
5	Notice of Appeal	Same as line 6	3,325	0.25	831	272.50	226,448
6	Miscellaneous Ex Parte Submissions • Appeal Briefs. • Requests to extend time to file Appeal Briefs. • Oral hearing requests.	5,605	5,605	0.17	953	272.50	259,693
Totals		65,930	78,945		20,076		5,510,712

TABLE 2—BURDEN HOUR/BURDEN COST TO RESPONDENTS
[Individual and households]

Item #	Item	Respondents	Responses (yr) (a)	Hours (b)	Burden (hrs/yr) (c) (a) × (b)	Rate ($/hr) (d)	Total cost ($/hr) (e) (c) × (d)
1	Petition to Cancel	Same as line 4	140	0.50	70	$272.50	$19,075
2	Notice of Opposition	Same as line 4	370	0.50	185	272.50	50,413
3	Request for Extension of Time to File an Opposition.	1,075	1,075	0.17	183	272.50	49,868
4	Submissions in Inter Partes Cases • Answers. • Amendments to Pleadings. • Amendment of Application or Registration During Proceeding. • Motions (such as consent motions, motions to extend, motions to suspend, etc.). • Evidence. • Briefs. • Oral hearing requests. • Surrender of Registration. • Abandonment of Application. • Documents Related to Concurrent Use Applications. • Notice of Intent to Appeal a TTAB decision.	2,100	2,100	0.25	525	272.50	143,063
5	Notice of Appeal	Same as line 6	175	0.25	44	272.50	11,990
6	Miscellaneous Ex Parte Submissions • Appeal briefs. • Requests to extend time to file appeal briefs. • Oral hearing requests.	295	295	0.17	50	272.50	13,625
Totals		3,470	4,155		1,057		288,034

Estimated Total Annual (Non-hour) Respondent Cost Burden: $6,611,590.70. There are no capital start-up, maintenance, or record keeping costs associated with this information collection. However there are fees which are listed in the table below.

TABLE 3—FILING FEES

No.	Item	Estimated annual responses	Filing fee ($)	Total non-hour cost burden ($)
1	Petition to Cancel (Paper Submission)	6	$500.00	$3,000.00
1	Petition to Cancel	2,794	400.00	1,117,600.00
2	Notice of Opposition (Paper Submission)	15	500.00	7,500.00
2	Notice of Opposition	7,385	400.00	2,954,000.00
3	Ex Parte Appeal to the Trademark Trial and Appeal Board Filed (Paper Submission).	7	300.00	2,100.00
3	Ex Parte Appeal to the Trademark Trial and Appeal Board	3,493	200.00	698,600.00
4	Request for Extension of Time to File an Opposition under § 2.102(c)(3) (Paper Submission).	5	200.00	1,000.00
4	Request for Extension of Time to File an Opposition under § 2.102(c)(3)	10,960	100.00	1,096,000.00
5	Request for Extension of Time to File an Opposition under § 2.102(c)(1)(ii) or (c)(2) (Paper Submission).	5	300.00	1,500.00
5	Request for Extension of Time to File an Opposition under § 2.102(c)(1)(ii) or (c)(2).	3,650	200.00	730,000.00
Total ..		28,320		6,611,300.00

Express or first-class mail through the United States Postal Service or hand delivery to the TTAB is only available under extraordinary circumstances. The USPTO estimates that the average first-class postage cost for a mailed submission will be $7.65 (1-ounce flat 9″x12″ envelope) and that approximately 32 submissions will be mailed to the USPTO per year.

Therefore, the total (non-hour) respondent cost burden for this information collection is estimated to be $6,611,590.70 which includes $6,611,300 in filing fees and $290.70 in postage.

IV. Request for Comments

The USPTO is soliciting public comments to:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including your address, phone number, email address, or other personal identifying information in a comment, you should be aware that the entire comment—including personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public view, USPTO cannot guarantee that it will be able to do so.

Kimberly Hardy,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2020–11248 Filed 5–22–20; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2009–0092]

Agency Information Collection Activities; Submission for OMB Review; Comment Request—Standard for the Flammability of Clothing Textiles and Standard for the Flammability of Vinyl Plastic Film

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (Commission or CPSC) announces that the Commission has submitted to the Office of Management and Budget (OMB) a request for extension of approval of a collection of information associated with the Standard for the Flammability of Clothing Textiles and the Standard for the Flammability of Vinyl Plastic Film, previously approved under OMB control number 3041–0024. On March 13, 2020, the CPSC published a notice in the **Federal Register** to announce the agency's intention to seek extension of approval of the collection of information. The Commission received no comments. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information, without change.

DATES: Written comments on this request for extension of approval of information collection requirements should be submitted by June 25, 2020.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at *http://www.regulations.gov,* under Docket No. CPSC–2009–0092.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7791, or by email to: *cgillham@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

The Commission has promulgated several standards under section 4 of the

Flammable Fabrics Act (FFA), 15 U.S.C. 1193, to prohibit the use of dangerously flammable textiles and related materials in wearing apparel. Clothing and fabrics intended for use in clothing (except children's sleepwear in sizes 0 through 14) are subject to the Standard for the Flammability of Clothing Textiles (16 CFR part 1610). Clothing made from vinyl plastic film and vinyl plastic film intended for use in clothing (except children's sleepwear in sizes 0 through 14) are subject to the Standard for the Flammability of Vinyl Plastic Film (16 CFR part 1611). These standards prescribe a test to ensure that articles of wearing apparel, and fabrics and film intended for use in wearing apparel, are not dangerously flammable because of rapid and intense burning. (Children's sleepwear and fabrics and related materials intended for use in children's sleepwear in sizes 0 through 14 are subject to other, more stringent flammability standards codified at 16 CFR parts 1615 and 1616).

Section 8 of the FFA (15 U.S.C. 1197) provides that a person who receives a guaranty in good faith that a product complies with an applicable flammability standard is not subject to criminal prosecution for a violation of the FFA resulting from the sale of any product covered by the guaranty. The CPSC uses the information compiled and maintained by firms that issue these guaranties to help protect the public from risks of injury or death associated with flammable clothing and fabrics and vinyl film intended for use in clothing. In addition, the information helps the CPSC arrange corrective actions if any products covered by a guaranty fail to comply with the applicable standard in a manner that creates a substantial risk of injury or death to the public. Section 8 of the FFA requires that a guaranty must be based on ''reasonable and representative tests.'' The testing and recordkeeping requirements by firms that issue guaranties are set forth under 16 CFR part 1610, subpart B, and 16 CFR part 1611, subpart B.

On March 13, 2020, the CPSC published a notice in the **Federal Register** (85 FR 14654), to announce the agency's intention to seek extension of approval of the collection of information. The Commission received no comments. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information, without change.

B. Burden

The CPSC estimates that approximately 1,000 firms issue guaranties. Although the CPSC's past records indicate that approximately 675 firms have filed continuing guaranties at the CPSC, staff believes additional guarantees may be issued that are not filed with the Commission. Accordingly, staff has estimated the number of firms upwards to account for those guaranties to 1,000 firms. Staff estimated the burden hours based on an estimate of the time for each firm to conduct testing, issue guaranties, and to establish and maintain associated records.

- Burden Hours per Firm—An estimated 5 hours for testing per firm, using either the test and conditioning procedures in the regulations or alternate methods. Although many firms are exempt from testing to support guaranties under 16 CFR 1610.1(d), CPSC staff does not know the proportion of those firms that are testing vs. those that are exempt. Thus, staff has included testing for all firms in the burden estimates.
- Guaranties Issued per Firm—On average, 20 new guaranties are issued per firm per year for new fabrics or garments.
- Estimated Annual Testing Time per Firm—100 hours per firm (5 hours for testing × 20 guaranties issued = 100 hours per firm).
- Estimated Annual Recordkeeping per Firm—1 hour to create, record, and enter test data into a computerized dataset; 20 minutes (= 0.3 hours) for annual review/removal of records; 20 minutes (= 0.3 hours) to respond to one CPSC records request per year; for a total of 1.6 recordkeeping hours per firm (1 hour + .3 hours + .3 hours = 1.6 hours per firm).
- Total Estimated Annual Burden Hours per Firm—100 hours estimated annual testing time per firm + 1.6 estimated annual recordkeeping hours per firm = 101.6 hours per firm.
- Total Estimated Annual Industry Burden Hours—101.6 hours per firm × 1,000 firms issuing guaranties = 101,600 industry burden hours. The total annual industry burden imposed by the flammability standards for clothing textiles and vinyl plastic film and enforcement regulations on manufacturers and importers of garments, fabrics, and related materials is estimated to be about 101,600 hours (101.6 hours per firm × 1,000 firms).
- Total Annual Industry Cost—The hourly wage for the testing and recordkeeping required by the standards is approximately $70.17 (for management, professional, and related occupations in goods-producing industries, Bureau of Labor Statistics, September, 2019), for an estimated annual cost to the industry of approximately $7.1 million (101,600 × $70.17 = $7,129,272).

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2020–11226 Filed 5–22–20; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0055]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Standard for the Flammability of Mattresses and Mattress Pads and Standard for the Flammability (Open Flame) of Mattress Sets

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (Commission or CPSC) announces that the Commission has submitted to the Office of Management and Budget (OMB) a request for extension of approval of a collection of information associated with the Standard for the Flammability of Mattresses and Mattress Pads, and the Standard for the Flammability (Open Flame) of Mattress Sets, approved previously under OMB Control No. 3041–0014. On March 13, 2020, the CPSC published a notice in the **Federal Register** to announce the agency's intention to seek extension of approval of the collection of information. The Commission received no comments. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information, without change.

DATES: Written comments on this request for extension of approval of information collection requirements should be submitted by June 25, 2020.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at *http://*

www.regulations.gov, under Docket No. CPSC–2010–0055.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7791, or by email to: *cgillham@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Approximately 344 establishments produce mattresses. The Commission promulgated the Standard for the Flammability of Mattresses and Mattress Pads, 16 CFR part 1632 (part 1632 standard), under section 4 of the Flammable Fabrics Act (FFA), 15 U.S.C. 1193, to reduce unreasonable risks of burn injuries and deaths from fires associated with mattresses and mattress pads. The part 1632 standard prescribes requirements to test whether a mattress or mattress pad will resist ignition from a smoldering cigarette. The part 1632 standard also requires manufacturers to perform prototype tests of each combination of materials and construction methods used to produce mattresses or mattress pads and to obtain acceptable results from such testing. Manufacturers and importers must maintain the records and test results specified under the standard.

In addition, the Commission promulgated the Standard for the Flammability (Open Flame) of Mattress Sets, 16 CFR part 1633 (part 1633 standard), under section 4 of the FFA to reduce deaths and injuries related to mattress fires, particularly those ignited by open-flame sources, such as lighters, candles, and matches. The part 1633 standard requires manufacturers to maintain certain records to document compliance with the standard, including maintaining records concerning prototype testing, pooling, and confirmation testing, and quality assurance procedures and any associated testing. The required records must be maintained for as long as mattress sets based on the prototype are in production and must be retained for 3 years thereafter. Although some larger manufacturers may produce mattresses based on more than 100 prototypes, most mattress manufacturers base their complying production on 15 to 20 prototypes. OMB previously approved the collection of information for 16 CFR parts 1632 and 1633, under control number 3041–0014, with an expiration date of June 30, 2020. The information collection requirements under the part 1632 standard are separate from the testing and recordkeeping requirements under the part 1633 standard.

On March 13, 2020, the CPSC published a notice in the **Federal Register** (85 FR 14655), to announce the agency's intention to seek extension of approval of the collection of information. The Commission received no comments. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information, without change.

B. Burden Hours

16 CFR 1632: Staff estimates that there are 344 respondents. It is estimated that each respondent will spend 26 hours for testing and record keeping annually for a total of 8,944 hours (344 establishments × 26 hours = 8,944). The hourly compensation for the time required for record keeping is $70.17 (for management, professional, and related occupations in goods-producing industries, Bureau of Labor Statistics, September, 2019). The annualized cost to respondents would be approximately $627,600 (8,944 hours × $70.17).

16 CFR 1633: The standard requires detailed documentation of prototype identification and testing records, model and prototype specifications, inputs used, name and location of suppliers, and confirmation of test records, if establishments choose to pool a prototype. This documentation is in addition to documentation already conducted by mattress manufacturers in their efforts to meet 16 CFR part 1632. Staff estimates that there are 344 respondents. Based on staff estimates, the recordkeeping requirements are expected to require about 4 hours and 44 minutes per establishment, per qualified prototype. Although some larger manufacturers reportedly are producing mattresses based on more than 100 prototypes, most mattress manufacturers probably base their complying production on 15 to 20 prototypes, according to an industry representative contacted by staff. Assuming that establishments qualify their production with an average of 20 different qualified prototypes, recordkeeping time is about 94.6 hours (4.73 hours × 20 prototypes) per establishment, per year. (Note that pooling among establishments or using a prototype qualification for longer than 1 year will reduce this estimate). This translates to an estimated annual recordkeeping time cost to all mattress producers of 32,542 hours (94.6 hours × 344 establishments). The hourly compensation for the time required for record keeping is $70.17 (for management, professional, and related occupations in goods-producing industries, Bureau of Labor Statistics, September, 2019). The annual total estimated costs for recordkeeping are approximately $2,283,500 (32,542 hours × $70.17).

The total estimated annual cost to the 344 establishments for the burden hours associated with both 16 CFR part 1632 and 16 CFR part 1633 is approximately $2.8 million.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2020–11225 Filed 5–22–20; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

Extension of the Application Deadline Date; Applications for New Awards; Magnet Schools Assistance Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: On March 10, 2020, we published in the **Federal Register** (85 FR 13878) a notice inviting applications (NIA) for the fiscal year (FY) 2020 Magnet Schools Assistance Program competition, Catalog of Federal Domestic Assistance (CFDA) number 84.165A. The NIA established a deadline date of May 26, 2020 for the transmittal of applications. This notice extends the deadline date for transmittal of applications until June 30, 2020 and extends the date of intergovernmental review until August 28, 2020. It also extends the date for proof of approval of all modifications to court-ordered desegregation plans to July 28, 2020.

DATES:

Deadline for Transmittal of Applications: June 30, 2020.

Deadline for Intergovernmental Review: August 28, 2020.

FOR FURTHER INFORMATION CONTACT: Gillian Cohen-Boyer Telephone: 202–401–1259. Email: *MSAP.team@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On March 10, 2020 we published the NIA [1] for the FY 2020 Magnet Schools Assistance Program competition in the **Federal Register** (85 FR 13878). We are

[1] *https://www.federalregister.gov/documents/2020/03/10/2020-04885/applications-for-new-awards-magnet-schools-assistance-program.*

extending the deadline date for transmittal of applications in order to allow applicants more time to prepare and submit their applications.

Additionally, the NIA indicated that proof of approval of all modifications to court-ordered desegregation plans could be submitted to the Department following the application due date. The new deadline for proof of modifications is July 28, 2020.

Please also note that *Grants.gov* has relaxed the requirement for applicants to have an active registration in the System for Award Management (SAM) in order to apply for funding during the COVID–19 pandemic. An applicant that does not have an active SAM registration can still register with *Grants.gov*, but must contact the *Grants.gov* Support Desk, toll-free, at 1–800–518–4726, in order to take advantage of this flexibility.

Note: While applications must be transmitted in the FY 2020 year, which ends on September 30, 2020, any awards granted will be made only after all applicable reviews and certifications have been completed. All other information in the NIA for this competition remains the same, except for the deadline for the transmittal of applications, intergovernmental review, and proof of modified desegregation plans, if court ordered.

Program Authority: 20 U.S.C. 7231–7231j.

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register.** You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2020–11212 Filed 5–22–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, June 10, 2020; 6:00 p.m.

ADDRESSES: DOE Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37831.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Alternate Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM), P.O. Box 2001, EM–942, Oak Ridge, TN 37831. Phone (865) 241–3315; Fax (865) 241–6932; E-Mail: *Melyssa.Noe@orem.doe.gov.* Or visit the website at *https://www.energy.gov/orem/services/community-engagement/oak-ridge-site-specific-advisory-board.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- Welcome and Announcements
- Comments from the Deputy Designated Federal Officer (DDFO)
- Comments from the DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency Liaisons
- Presentation: East Tennessee Technology Park Main Plant Groundwater Remedy Selections
- Public Comment Period
- Motions/Approval of February 12, 2020 Meeting Minutes
- Status of Outstanding Recommendations
- Alternate DDFO Report
- Committee Reports
- Adjourn

Public Participation: The meeting is open to the public. The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Melyssa P. Noe at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Melyssa P. Noe at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Melyssa P. Noe at the address and phone number listed above. Minutes will also be available at the following website: *https://www.energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings.*

Signed in Washington, DC, on May 19, 2020.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2020–11189 Filed 5–22–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Availability of Draft Waste Incidental to Reprocessing Evaluation for Vitrified Low Activity Waste for Onsite Disposal at the Hanford Site, Washington

AGENCY: U.S. Department of Energy.

ACTION: Notice of availability.

SUMMARY: The U.S. Department of Energy (DOE) announces the availability of the *Draft Waste Incidental to Reprocessing Evaluation for Vitrified Low Activity Waste Disposed Onsite at the Hanford Site, Washington* (Draft WIR Evaluation). The Draft WIR Evaluation demonstrates that the vitrified low activity waste (VLAW), from which long-lived insoluble

radionuclides and cesium has been or will be removed before vitrification at the Low Activity Waste Vitrification Facility and subsequent disposal onsite at the Integrated Disposal Facility (IDF), is waste that is incidental to reprocessing of spent nuclear fuel, is not high-level radioactive waste (HLW), and may be managed (disposed of onsite) as mixed low-level radioactive waste (MLLW). DOE prepared the Draft WIR Evaluation pursuant to DOE Order 435.1, *Radioactive Waste Management,* and the criteria in DOE Manual 435.1–1, *Radioactive Waste Management Manual.* DOE is consulting with the Nuclear Regulatory Commission (NRC) before finalizing this evaluation. DOE is also making the Draft WIR Evaluation available for comments from States, Tribal Nations, stakeholders and the public. After consultation with NRC, carefully considering comments received, and performing any necessary revisions of analyses and technical documents, DOE will prepare a final WIR evaluation. Based on the final WIR Evaluation, DOE may determine, in a future WIR Determination, whether the VLAW is incidental to reprocessing, is non-HLW, and may be managed (disposed of onsite at the IDF) as MLLW.

DATES: DOE invites comments on the Draft WIR Evaluation during a 120-day comment period beginning May 26, 2020, and ending on September 26, 2020. DOE will consider all comments received by September 26, 2020. DOE will also consider comments received after that date to the extent practical. A public webex meeting on the Draft WIR Evaluation will be held on June 10, 2020. Before the meeting, DOE will issue stakeholder and media notifications and publish an additional notice in the local newspaper providing the date, time, and webex information of the public meeting. Information on the public meeting date and webex information also will be available before the meeting at the website listed in *https://www.hanford.gov/pageAction.cfm/calendar.*

ADDRESSES: The Draft WIR Evaluation is available on the internet at *https://www.hanford.gov/page.cfm/VitrifiedLowActivityWaste* and will be publicly available for review at the following locations once these facilities re-open following resolution of public health concerns associated with the coronavirus: U.S. DOE Public Reading Room, 1000 Independence Avenue SW, Washington, DC 20585, phone: (202) 586–5955, or fax: (202) 586–0575; and U.S. DOE Public Reading Room located at 2770 University Drive, Consolidated Information Center (CIC), Room 101L, Richland, WA 99354, phone: (509) 372–7303. Written comments should be submitted to: Ms. Jennifer Colborn, U.S. Department of Energy, Office of River Protection, 2440 Stevens Drive, Richland, WA 99354. Alternatively, comments may also be filed electronically by email to: *VLAWDraftWIR@rl.gov.*

FOR FURTHER INFORMATION CONTACT: For further information about this Draft WIR Evaluation, please contact Ms. DaBrisha Smith by mail at U.S. Department of Energy, Office of River Protection, 2440 Stevens Drive, Richland, WA 99354, by phone at 509–376–4306, or by email at *dabrisha_m_smith@orp.doe.gov*.

SUPPLEMENTARY INFORMATION: The Hanford site currently stores radioactive waste in underground storage tanks. The waste was generated, in part, by the prior reprocessing of spent nuclear fuel during the Manhattan Project and Cold War eras, for defense-related nuclear research, development and weapons-production activities. Hanford's current mission focuses on the cleanup and remediation of those wastes and ultimate closure of the site. As part of that mission, DOE is retrieving waste from the Hanford tanks, and has decided to separate the tank waste into a low-activity waste stream and a high-level radioactive waste stream.

The Draft WIR Evaluation concerns approximately 23.5 million gallons (Mgal) of separated, pretreated and vitrified low activity waste (VLAW), from some of the underground tanks at the Hanford Site in the State of Washington. For the low-activity tank waste at issue in this Draft WIR Evaluation, DOE plans to use the direct-feed low-activity waste (DFLAW) approach. The DFLAW approach is a two-phased approach that will separate and pretreat supernate (essentially the upper-most layer of tank waste that contains low concentrations of long-lived radionuclides) from the Hanford tanks, to generate a low-activity waste (LAW) stream. For Phase 1, the DFLAW approach will begin with in-tank settling, separation (removal by decanting) of the supernate (including dissolved saltcake and interstitial liquids), filtration, and then cesium removal using ion-exchange columns in a tank-side cesium removal (TSCR) unit. For Phase 2, DOE will treat additional supernate (including dissolved saltcake and interstitial liquids) using the same processes with either an additional TSCR unit or a filtration and cesium removal facility. The DFLAW approach is expected to remove more than 99% of the cesium and remove other key radionuclides.

After pretreatment, the LAW stream will be sent by transfer lines to the Low Activity Waste Vitrification Facility at the Hanford Site, where it will be vitrified (immobilized in borosilicate glass). Approximately 13,500 containers of vitrified waste will be produced using the DFLAW approach. DOE plans to dispose of the pretreated and vitrified LAW in the onsite IDF, a land disposal facility at the Hanford Site for MLLW.

DOE Manual 435.1–1, which accompanies DOE Order 435.1, *Radioactive Waste Management,* provides for a rigorous evaluation process that DOE uses to determine whether or not certain waste from the reprocessing of spent nuclear fuel is incidental to reprocessing, is not HLW and may be managed as LLW. This process, in relevant part, requires demonstrating that:

(1) The wastes have been processed, or will be processed, to remove key radionuclides to the maximum extent that is technically and economically practical;

(2) The waste will be managed to meet safety requirements comparable to the performance objectives set out in 10 Code of Federal Regulations (CFR) Part 61, Subpart C, *Performance Objectives*; and

(3) The waste will be managed, pursuant to DOE authority under the *Atomic Energy Act of 1954,* as amended, and in accordance with the provisions of Chapter IV of DOE Manual 435.1–1, provided the waste will be incorporated in a solid physical form at a concentration that does not exceed the applicable concentration limits for Class C LLW as set out in 10 CFR 61.55, *Waste Classification.*

The Draft WIR Evaluation documents and demonstrates that the disposal of VLAW at IDF will meet the above-referenced criteria in DOE Manual 435.1–1. DOE is predicating this Draft WIR Evaluation on extensive analysis and scientific rationale, using a risk-informed approach, including analyses presented in the ''*Performance Assessment for the Integrated Disposal Facility, Hanford Site, Washington*'' (IDF PA). Specifically, this Draft WIR Evaluation shows that key radionuclides (those radionuclides which contribute most significantly to radiological dose to workers, the public, and the environment as well as radionuclides listed in 10 CFR 61.55) have been or will have been removed to the maximum extent technically and economically practical. Based on the analyses in the IDF PA, this Draft WIR Evaluation also projects that potential

doses to a hypothetical member of the public and hypothetical inadvertent intruder for 1,000 years (and beyond) after IDF closure will be well below the doses specified in the performance objectives and performance measures for LLW. In addition, the analyses demonstrate that there is reasonable expectation that safety requirements comparable to the NRC performance objectives at 10 CFR part 61, subpart C will have been met. As also shown in the Draft WIR Evaluation, the VLAW will have been incorporated into a solid form that does not exceed concentration limits for Class C LLW.

DOE is consulting with NRC on this Draft WIR Evaluation and also making the Draft WIR Evaluation available for comments from the States, Tribal Nations, stakeholders and the public. After consultation with NRC, carefully considering comments received, and performing any necessary revisions of analyses and technical documents, DOE plans to issue a final WIR Evaluation. Based on the final WIR Evaluation, DOE may determine, in a future WIR Determination, whether the VLAW is incidental to reprocessing, is non-HLW, and may be managed (disposed of onsite at IDF) as LLW.

Signing Authority

This document of the Department of Energy was signed on May 15, 2020, by Elizabeth A. Connell, Associate Principal Deputy Assistant Secretary for Regulatory and Policy Affairs, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 20, 2020.

Treena V. Garrett,

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

[FR Doc. 2020–11192 Filed 5–22–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Case Number 2019–004; EERE–2019–BT–WAV–0009]

Energy Conservation Program: Decision and Order Granting a Waiver to GD Midea Air Conditioning Equipment Co. LTD. From the Department of Energy Room Air Conditioner Test Procedure

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

ACTION: Notice of decision and order.

SUMMARY: The U.S. Department of Energy (''DOE'') gives notice of a Decision and Order (Case Number 2019–004) that grants to GD Midea Air Conditioning Equipment Co. LTD. (''Midea'') a waiver from specified portions of the DOE test procedure for determining the energy efficiency of specified room air conditioner basic models. Under the Decision and Order, Midea is required to test and rate the specified basic models of its room air conditioners in accordance with the alternate test procedure specified in the Decision and Order.

DATES: The Decision and Order is effective on May 26, 2020. The Decision and Order will terminate upon the compliance date of any future amendment to the test procedure for room air conditioners located at title 10 of the Code of Federal Regulations (''CFR''), part 430, subpart B, appendix F that addresses the issues presented in this waiver. At that time, Midea must use the relevant test procedure for this product for any testing to demonstrate compliance with the applicable standards, and any representations of energy use.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *AS_Waiver_Requests@ee.doe.gov.*

Ms. Sarah Butler, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 586–1777. Email: *Sarah.Butler@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(f)(2)), DOE gives notice of the issuance of its Decision and Order as set forth below. The Decision and Order grants Midea a waiver from the applicable test procedure at 10 CFR part 430, subpart B, appendix F for specified basic models of room air conditioners and provides that Midea must test and rate such room air conditioners using the alternate test procedure specified in the Decision and Order. Midea's representations concerning the energy efficiency of the specified basic models must be based on testing according to the provisions and restrictions in the alternate test procedure set forth in the Decision and Order, and the representations must fairly disclose the test results. Distributors, retailers, and private labelers also must comply with the same requirements when making representations regarding the energy efficiency of these products. (42 U.S.C. 6293(c))

Manufacturers not currently distributing room air conditioners in commerce in the United States that employ a technology or characteristic that results in the same need for a waiver from the applicable test procedure must petition for and be granted a waiver prior to the distribution in commerce of those products in the United States. 10 CFR 430.27(j). Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 430.27.

Signing Authority

This document of the Department of Energy was signed on May 8, 2020, by Alexander N. Fitzsimmons, Deputy Assistant Secretary for Energy Efficiency, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 20, 2020.

Treena V. Garrett,

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

Case #2019–004: Decision and Order

I. Background and Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes the U.S. Department of Energy (''DOE'') to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency for certain types of consumer products. These products include room air conditioners, the focus of this document. (42 U.S.C. 6292(a)(2))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making other representations about the efficiency of that product (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the product complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for room air conditioners is contained at 10 CFR part 430, subpart B, appendix F (''Appendix F'').

Any interested person may submit a petition for waiver from DOE's test procedure requirements. 10 CFR 430.27(a)(1). DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(f)(2). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *Id.*

II. Midea's Petition for Waiver: Assertions and Determinations

By letter dated March 25, 2019, Midea America, Inc. filed a petition for waiver and a petition for interim waiver from the DOE room air conditioner test procedure set forth in Appendix F on behalf of GD Midea Air Conditioning Equipment Co. LTD. (''Midea''). According to Midea, the current DOE test procedure for room air conditioners, which provides for testing at full-load performance only (*i.e.,* at a single indoor and high-temperature outdoor operating condition), does not take into account the benefits of variable-speed room air conditioners, with their part-load performance characteristics, and misrepresents their actual energy consumption.[3] Midea noted that Appendix F requires testing room air conditioners only with full-load performance, in part, as a result of DOE having previously concluded that widespread use of part-load technology in room air conditioners was not likely to be stimulated by the development of a part-load metric. 76 FR 972, 1016 (January 6, 2011).

Midea stated that, to operate in the most efficient possible manner, variable-speed room air conditioners adjust the compressor rotation speed based upon demand to maintain the desired temperature in the home without turning the compressor and blower motor(s) on and off. Midea claimed that, compared to room air conditioners without variable-speed compressors, this ability to adjust to conditions results in both significant energy savings and faster cooling. Midea asserted that, because the DOE test procedure does not account for part-load characteristics, the results of the test procedure are not representative of the benefits of variable-speed room air conditioners.

Midea requested testing the basic models specified in its petition according to the test procedure for variable-speed room air conditioners prescribed by DOE in an interim waiver granted to LG Electronics USA, Inc. (''LG''). That waiver required testing variable-speed room air conditioners according to the test procedure in Appendix F, except that, instead of a single rating condition, testing of a variable-speed room air conditioner occurred at four rating conditions. 83 FR 30717 (''LG Notice of Petition for Waiver''). On May 8, 2019, DOE issued a Decision and Order to LG that supersedes the interim waiver (''LG Decision and Order'') and includes additional specifications from DOE. 84 FR 20111.

On December 13, 2019, DOE published a notice that announced its receipt of the petition for waiver and granted Midea an interim waiver. 84 FR 68159 (''Midea Notice of Petition for Waiver''). In the Midea Notice of Petition for Waiver, DOE presented Midea's claim that the results of the test procedure in Appendix F are not representative of the actual energy consumption of the variable-speed room air conditioners specified in Midea's petition for wavier and the requested alternate test procedure described above.

In the Midea Notice of Petition for Wavier, DOE reviewed the alternate procedure suggested by Midea in the March 25, 2019 letter, along with the additional performance modeling and analysis performed by DOE conducted in evaluation of the LG Interim Waiver.[4] Based on this review, DOE determined that the alternate test procedure specified in the LG Decision and Order (which is based on the alternate test procedure recommended by Midea) would allow for a more accurate measurement of efficiency of the specified basic models of variable-speed

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

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

[3] The specific basic models for which the petition applies are Midea brand room air conditioner basic models MAW08V1DWT, MAW08V1QWT, MAW10V1DWT, MAW10V1QWT, MAW12V1DWT, and MAW12V1QWT. These basic model names were provided by Midea in its March 25, 2019 petition.

[4] The modeling and analysis conducted in evaluation of the LG Interim Waiver is available at: *https://www.regulations.gov/docket?D=EERE-2018-BT-WAV-0006.*

room air conditioners, while alleviating problems with testing and efficiency representations of the basic models specified by Midea.

Under the alternate test procedure prescribed in the Interim Waiver Order issued to Midea, the test unit's weighted-average combined energy efficiency ratio (''CEER'') metric is calculated from the individual CEER values obtained at four rating conditions. The room air conditioner weighting factors for each rating temperature are based on the fractional temperature bin hours provided in Table 19 of DOE's test procedure for central air conditioners (10 CFR part 430, subpart B, appendix M (''Appendix M'')). This weighted-average value is adjusted to normalize it against the expected weighted-average CEER under the same four rating conditions of a theoretical comparable single-speed room air conditioner. This theoretical air conditioner is one that at the 95 degree Fahrenheit (°F) test condition performs the same as the variable-speed test unit, but with differing performance at the other rating conditions. The differing performance is due to optimization of the refrigeration system efficiency through compressor speed adjustments to eliminate cycling losses and better match the cooling load. To determine the test unit's final rated CEER value, the measured performance of the variable-speed room air conditioner when tested at the 95 °F rating condition according to Appendix F is multiplied by a performance adjustment factor. The factor reflects the average performance improvement due to the variable-speed compressor across multiple rating conditions.

Additionally, DOE included the following specifications in the alternate test procedure. First, DOE provided compressor speed definitions to harmonize the alternate test procedure with industry standards. Second, because fixed compressor speeds are critical to the repeatability of the alternate test procedure, the Interim Waiver Order requires that Midea provide all necessary instructions to maintain the compressor speeds required for each test condition.[5] This includes the compressor frequency set points at each test condition, instructions necessary to maintain the compressor speeds required for each test condition, and the control settings used for the variable components.[6] Third, DOE modified the annual energy consumption and corresponding cost calculations by specifying the correct method to incorporate electrical power input data in 10 CFR 430.23(f) to ensure EnergyGuide labels present consistent and appropriate information to consumers. Fourth, DOE adjusted the CEER calculations in Appendix F for clarity. Fifth, as discussed in the LG Decision and Order, DOE did not allow the option provided in the LG Interim Waiver and suggested by the Midea's petition for waiver to test the specified variable-speed room air conditioners using the air-enthalpy method. There were two reasons for this. One was that, compared to the calorimeter method, the air-enthalpy method's measured results differ; and two, there is heat transfer within and through the unit chassis that the calorimeter method captures but the air-enthalpy method does not. 84 FR 20111, 20117. Sixth, to ensure that the low and intermediate compressor speeds result in representative cooling capacities under reduced loads, the low compressor speed definition required that the test unit's measured cooling capacity at the 82 °F rating condition be no less than 47 percent and no greater than 57 percent of the measured cooling capacity when operating at the full compressor speed at the 95 °F rating condition.[7] [8]

In the Midea Notice of Petition for Waiver, DOE also solicited comments from interested parties on all aspects of the petition and the specified alternate test procedure. *Id.* DOE received one substantive comment, jointly submitted by Pacific Gas and Electric Company (''PG&E''), San Diego Gas and Electric (''SDG&E''), and Southern California Edison (''SCE'') (hereinafter the ''California IOUs''). On January 27, 2020, Midea subsequently submitted a rebuttal statement (pursuant to 10 CFR 430.27(d)(3)) in response to this comment.[9]

The California IOUs recommended that DOE deny Midea's petition for waiver and rescind the interim waiver. They urged DOE to address the issues raised in the petition for waiver through a room air conditioner test procedure rulemaking rather than by granting Midea a test procedure waiver. The California IOUs contend that the waiver review process does not allow stakeholders sufficient opportunity to consider, evaluate, and review the proposed significant changes to the room air conditioner test procedure in the alternate test procedure specified by DOE in the Midea Notice of Interim Waiver. The California IOUs added that the number of amendments to the alternate test procedure granted to LG in the LG Decision and Order proposed by DOE for the Midea Notice of Interim Waiver show that more extensive discussion of the issues raised in Midea's petition for waiver are required. (California IOUs, No. 5 at p. 1)

In its rebuttal statement, Midea stated that it is appropriate for DOE to grant a test procedure waiver and then subsequently consider similar changes to the test procedure in a rulemaking. Midea asserted that the purpose of the

[5] Docket No. EERE–2019–BT–WAV–0009–0003

[6] Pursuant to 10 CFR 1004.11, if the manufacturer submits information that it believes to be confidential and exempt by law from public disclosure, the manufacturer should submit via email, postal mail, or hand delivery two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

[7] The compressor speed nomenclature and definition clarifications are derived from to the Air-Conditioning, Heating, and Refrigeration Institute (''AHRI'') Standard 210/240–2017, ''Performance Rating of Unitary Air-conditioning & Air-source Heat Pump Equipment,'' and adapted to be applicable to room ACs. Equation 11.60 in AHRI Standard 210/240–2017 relates the building load to an AC's full-load cooling capacity and outdoor temperature, and assumes full-load operation at 98 °F outdoor temperature. To provide consistency with the full-load test condition for room ACs, DOE adjusted (*i.e.,* normalized) this equation to reflect full-load operation at 95 °F outdoor temperature. Using the adjusted equation suggests that the representative cooling load at the 82 °F rating condition would be 57 percent of the full-load cooling capacity for room air conditioners. DOE recognizes that variable-speed room ACs may use compressors that vary their speed in discrete steps and may not be able to operate at a speed that provides exactly 57 percent cooling capacity. Therefore, the defined cooling capacity associated with the low compressor speed is presented as a 10-percent range rather than a single value. 57 percent cooling load is the upper bound of the 10-percent range defining the cooling capacity associated with the lower compressor speed (*i.e.,* the range is defined as 47 to 57 percent). This ensures that the variable-speed room AC is capable of matching the representative cooling load (57 percent of the maximum) at the 82 °F rating condition, while providing the performance benefits associated with variable-speed operation. In contrast, if the 10-percent range were to be defined as, for example, 52 to 62 percent (with 57 percent as the midpoint), a variable-speed room AC could be tested at 60 percent, for example, without demonstrating the capability to maintain variable-speed performance down to 57 percent.

[8] Two aspects of the cooling load range are important: (1) The cooling load at 82 °F should be no more than 57 percent of the full-load cooling capacity according to AHRI Standard 210/240–2017, and (2) a 10-percent tolerance on the measured cooling capacity is necessary because some variable-speed room ACs adjust speed in discrete steps, so it may not be possible to achieve the 57-percent condition exactly. To provide for the 10-percent tolerance, DOE requires the 57-percent cooling load condition as the upper end of the range and allows down to a 47-percent cooling load. This ensures the cooling load never exceeds 57 percent.

[9] DOE also received a non-substantive comment submitted anonymously. Comments and the rebuttal statement can be accessed at: *https://www.regulations.gov/docket?D=EERE-2019-BT-WAV-0009*.

DOE test procedure waiver process is to grant manufacturers relief more quickly than the rulemaking process, and then to ensure that the same test procedure changes are considered more generally through the rulemaking process. Midea further commented that 10 CFR 430.27(j) provides a framework for considering waivers regarding the same technology addressed in a prior waiver, as in this case with the LG Decision and Order. Additionally, Midea stated that the most recent version of the Association of Home Appliance Manufacturers (''AHAM'') room air conditioner test procedure, AHAM RAC–1–2019, incorporates the same approach to testing variable-speed room air conditioners as DOE specifies in the alternate test procedure, further supporting Midea's petition for waiver. (Midea, No. 7 at pp. 4–5)

DOE generally agrees with Midea's response, and notes that, pursuant to 10 CFR 430.27(h), DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model(s) for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy or water consumption characteristics as to provide materially inaccurate comparative data. As discussed, DOE has made such a determination. Following the grant of any waiver, DOE must publish a notice of proposed rulemaking in the **Federal Register** to amend its regulations so as to eliminate the need for continuation of the waiver and that, as soon thereafter as practicable, DOE must publish a final rule in the **Federal Register**. 10 CFR 430.27(l). Therefore, variable-speed room air conditioner performance will be addressed in the next test procedure rulemaking. Pursuant to 10 CFR 430.27(h)(2), waivers addressed by DOE in a test procedure rulemaking terminate on the effective date of the final rule.

The California IOUs also questioned the use of weighting factors for the four test conditions in the alternate test procedure based on factors in the central air conditioner test procedure in Appendix M. They stated that DOE has not sufficiently justified how room air conditioner operation is similar enough to that of central air conditioners to justify use of the same weighting schema. (California IOUs, No. 5 at p. 2)

As the California IOUs noted, the test condition weighting factors specified in the alternate test procedure are those in Appendix M, the test procedure for central air conditioners and heat pumps. The Appendix M values are based on Air-Conditioning, Heating, and Refrigeration Institute (''AHRI'') Standard 210/240–2008 ''Performance Rating of Unitary Air-conditioning & Air-source Heat Pump Equipment'' (''AHRI 210/240–2008''), which provides test condition outdoor temperature weighting factors based on building loads, not specifically for central air conditioners. Although room air conditioners may be used under different conditions than central air conditioners, the building load calculation and weighting factor table provided in AHRI 210/240–2008 specifically account for different outdoor temperatures and resulting building loads, and therefore are equally suitable for room air conditioners and central air conditioners. AHRI 210/240–2008 is an industry recognized consensus standard. In addition, DOE adjusted this weighting to eliminate lower temperatures at which room air conditioners would not typically be used.

The California IOUs also stated that the sources for the two modeling adjustment factors used to determine the increased capacity and reduced electrical power input of a comparable theoretical single-speed room air conditioner performance at lower temperature outdoor test conditions are unclear. As a result, the California IOUs claimed that DOE had not demonstrated that a CEER value for a variable-speed room air conditioner determined using the alternate test procedure would be comparable to a CEER for a single-speed room air conditioner. (California IOUs, No. 5 at p. 2)

In response to the California IOUs comments, Midea stated that DOE has already addressed the California IOUs' concerns about the modeling adjustment factors in the LG Decision and Order. Midea added that these arguments do not demonstrate why DOE should not grant Midea a waiver. (Midea, No. 7 at pp. 2–3)

The capacity and power modeling adjustment factors in section 5.4.1 of the alternate test procedure are the same as those in the alternate test procedure granted to LG in the LG Decision and Order. DOE confirmed these adjustment factors for that alternate test procedure because they aligned with DOE test data and modeling, and is including them in the alternate test procedure for Midea for the same reasons. Therefore, DOE is confident that the capacity and power modeling adjustment factor values suggested by LG to estimate performance of a theoretical comparable single-speed room air conditioner at reduced outdoor temperature conditions are appropriate and representative of expected performance.

With respect to the performance adjustment factor calculated in section 5.4.8 of the alternate test procedure, DOE requires the use of this factor to ensure that variable-speed room air conditioner CEER values determined using the alternate test procedure are comparable to single-speed room air conditioner values determined in accordance with the current single-speed test method. The performance adjustment factor is calculated as the percentage improvement of the weighted-average CEER value of the variable-speed room air conditioner compared to the weighted-average CEER value of a theoretical comparable single-speed room air conditioner under the four defined test conditions. After calculating the performance adjustment factor, it is multiplied by the CEER value of the variable-speed unit when tested at the 95 °F test condition according to Appendix F, resulting in the final CEER metric for the variable-speed room air conditioner. By using this approach, all CEER values are based on room air conditioner performance at the 95 °F test condition, with variable-speed room air conditioners appropriately receiving credit for their higher efficiency compared to single-speed units at other operating conditions.

For the reasons explained here and in the Midea Notice of Petition for Waiver, absent a waiver, the basic models identified by Midea in its petition cannot be tested and rated for energy consumption on a basis representative of their true energy consumption characteristics. DOE has reviewed the recommended procedure suggested by Midea and concludes that, as modified in the Interim Waiver Order, it will allow for the accurate measurement of the energy use of the product, while alleviating the testing problems associated with Midea's implementation of DOE's applicable room air conditioner test procedure for the specified basic models.

Thus, DOE is requiring that Midea test and rate specified room air conditioner basic models according to the alternate test procedure specified in this Decision and Order, which is identical to the procedure provided in the interim waiver.

This Decision and Order is applicable only to the basic models specified and does not extend to any other basic models. DOE evaluates and grants waivers for only those basic models specifically set out in the petition, not future models that may be manufactured

by the petitioner. Midea may request that DOE extend the scope of this waiver to include additional basic models that employ the same technology as those specified in this waiver. 10 CFR 430.27(g). Midea may also submit another petition for waiver from the test procedure for additional basic models that employ a different technology and meet the criteria for test procedure waivers. 10 CFR 430.27(a)(1).

DOE notes that it may modify or rescind the waiver at any time upon DOE's determination that the factual basis underlying the petition for waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. 10 CFR 430.27(k)(1). Likewise, Midea may request that DOE rescind or modify the waiver if the company discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 430.27(k)(2).

As set forth above, the test procedure specified in this Decision and Order is not the same as the test procedure offered by Midea. If Midea believes that the alternate test method it suggested provides representative results and is less burdensome than the test method required by this Decision and Order, Midea may submit a request for modification under 10 CFR 430.27(k)(2) that addresses the concerns that DOE has specified with that procedure. Midea may also submit another less burdensome alternative test procedure not expressly considered in this notice under the same provision.

III. Consultations With Other Agencies

In accordance with 10 CFR 430.27(f)(2), DOE consulted with the Federal Trade Commission staff concerning the Midea petition for waiver.

IV. Order

After careful consideration of all the material that was submitted by Midea, the information presented in the LG Notice of Petition for Waiver, and comment received in this matter, it is *ordered* that:

(1) Midea must, as of the date of publication of this Order in the **Federal Register**, test and rate the following room air conditioner basic models with the alternate test procedure as set forth in paragraph (2):

Brand	Basic model
Midea	MAW08V1DWT
Midea	MAW08V1QWT
Midea	MAW10V1DWT
Midea	MAW10V1QWT
Midea	MAW12V1DWT
Midea	MAW12V1QWT

(2) The alternate test procedure for the Midea basic models specified in paragraph (1) of this Order is the test procedure for room air conditioners prescribed by DOE at 10 CFR part 430, subpart B, appendix F and 10 CFR 430.23(f), except: (i) The combined energy efficiency ratio (''CEER'') is determined as detailed below, and (ii) the average annual energy consumption referenced in 10 CFR 430.23(f)(3) is calculated as detailed below. In addition, for each basic model specified in paragraph (1), compressor speeds at each test condition and control settings for the variable components are to be maintained according to the instructions Midea submitted to DOE (*https://www.regulations.gov/document?D=EERE-2019-BT-WAV-0009-0003*). All other requirements of Appendix F and DOE's other relevant regulations remain applicable.

In 10 CFR 430.23, in paragraph (f) revise paragraph (3)(i) to read as follows:

The electrical power input in kilowatts as calculated in section 5.2.1 of appendix F to this subpart, and

In 10 CFR 430.23, in paragraph (f) revise paragraph (5) to read as follows:

(5) Calculate the combined energy efficiency ratio for room air conditioners, expressed in Btu's per watt-hour, as follows:

(i) Calculate the quotient of:

(A) The cooling capacity as determined at the 95 °F outdoor test condition, $Capacity_1$, in Btus per hour, as measured in accordance with section 5.1 of appendix F to this subpart multiplied by the representative average-use cycle of 750 hours of compressor operation per year, divided by

(B) The combined annual energy consumption, in watt hours, which is the sum of the annual energy consumption for cooling mode, calculated in section 5.4.2 of appendix F to this subpart for test condition 1 in Table 1 of appendix F to this subpart, and the standby mode and off mode energy consumption, as measured in accordance with section 5.3 of appendix F to this subpart. Multiply the sum of the annual energy consumption in cooling mode and standby mode and off mode energy consumption by a conversion factor of 1,000 to convert kilowatt-hours to watt-hours.

(ii) Multiply the quotient calculated in paragraph (f)(5)(i) of this section by (1 + Fp), where Fp is the variable-speed room air conditioner unit's performance adjustment factor as calculated in section 5.4.8 of appendix F to this subpart.

(iii) Round the resulting value from paragraph (f)(5)(ii) of this section to the nearest 0.1 Btu per watt-hour.

In 10 CFR part 430, subpart B, Appendix F:

Add in Section 1, *Definitions:*

1.8 ''Single-speed'' means a type of room air conditioner that cannot automatically adjust the compressor speed based on detected conditions.

1.9 ''Variable-speed'' means a type of room air conditioner that can automatically adjust the compressor speed based on detected conditions.

1.10 ''Full compressor speed (full)'' means the compressor speed specified by GD Midea Air Conditioning Equipment Co. LTD. (Docket No. EERE–2019–BT–WAV–0009–0003) at which the unit operates at full load testing conditions.

1.11 ''Intermediate compressor speed (intermediate)'' means the compressor speed higher than the low compressor speed by one third of the difference between low compressor speed and full compressor speed with a tolerance of plus 5 percent (designs with non-discrete compressor speed stages) or the next highest inverter frequency step (designs with discrete compressor speed steps).

1.12 ''Low compressor speed (low)'' means the compressor speed specified by GD Midea Air Conditioning Equipment Co. LTD. (Docket No. EERE–2019–BT–WAV–0009–0003) at which the unit operates at low load test conditions, such that $Capacity_4$, the measured cooling capacity at test condition 4 in Table 1 of this appendix, is no less than 47 percent and no greater than 57 percent of $Capacity_1$, the measured cooling capacity with the full compressor speed at test condition 1 in Table 1 of this appendix.

1.13 ''Theoretical comparable single-speed room air conditioner'' means a theoretical single-speed room air conditioner with the same cooling capacity and electrical power input as the variable-speed room air conditioner unit under test, with no cycling losses considered, at test condition 1 in Table 1 of this appendix.

Add to the end of Section 2.1 *Cooling:*

For the purposes of this waiver, test each unit following the cooling mode test a total of four times: One test at each of the test conditions listed in Table 1 of this appendix, consistent with section 3.1 of this appendix.

Revise Section 3.1, *Cooling mode,* to read as follows:

Cooling mode. Establish the test conditions described in sections 4 and 5 of ANSI/AHAM RAC–1 (incorporated by reference; see 10 CFR 430.3) and in accordance with ANSI/ASHRAE 16 (incorporated by reference; see 10 CFR 430.3), with the following exceptions: Conduct the set of four cooling mode tests with the test conditions in Table 1 of this appendix. Set the compressor speed required for each test condition in accordance with instructions GD Midea Air Conditioning Equipment Co. LTD provided to DOE (Docket No. EERE–2019–BT–WAV–0009–0003).

TABLE 1—INDOOR AND OUTDOOR INLET AIR TEST CONDITIONS—VARIABLE-SPEED ROOM AIR CONDITIONERS

Test condition	Evaporator inlet (indoor) air, (°F)		Condenser inlet (outdoor) air, (°F)		Compressor speed
	Dry bulb	Wet bulb	Dry bulb	Wet bulb	
Test Condition 1	80	67	95	75	Full.
Test Condition 2	80	67	92	72.5	Full.
Test Condition 3	80	67	87	69	Intermediate.
Test Condition 4	80	67	82	65	Low.

Replace Section 5.1 to read as follows:

Calculate the condition-specific cooling capacity (expressed in Btu/h), $Capacity_{tc}$, for each of the four cooling mode rating test conditions (tc), as required in section 6.1 of ANSI/AHAM RAC–1 (incorporated by reference; see 10 CFR 430.3) and in accordance with ANSI/ASHRAE 16 (incorporated by reference; see 10 CFR 430.3). Notwithstanding the requirements of 10 CFR 430.23(f), when reporting cooling capacity pursuant to 10 CFR 429.15(b)(2) and calculating energy consumption and costs pursuant to 10 CFR 430.23(f), use the cooling capacity determined for test condition 1 in Table 1 of this appendix.

Replace Section 5.2 to read as follows:

Determine the condition-specific electrical power input (expressed in watts), P_{tc}, for each of the four cooling mode rating test conditions, as required by section 6.5 of ANSI/AHAM RAC–1 (incorporated by reference; see 10 CFR 430.3) and in accordance with ANSI/ASHRAE 16 (incorporated by reference; see 10 CFR 430.3). Notwithstanding the requirements of 10 CFR 430.23(f), when reporting electrical power input pursuant to 10 CFR 429.15(b)(2) and calculating energy consumption and costs pursuant to 10 CFR 430.23(f)(5), use the electrical power input value measured for test condition 1 in Table 1 of this appendix. Notwithstanding the requirements of 10 CFR 430.23(f), when calculating energy consumption and costs pursuant to 10 CFR 430.23(f)(3), use the weighted electrical power input, P_{wt}, calculated in section 5.2.1 of this appendix, as the electrical power input.

Insert a new Section 5.2.1:

5.2.1 *Weighted electrical power input.* Calculate the weighted electrical power input in cooling mode, P_{wt}, expressed in watts, as follows:

$$P_{wt} = \Sigma_{tc} P_{tc} \times W_{tc}$$

Where:

P_{wt} = weighted electrical power input, in watts, in cooling mode.

P_{tc} = electrical power input, in watts, in cooling mode for each test condition in Table 1 of this appendix.

W_{tc} = weighting factors for each cooling mode test condition: 0.05 for test condition 1, 0.16 for test condition 2, 0.31 for test condition 3, and 0.48 for test condition 4.

tc represents the cooling mode test condition: ''1'' for test condition 1 (95 °F condenser inlet dry-bulb temperature), ''2'' for test condition 2 (92 °F), ''3'' for test condition 3 (87 °F), and ''4'' for test condition 4 (82 °F).

Add a new Section 5.4, following Section 5.3 *Standby mode and off mode annual energy consumption:*

5.4 *Variable-speed room air conditioner unit's performance adjustment factor.* Calculate the performance adjustment factor (Fp) as follows:

5.4.1 *Theoretical comparable single-speed room air conditioner.* Calculate the cooling capacity, expressed in British thermal units per hour (Btu/h), and electrical power input, expressed in watts, for a theoretical comparable single-speed room air conditioner at all cooling mode test conditions.

$$Capacity_{ss\_tc} = Capacity_1 \times (1 + (M_c \times (95 - T_{tc})))$$

$$P_{ss\_tc} = P_1 \times (1 - (M_p \times (95 - T_{tc})))$$

Where:

$Capacity_{ss\_tc}$ = theoretical comparable single-speed room air conditioner cooling capacity, in Btu/h, calculated for each of the cooling mode test conditions in Table 1 of this appendix.

$Capacity_1$ = variable-speed room air conditioner unit's cooling capacity, in Btu/h, measured in section 5.1 of this appendix for test condition 1 in Table 1 of this appendix.

P_{ss_tc} = theoretical comparable single-speed room air conditioner electrical power input, in watts, calculated for each of the cooling mode test conditions in Table 1 of this appendix.

P_1 = variable-speed room air conditioner unit's electrical power input, in watts, measured in section 5.2 of this appendix for test condition 1 in Table 1 of this appendix.

M_c = adjustment factor to determine the increased capacity at lower outdoor test conditions, 0.0099.

M_p = adjustment factor to determine the reduced electrical power input at lower outdoor test conditions, 0.0076.

T_{tc} = condenser inlet dry-bulb temperature for each of the test conditions in Table 1 of this appendix (in °F).

95 is the condenser inlet dry-bulb temperature for test condition 1 in Table 1 of this appendix, 95 °F.

tc as explained in section 5.2.1 of this appendix.

5.4.2 *Variable-speed room air conditioner unit's annual energy consumption for cooling mode at each cooling mode test condition.* Calculate the annual energy consumption for cooling mode under each test condition, AEC_{tc}, expressed in kilowatt-hours per year (kWh/year), as follows:

$$AEC_{tc} = 0.75 \times P_{tc}$$

Where:

AEC_{tc} = variable-speed room air conditioner unit's annual energy consumption, in kWh/year, in cooling mode for each test condition in Table 1 of this appendix.

P_{tc} as defined in section 5.2.1 of this appendix.

tc as explained in section 5.2.1 of this appendix.

0.75 is 750 annual operating hours in cooling mode multiplied by a 0.001 kWh/Wh conversion factor from watt-hours to kilowatt-hours.

5.4.3 *Theoretical comparable single-speed room air conditioner annual energy consumption for cooling mode at each cooling mode test condition.* Calculate the annual energy consumption for a theoretical comparable single-speed room air conditioner for cooling mode under each test condition, AEC_{ss_tc}, expressed in kWh/year.

$$AEC_{ss\_tc} = 0.75 \times P_{ss\_tc}$$

Where:

AEC_{ss_tc} = theoretical comparable single-speed room air conditioner annual energy consumption, in kWh/year, in cooling mode for each test condition in Table 1 of this appendix.

P_{ss_tc} = theoretical comparable single-speed room air conditioner electrical power input, in watts, in cooling mode for each test condition in Table 1 of this appendix, calculated in section 5.4.1 of this appendix.

tc as explained in section 5.2.1 of this appendix.

0.75 as defined in section 5.4.2 of this appendix.

5.4.4 *Variable-speed room air conditioner unit's combined energy efficiency ratio at each cooling mode test condition.* Calculate the variable-speed room air conditioner unit's combined energy efficiency ratio, $CEER_{tc,}$ for each test condition, expressed in Btu/Wh.

$$CEER_{tc} = \frac{Capacity_{tc}}{\left(\frac{AEC_{tc} + E_{TSO}}{0.75}\right)}$$

Where:

$CEER_{tc}$ = variable-speed room air conditioner unit's combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1 of this appendix.

$Capacity_{tc}$ = variable-speed room air conditioner unit's cooling capacity, in Btu/h, for each test condition in Table 1 of this appendix, measured in section 5.1 of this appendix.

AEC_{tc} = variable-speed room air conditioner unit's annual energy consumption, in kWh/yr, in cooling mode for each test condition in Table 1 of this appendix, calculated in section 5.4.2 of this appendix.

E_{TSO} = standby mode and off mode annual energy consumption for room air conditioners, in kWh/year, calculated in section 5.3 of this appendix.

tc as explained in section 5.2.1 of this appendix.

0.75 as defined in section 5.4.2 of this appendix.

5.4.5 *Theoretical comparable single-speed room air conditioner combined energy efficiency ratio at each cooling mode test condition.* Calculate the combined energy efficiency ratio for a theoretical comparable single-speed room air conditioner, $CEER_{ss\_tc}$, for each test condition, expressed in Btu/Wh.

$$CEER_{ss\_tc} = \frac{Capacity_{ss\_tc}}{\left(\frac{AEC_{ss\_tc} + E_{TSO}}{0.75}\right)}$$

Where:

$CEER_{ss\_tc}$ = theoretical comparable single-speed room air conditioner combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1 of this appendix.

$Capacity_{ss\_tc}$ = theoretical comparable single-speed room air conditioner cooling capacity, in Btu/h, for each test condition in Table 1 of this appendix, in Btu/h, calculated in section 5.4.1 of this appendix.

AEC_{ss_tc} = theoretical comparable single-speed room air conditioner annual energy consumption for each test condition in Table 1 of this appendix, in kWh/year, calculated in section 5.4.3 of this appendix.

E_{TSO} = standby mode and off mode annual energy consumption for room air conditioners, in kWh/year, calculated in section 5.3 of this appendix.

tc as explained in section 5.2.1 of this appendix.

0.75 as defined in section 5.4.2 of this appendix.

5.4.6 *Theoretical comparable single-speed room air conditioner adjusted combined energy efficiency ratio for each cooling mode test condition.* Calculate the adjusted combined energy efficiency ratio for a theoretical comparable single-speed room air conditioner, $CEER_{ss\_tc\_adj}$, with cycling losses considered, expressed in Btu/Wh.

$$CEER_{ss\_tc\_adj} = CEER_{ss\_tc} \times CLF_{tc}$$

Where:

$CEER_{ss\_tc\_adj}$ = theoretical comparable single-speed room air conditioner adjusted combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1 of this appendix.

$CEER_{ss\_tc}$ = theoretical comparable single-speed room air conditioner adjusted combined energy efficiency ratio, in Btu/Wh, for each test condition in Table 1 of this appendix, calculated in section 5.4.5 of this appendix.

CLF_{tc} = cycling loss factor for each cooling mode test condition: 1 for test condition 1, 0.971 for test condition 2, 0.923 for test condition 3, and 0.875 for test condition 4.

tc as explained in section 5.2.1 of this appendix.

5.4.7 *Weighted combined energy efficiency ratio.* Calculate the weighted combined energy efficiency ratio for the variable-speed room air conditioner unit, $CEER_{wt}$, and theoretical comparable single-speed room air conditioner, $CEER_{ss\_wt}$, expressed in Btu/Wh.

$$CEER_{wt} = \Sigma_{tc} CEER_{tc} \times W_{tc}$$
$$CEER_{ss\_wt} = \Sigma_{tc} CEER_{ss\_tc\_adj} \times W_{tc}$$

Where:

$CEER_{wt}$ = variable-speed room air conditioner unit's weighted combined energy efficiency ratio, in Btu/Wh.

$CEER_{ss\_wt}$ = theoretical comparable single-speed room air conditioner weighted combined energy efficiency ratio, in Btu/Wh.

$CEER_{tc}$ = variable-speed room air conditioner unit's combined energy efficiency ratio, in Btu/Wh, at each test condition in Table 1 of this appendix, calculated in section 5.4.4 of this appendix.

$CEER_{ss\_tc\_adj}$ = theoretical comparable single-speed room air conditioner adjusted combined energy efficiency ratio, in Btu/Wh, at each test condition in Table 1 of this appendix, calculated in section 5.4.6 of this appendix.

W_{tc} as defined in section 5.2.1 of this appendix.

tc as explained in section 5.2.1 of this appendix.

5.4.8 *Variable-speed room air conditioner unit's performance adjustment factor.* Calculate the variable-speed room air conditioner unit's performance adjustment factor, F_p.

$$F_p = \frac{\left(CEER_{wt} - CEER_{ss\_wt}\right)}{CEER_{ss\_wt}}$$

Where:

F_p = variable-speed room air conditioner unit's performance adjustment factor.

$CEER_{wt}$ = variable-speed room air conditioner unit's weighted combined energy efficiency ratio, in Btu/Wh, calculated in section 5.4.7 of this appendix.

$CEER_{ss\_wt}$ = theoretical comparable single-speed room air conditioner weighted combined energy efficiency ratio, in Btu/Wh, calculated in section 5.4.7 of this appendix.

(3) *Representations.* Midea may not make representations about the efficiency of any basic model specified in paragraph (1) for any purpose, including, for example, compliance and marketing, unless the basic model has been tested in accordance with the provisions set forth above and such representations fairly disclose the results of such testing.

(4) This waiver shall remain in effect according to the provisions of 10 CFR 430.27.

(5) DOE issues this waiver to Midea on the condition that the statements, representations, and documents provided by Midea are valid. Any modifications to the controls or configurations of a basic model subject to this waiver will render the waiver invalid with respect to that basic model, and Midea will either be required to use the current Federal test procedure or submit a new application for a test procedure waiver. DOE may rescind or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of a basic model's true energy consumption characteristics. 10 CFR 430.27(k)(1). Likewise, Midea may request that DOE rescind or modify the waiver if Midea discovers an error in the information provided to DOE as part of its petition,

determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 430.27(k)(2).

(6) Midea remains obligated to fulfill any certification requirements set forth at 10 CFR part 429.

Signed in Washington, DC, on May 8, 2020.

Alexander N. Fitzsimmons,

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

[FR Doc. 2020–11214 Filed 5–22–20; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD20–3–000]

Commission Information Collection Activities FERC–725N Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the proposedinformation collection FERC–725N (Mandatory Reliability TPL Standards: TPL–007–4, (Transmission System Planned Performance for Geomagnetic Disturbance Events)) and submitting the information collection to the Office of Management and Budget (OMB) for review. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below.

DATES: Comments on the collection of information are due June 25, 2020.

ADDRESSES: Comments filed with OMB, identified by OMB Control No. 1902–0264. Send written comments on FERC–725N to OMB thru *www.reginfo.gov/public/do/PRAMain.* Attention Federal Energy Regulatory Commission Desk Officer. Please identify the OMB control Number (1902–0264) in the submect line of your comments should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Using the search function under the Currently Under Review field select comment to the right of the subject collection. A copy of the comments should also be sent to the Commission, in Docket No. RD20–3–000) by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Express Services:* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at: *www.reginfo.gov/public/do/PRAMain;* using the search function under the Currently Under Review field select Federal Energy Regulatory Commission; click submit and select comment to the right of the subject collection. FERC submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–725N, Mandatory Reliability Standards TPL–007–4, Transmission System Planned Performance for Geomagnetic Disturbance Events.

OMB Control No.: 1902–0264.

Type of Request: Revisions to the information collection, as discussed in Docket No. RD20–3–000.

Abstract: The proposed Reliability Standard TPL–007–4 requires owners and operators of the Bulk-Power System to conduct initial and on-going vulnerability assessments of the potential impact of defined geomagnetic disturbance events on Bulk- Power System equipment and the Bulk-Power System as a whole. Specifically, the Reliability Standard requires entities to develop corrective action plans for vulnerabilities identified through supplemental geomagnetic disturbance vulnerability assessments and requires entities to seek approval from the Electric Reliability Organization of any extensions of time for the completion of corrective action plan items.

On August 8, 2005, Congress enacted into law the Electricity Modernization Act of 2005, which is Title XII, Subtitle A, of the Energy Policy Act of 2005 (EPAct 2005).[1] EPAct 2005 added a new section 215 to the FPA, which required a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or the Commission can independently enforce Reliability Standards.[2]

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.[3] Pursuant to Order No. 672, the Commission certified one organization, North American Electric Reliability Corporation (NERC), as the ERO.[4] The Reliability Standards developed by the ERO and approved by the Commission apply to users, owners and operators of the Bulk-Power System as set forth in each Reliability Standard.

On February 7, 2020, the North American Electric Reliability Corporation filed a petition seeking approval of proposed Reliability Standard TPL–007–4 (Transmission System Planned Performance for Geomagnetic Disturbance Events).

NERC's filed petition was noticed on February 11, 2020, with interventions, comments and protests due on or before March 9, 2020. No interventions or comments were received.

The DLO was issued on March 19, 2020. The standard goes in effect at NERC on October 1,2020.

On April 16, 2020, the Commission published a Notice in the **Federal Register** in Docket No. RD20–3–000 requesting public comments. The Commission received no public comment(s) which is addressed here and in the related submittal to OMB.

Type of Respondents: Generator Owner, Planning Coordinator, Distribution Provider and Transmission Owners.

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[1] Energy Policy Act of 2005, Public Law 109–58, Title XII, Subtitle A, 119 Stat. 594, 941 (codified at 16 U.S.C. 824*o*).

[2] 16 U.S.C. 824*o*(e)(3).

[3] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. 31,212 (2006).

[4] *North American Electric Reliability Corp.,* 116 FERC 61,062, *order on reh'g and compliance,* 117 FERC 61,126 (2006), *order on compliance,* 118 FERC 61,190, *order on reh'g,* 119 FERC 61,046 (2007), *aff'd sub nom. Alcoa Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

Estimate of Annual Burden: [5] Our estimates are based on the NERC Compliance Registry Summary of Entities as of January 31, 2020.

The individual burden estimates include the time needed to gather data, run studies, and analyze study results. These are consistent with estimates for similar tasks in other Commission-approved standards. Estimates for the additional average annual burden and cost [6] as proposed in Docket No. RD20–3–000 follow:

FERC–725N IN DOCKET NO. RD20–4–000

	Annual number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hrs. & cost ($) per response (4)	Total annual burden hours & cost ($) (rounded) (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
GO [7]	969	1	969	40 hours; $3,200	38,760 hours; $3,100,800	$3,200
PC [8]	71	1	71	40 hours; $3,200	2,840 hours; $227,200	3,200
DP [9]	318	1	318	40 hours & $3,200	12,720 hours; $1,017,600	3,200
TO [10]	321	1	321	40 hours & $3,200	12,840 hours; $1,027,200	3,200
Total			1,679		67,160 hours; $5,372,800	

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 19, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–11241 Filed 5–22–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD20–5–000]

Kyle Kembel Farm Irrigation Hydropower Project; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On May 18, 2020, Kyle Kembel filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA). The proposed Kyle Kembel Farm Irrigation Hydropower Project would have an installed capacity of 5.2 kilowatts (kW), and would be located along an existing irrigation pipeline on the applicant's property near Fort Morgan, Morgan County, Colorado.

Applicant Contact: Matt Harris, 21482 County Road T.5, Fort Morgan, CO 80701, Phone No. (970) 867–4971, Email: *matt@harrisec.com.*

FERC Contact: Christopher Chaney, Phone No. (202) 502–6778, Email: *christopher.chaney@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A 5.2-kW turbine-generator; (2) an approximately 8-foot by 10-foot powerhouse; (3) 6-inch-diameter intake and discharge pipes connecting to the existing irrigation pipeline; and (4) appurtenant facilities. The proposed project would have an estimated annual generation of up to 17.5 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A)	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar man-made water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i)	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii)	The facility has an installed capacity that does not exceed 40 megawatts	Y
FPA 30(a)(3)(C)(iii)	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: The proposed Kyle Kembel Farm Irrigation Hydropower Project will not alter the primary purpose of the conduit, which is to transport water for irrigation. Therefore, based upon the above

[5] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. See 5 CFR 1320 for additional information on the definition of information collection burden.

[6] Commission staff estimates that the industry's skill set and cost (for wages and benefits) for FERC–725N(1) are approximately the same as the Commission's average cost. The FERC 2019 average salary plus benefits for one FERC full-time equivalent (FTE) is $167,091/year (or $80.00/hour).

[7] Generator Owner.

[8] Planning Coordinator.

[9] Distribution Provider.

[10] Transmission Owner.

criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 30 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY or MOTION TO INTERVENE, as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

[1] 18 CFR 385.2001–2005 (2019).

Locations of Notice of Intent: The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (*i.e.,* CD20–5) in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. Copies of the notice of intent can be obtained directly from the applicant. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: May 19, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–11207 Filed 5–22–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–2235–002.

Applicants: Tuscola Bay Wind, LLC.

Description: Compliance filing: Tuscola Bay Wind, LLC, Docket No. ER19–2235–002 to be effective 9/1/2019.

Filed Date: 5/18/20.

Accession Number: 20200518–5165.

Comments Due: 5 p.m. ET 6/8/20.

Docket Numbers: ER19–2707–002; ER10–2822–016; ER10–3158–009; ER10–3161–009; ER10–3162–009; ER12–308–009; ER16–1238–003; ER16–1250–008; ER17–1242–002; ER17–1392–003.

Applicants: Poseidon Wind, LLC, Atlantic Renewable Projects II LLC, Avangrid Arizona Renewables, LLC, Avangrid Renewables, LLC, El Cabo Wind LLC, Dillon Wind LLC, Manzana Wind LLC, Mountain View Power Partners III, LLC, Shiloh I Wind Project, LLC, Tule Wind LLC.

Description: Supplement to December 19, 2019 Notice of Change in Status of Poseidon Wind, LLC and the Avangrid Southwest MBR Sellers.

Filed Date: 5/18/20.

Accession Number: 20200518–5195.

Comments Due: 5 p.m. ET 6/8/20.

Docket Numbers: ER20–681–001.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Compliance filing: Compliance Filing Re-submittal to be effective 2/22/2020.

Filed Date: 5/19/20.

Accession Number: 20200519–5132.

Comments Due: 5 p.m. ET 6/9/20.

Docket Numbers: ER20–1499–001.

Applicants: Appalachian Power Company.

Description: Tariff Amendment: OATT—AEP Texas Inc. 1-Co Rate Update, Attach K & Misc revisions—Amend Pending to be effective 5/15/2020.

Filed Date: 5/19/20.

Accession Number: 20200519–5064.

Comments Due: 5 p.m. ET 6/9/20.

Docket Numbers: ER20–1846–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2020–05–18_Filing to Enhance Accreditation of Load Modifying Resources to be effective 8/16/2020.

Filed Date: 5/18/20.

Accession Number: 20200518–5159.

Comments Due: 5 p.m. ET 6/8/20.

Docket Numbers: ER20–1847–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5639; Queue No. AF1–041 to be effective 4/23/2020.

Filed Date: 5/19/20.

Accession Number: 20200519–5020.

Comments Due: 5 p.m. ET 6/9/20.

Docket Numbers: ER20–1848–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: NorthWestern Formula Rate Revisions to Incorporate Changes File in ER20–1090 to be effective 1/27/2020.

Filed Date: 5/19/20.

Accession Number: 20200519–5031.

Comments Due: 5 p.m. ET 6/9/20.

Docket Numbers: ER20–1849–000.

Applicants: Hardin Wind Energy LLC.

Description: Tariff Cancellation: Notice of Cancellation of Market-Based Rate Tariff to be effective 7/19/2020.

Filed Date: 5/19/20.

Accession Number: 20200519–5037.

Comments Due: 5 p.m. ET 6/9/20.

Docket Numbers: ER20–1850–000.

Applicants: Hardin Wind Energy Holdings LLC.

Description: Tariff Cancellation: Notice of Cancellation of Market-Based Rate Tariff to be effective 7/19/2020.

Filed Date: 5/19/20.
Accession Number: 20200519–5038.
Comments Due: 5 p.m. ET 6/9/20.
Docket Numbers: ER20–1851–000.
Applicants: Whitetail Solar 3, LLC.
Description: Baseline eTariff Filing: Reactive Power Compensation to be effective 7/18/2020.
Filed Date: 5/19/20.
Accession Number: 20200519–5085.
Comments Due: 5 p.m. ET 6/9/20.
Docket Numbers: ER20–1852–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: 2020–05–19_SA 3498 Ameren Illinois-BPWENA Payment Agreement to be effective 7/19/2020.
Filed Date: 5/19/20.
Accession Number: 20200519–5088.
Comments Due: 5 p.m. ET 6/9/20.
Docket Numbers: ER20–1853–000.
Applicants: Whitehorn Solar LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization, Request for Related Waivers to be effective 7/19/2020.
Filed Date: 5/19/20.
Accession Number: 20200519–5091.
Comments Due: 5 p.m. ET 6/9/20.
Docket Numbers: ER20–1854–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to Second Revised WMPA No. 4869; Queue No. AC2–138/AD2–044 to be effective 2/22/2019.
Filed Date: 5/19/20.
Accession Number: 20200519–5124.
Comments Due: 5 p.m. ET 6/9/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 19, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–11208 Filed 5–22–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD20–1–000]

Commission Information Collection Activities (FERC–725G); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection FERC–725G (Mandatory Reliability Standards for the Bulk-Power System: PRC Standards: Regional Reliability Standard PRC–006–NPCC–2 Automatic Underfrequency Load-Shedding (UFLS)) and submitting the information collection to the Office of Management and Budget (OMB) for review. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below.

DATES: Comments on the collection of information are due June 25, 2020.

ADDRESSES: Comments filed with OMB, identified by OMB Control No. 1902–0252. Send written comments on FERC–725G to OMB thru *www.reginfo.gov/public/do/PRAMain.* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number (1902–0252) in the subject line of your comments and should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Using the search function under the Currently Under Review field select Federal Energy Regulatory Commission; click submit and select comment to the right of the subject collection.

A copy of the comments should also be sent to the Commission, in Docket No. RD20–1–000, by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Express Services:* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Instructions

OMB submissions: Must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain*; Using the search function under the Currently Under Review field select Federal Energy Regulatory Commission; click ''submit'' and select comment to the right of the subject collection.

FERC submissions: Must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–725G (Mandatory Reliability Standards for the Bulk-Power System: Regional Reliability Standard PRC–006–NPCC–2, Automatic Underfrequency Load-Shedding (UFLS).

OMB Control No.: 1902–0252.

Type of Request: Revisions to the information collection, as discussed in Docket No. RD20–1–000.

Abstract: The proposed regional Reliability Standard applies to generator owners, planning coordinators, distribution providers, and transmission owners in the Northeast Power Coordinating Council Region and is designed to ensure the development of an effective automatic underfrequency load shedding (UFLS) program to preserve the security and integrity of the Bulk-Power System during declining system frequency events in coordination with the NERC continent-wide UFLS Reliability Standard PRC–006–1.[1] The Commission also proposes to approve the related violation risk factors, violation severity levels, implementation plan, and effective date proposed by NERC.

On August 8, 2005, Congress enacted into law the Electricity Modernization Act of 2005, which is Title XII, Subtitle A, of the Energy Policy Act of 2005

[1] Effective date of the standard is 4/1/2020.

(EPAct 2005).[2] EPAct 2005 added a new section 215 to the FPA, which required a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or the Commission can independently enforce Reliability Standards.[3]

On February 3, 2006, the Commission issued Order No. 672, implementing section 215 of the FPA.[4] Pursuant to Order No. 672, the Commission certified one organization, North American Electric Reliability Corporation (NERC), as the ERO.[5] The Reliability Standards developed by the ERO and approved by the Commission apply to users, owners and operators of the Bulk-Power System as set forth in each Reliability Standard.

On December 23, 2019, the North American Electric Reliability Corporation (NERC) and Northeast Power Coordinating Council, Inc. (NPCC) filed a joint petition seeking approval of proposed regional Reliability Standard PRC–006–NPCC–2 (NPCC Automatic Underfrequency Load Shedding). NERC and NPCC state that regional Reliability Standard PRC–006–NPCC–2 establishes consistent and coordinated requirements for the design, implementation, and analysis of automatic underfrequency load shedding (UFLS) programs among all NPCC applicable entities. These requirements are more stringent and specific than the NERC continent-wide UFLS Reliability Standard, PRC–006–3, and were established such that the declining frequency is arrested and recovered in accordance with NPCC performance requirements. NPCC revised currently effective Regional Reliability Standard PRC–006–NPCC–1 to remove redundancies with the Reliability Standard PRC–006–3, clarify obligations for registered entities, improve communication of island boundaries to affected registered entities, and provide entities with the flexibility to calculate net load shed for UFLS in certain situations.

On February 19, 2020, the Commission issued a Delegated Letter Order, Docket No. RD20–1–000, approving proposed Reliability Standard PRC–006–NPCC–2, the associated VRFs and VSLs, the Effective Date, and the retirement of the currently effective Regional Reliability Standard PRC–006–NPCC–1. The effective date for Reliability Standard PRC–006–NPCC–2 is as of the date of this order, January 18, 2020.

Type of Respondents: Generator owners, planning coordinators, distribution providers, and transmission owners in the Northeast Power Coordinating Council (NPCC) Region.

Estimate of Annual Burden:[6] Our estimates are based on the NERC Compliance Registry Summary of Entities as of January 31, 2019. According to the NERC compliance registry, and Functions as of, which indicates there are registered as GO, PC, DP and TO entities.

The individual burden estimates are based on the time needed to gather data, run studies, and analyze study results to design or update the underfrequency load shedding programs. Additionally, documentation and the review of underfrequency load shedding program results by supervisors and management is included in the administrative estimations. These are consistent with estimates for similar tasks in other Commission approved standards.

Estimates for the additional burden and cost imposed by the order in Docket No. RD20–1–000 follow:

Commission estimates the annual burden and cost[7] as follows.

RD20–1–000—MANDATORY RELIABILITY STANDARDS FOR THE BULK-POWER SYSTEM: REGIONAL RELIABILITY STANDARD PRC–006–NPCC–2 AUTOMATIC UNDERFREQUENCY LOAD SHEDDING (UFLS)

Reliability standard & requirement	Average annual number of respondents (1)	Average annual number of responses per respondent (2)	Average annual total number of responses (1) * (2) = (3)	Average burden hours & cost ($) per response (4)	Total annual burden hours & cost ($) (rounded) (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
GO[8]	125	1	125	24 hrs.; $1,920	3,000 hrs.; $240,000	$1,920
PC[9]	2	1	2	24 hrs.; $1,920	48 hrs.; $3,840	1,920
DP[10]	51	1	51	24 hrs.; $1,920	1,224 hrs.; $97,920	1,920
TO[11]	39	1	39	24 hrs.; $1,920	936 hrs.; $74,880	1,920
Total			217		5,208 hrs.: $416,640	

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

[2] Energy Policy Act of 2005, Public Law 109–58, Title XII, Subtitle A, 119 Stat. 594, 941 (codified at 16 U.S.C. 824*o*).

[3] 16 U.S.C. 824*o*(e)(3).

[4] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. 31,204, *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. 31,212 (2006).

[5] *North American Electric Reliability Corp.,* 116 FERC 61,062, *order on reh'g and compliance,* 117 FERC 61,126 (2006), *order on compliance,* 118 FERC 61,190, *order on reh'g,* 119 FERC 61,046 (2007), *aff'd sub nom. Alcoa Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[6] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. See 5 CFR 1320 for additional information on the definition of information collection burden.

[7] The Commission staff estimates that industry is similarly situated in terms of hourly cost (for wages plus benefits). Based on the Commission's FY (Fiscal Year) 2019 average cost (for wages plus benefits), $80.00/hour is used.

[8] Generator Owner.

[9] Planning Coordinator.

[10] Distribution Provide.

[11] Transmission Owner.

Dated: May 19, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–11240 Filed 5–22–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10853–022]

Otter Tail Power Company; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 10853–022.

c. *Date Filed:* November 27, 2019.

d. *Applicant:* Otter Tail Power Company.

e. *Name of Project:* Otter Tail River Hydroelectric Project.

f. *Location:* The Otter Tail River Hydroelectric Project consists of five developments on the Otter Tail River that starts in the Township of Friberg, Minnesota and extends downstream (south) of the City of Fergus Falls, Minnesota. The project does not occupy federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Michael Olson, Natural Gas Turbine Operations and NERC Compliance, Otter Tail Power Company, 215 South Cascade Street, Fergus Falls, Minnesota 56537; (218) 739–8411; *mjolson@otpco.com.*

i. *FERC Contact:* Patrick Ely at (202) 502–8570 or email at *patrick.ely@ferc.gov.*

j. Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary prescriptions: 60 Days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. The Otter Tail River Project consists of the following five existing developments listed upstream to downstream: (1) Friberg development; (2) Hoot development; (3) Central development; (4) Pisgah development; and (5) Dayton Hollow development.

The Friberg development consists of: (1) A reservoir with a surface area of 340 acres, and negligible storage capacity, at a normal water surface elevation of 1,299 feet mean sea level (msl); (2) a 341-foot-long dam which contains a 31-foot-high and 61-foot-long spillway with seven bays, an 80-foot-long and 36-foot-high east earthfill dike, and a 200-foot-long and 36-foot-high west earthfill dike; (3) a power canal; (4) a 194-foot-long, 9-foot-diameter penstock; (5) a 27-foot-wide and 27-foot-long reinforced concrete powerhouse; (6) a vertical turbine rated at 900 horsepower (hp) under a head of 35 feet, connected to a 560-kilowatt (kW) generator; (7) a tailrace; (8) a 75-foot-long, 2.4-kilovolt (kV) transmission line; and (9) appurtenant facilities.

The Hoot development facilities include: (1) A reservoir with a negligible surface area and storage capacity (dam diverts river flow) at a normal water surface elevation of 1,256 feet msl; (2) a 150-foot-long, 9-foot-high dam which contains a concrete spillway with six stoplogged openings with the two outer openings 5 feet 4 inches wide and the other four openings 11 feet 4 inches wide; (3) a 500-foot-long, 90-inch-diameter concrete tunnel (Hoot Lake); (4) a 20-foot-wide, 700-foot-long channel between Hoot Lake and Wright Lake; (5) a 20-foot-wide, 300-foot-long channel leading to the intake structure; (6) a 1,050-foot-long, 8-foot-square concrete tube; (7) a surge tank; (8) an 89-foot-long, 6-foot-diameter steel penstock; (9) a reinforced concrete powerhouse; (10) a horizontal turbine rated at 1,260 hp under a head of 68 feet connected to a 1,000-kw generator; (11) a tailrace; (12) a 200-foot-long, 2.4-kV transmission line; (13) a nature-like fishway; and (14) appurtenant facilities.

The Central development consists of: (1) A reservoir having a surface area of 15 acres and a storage capacity of 400 acre-feet, at a normal water surface elevation of 1,181 feet msl; (2) a 107-foot-long and 25-foot-high dam which contains a 70-foot-long and 25-foot-high spillway; (3) an intake structure; (4) a 30-foot-wide and 40-foot-long brick masonry powerhouse; (5) a vertical turbine rated at 720 hp under a head of 22 feet, connected to a 400-kW generator; (6) a tailrace; (7) a 40-foot-long, 2.4-kV transmission line; and (8) appurtenant facilities.

The Pisgah development consists of: (1) A reservoir having a surface area of 70 acres and storage capacity of 250 acre-feet at a normal water surface elevation of 1,156 feet msl; (2) a 493-foot-long concrete gravity and earthfill dam ranging in height from 21 feet to 38 feet which has (a) an earthfill dike, (b) a 123-foot-long and 38-foot-high concrete wing wall, (c) six spillway bays, (d) a 150-foot-long and 21-foot-high south earthfill embankment, and (e) a 220-foot-long and 38-foot-high north earthfill embankment; (3) an intake; (4) a 22-foot-wide and 32-foot-long reinforced concrete and brick masonry powerhouse; (5) a vertical turbine rated at 850 hp under a head of 25 feet, connected to a 520-kW generator; (6) a tailrace; (7) a 330-foot-long, 2.4-kV transmission line; and (8) appurtenant facilities.

The Dayton Hollow development consists of: (1) A reservoir having a surface area of 230 acres and a storage capacity of 5,000 acre-feet at a normal water surface elevation of 1,107 feet msl; (2) a 265-foot-long concrete and earthfill dam varying in height from 11 feet to 40 feet which contains (a) an 80-foot-long and 40-foot-high concrete spillway section, (b) a 95-foot-long and 11-foot-high east earthfill embankment, and (c) a 90-foot-long and 22-foot-high west earthfill embankment; (3) an intake structure; (4) a 22-foot-wide and 32-foot-long reinforced concrete and masonry powerhouse; (5) a vertical turbine rated at 800 hp under a head of 35 feet, connected to a 520-kW generator and a horizontal 650 hp turbine connected to a 450-kW generator; (6) a tailrace; (7) an 80-foot- long, 2.4-kV transmission line; and (8) appurtenant facilities.

The Otter Tail River Project is operated in a run-of-river mode with an estimated annual energy production of approximately 22,323 megawatt hours. Otter Tail Power Company proposes to continue operating the project as a run-of-river facility and does not propose any new construction or modifications to the project.

m. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application) via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–10853). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19) issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3673 or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title PROTEST, MOTION TO INTERVENE, COMMENTS, REPLY COMMENTS, RECOMMENDATIONS, PRELIMINARY TERMS AND CONDITIONS, or PRELIMINARY FISHWAY PRESCRIPTIONS; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. Procedural Schedule:

The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Filing of recommendations, preliminary terms and conditions, and preliminary fishway prescriptions	July 2020.
Commission issues EA	January 2021.
Comments on EA	February 2021.
Modified terms and conditions	April 2021.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

Dated: May 19, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–11239 Filed 5–22–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10009–68–Region 8]

Public Water System Supervision Program Revision for the State of Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Public notice is hereby given that the state of Montana has revised its Public Water System Supervision (PWSS) Program by establishing Administrative Penalty Authority that applies to its drinking water program. The EPA has reviewed Montana's submittal, and determined that the Administrative Penalty Authority is no less stringent than the federal regulations. The EPA is proposing to approve the Administrative Penalty Authority requirements for Montana.

This approval action does not extend to public water systems in Indian country. Please see **SUPPLEMENTARY INFORMATION**, Unit B.

DATES: All interested parties may request a public hearing on this determination by June 25, 2020. Please see **SUPPLEMENTARY INFORMATION**, Unit C, for details. Should no timely and appropriate request for a hearing be received, and the Regional Administrator (RA) does not elect to hold a hearing on his/her own motion, this determination shall become applicable June 25, 2020 and no further public notice will be issued.

ADDRESSES: Requests for a public hearing should be submitted to: Robert Clement by email at *clement.robert@epa.gov* or by phone (303)–312–6653.

FOR FURTHER INFORMATION CONTACT: Robert Clement, Drinking Water B Section, EPA Region 8, Denver, Colorado by email at *clement.robert@epa.gov* or by phone (303) 312–6653.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of section 1413 of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300g–2, and 40 CFR 142.13, public notice is hereby given that the state of Montana has revised its PWSS program by adopting federal regulations for the Penalty Authority Rule that correspond to the NPDWR in 40 CFR parts 141 and 142. The EPA has reviewed Montana's regulations and determined they are no less stringent than the federal regulations. The EPA is proposing to approve Montana's primacy revision for the Penalty Authority Rule. This approval action does not extend to public water systems in Indian country as defined in 18 U.S.C. 1151. Please see **SUPPLEMENTARY INFORMATION**, Unit B.

A. Why are revisions to State programs necessary?

States with primary PWSS enforcement authority must comply with the requirements of 40 CFR part 142 to maintain primacy. They must adopt regulations that are at least as stringent as the NPDWRs at 40 CFR parts 141 and 142, as well as adopt all new and revised NPDWRs in order to retain primacy (40 CFR 142.12(a)).

B. How does this action affect Indian country (18 U.S.C. 1151) in Montana?

The EPA's approval of Montana's revised PWSS program does not extend to Indian country as defined in 18 U.S.C. 1151. Indian country in Montana generally includes (1) lands within the exterior boundaries of the following Indian reservations located within Montana: The Crow Indian Reservation, the Blackfeet Indian Reservation, the Flathead Reservation, the Fort Belknap Reservation, the Fort Peck Indian Reservation, the Northern Cheyenne Indian Reservation, and the Rocky Boy's Reservation; (2) any land held in trust by the United States for an Indian tribe; and (3) any other areas which are ''Indian country'' within the meaning of 18 U.S.C. 1151. EPA or eligible Indian tribes, as appropriate, will retain PWSS program responsibilities over public water systems in Indian country.

C. Requesting a Hearing

Any interested party may request a hearing on this determination within thirty (30) days of this notice. All requests shall include the following information: Name, address, and telephone number of the individual, organization, or other entity requesting a hearing; a brief statement of interest and information to be submitted at the hearing; and the signature of the interested individual or responsible official, if made on behalf of an organization or other entity. Frivolous or insubstantial requests for a hearing may be denied by the RA.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing and will be made by the RA in the **Federal Register** and in a newspaper of general circulation in the state. A notice will also be sent to both the person(s) requesting the hearing and the state. The hearing notice will include a statement of purpose of the hearing, information regarding time and location for the hearing, and the address and telephone number where interested persons may obtain further information. The RA will issue an order affirming or rescinding the determination upon review of the hearing record. Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: May 15, 2020.

Gregory Sopkin,

Regional Administrator, Region 8.

[FR Doc. 2020–11162 Filed 5–22–20; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Privacy Act of 1974; System of Records

AGENCY: Farm Credit Administration.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, notice is given that the Farm Credit Administration (FCA or Agency) is amending the General Statement of Routine Uses applicable to and incorporated by reference in each of the Agency's Systems of Records.

DATES: You may send written comments on or before June 25, 2020. The FCA filed an amended System Report with Congress and the Office of Management and Budget on April 20, 2020. The revised Systems of Records Notices and Statement of General Routine Uses will become effective without further publication on July 6, 2020 unless modified by a subsequent notice to incorporate comments received from the public.

ADDRESSES: We offer a variety of methods for you to submit your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by email or through FCA's website. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method of use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *Email:* Send us an email at *reg-comm@fca.gov.*
- *FCA website: http://www.fca.gov.* Click inside the ''I want to . . .'' field, near the top of the page; select ''comment on a pending regulation'' from the dropdown menu; and click ''Go.'' This takes you to an electronic public comment form.
- *Mail:* David Grahn, Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of comments we receive at our office in McLean, Virginia, or from our website at *http://www.fca.gov.* Once you are in the website, click inside the ''I want to . . .'' field, near the top of the page; select ''find comments on a pending regulation'' from the dropdown menu; and click ''Go.'' This will take you to the Comment Letters page, where you can select the SORN for which you would like to read public comments. The comments will be posted as submitted but, for technical reasons, items such as logos and special characters may be omitted. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce internet spam.

FOR FURTHER INFORMATION CONTACT: Autumn R. Agans, Privacy Act Officer, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4019, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a(r), a report of these systems of records is being filed with the Chair of the House Committee on Oversight and Government Reform, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget.

The Agency is adding four new routine uses and making non-substantive changes to two existing routine uses.

The Privacy Act governs the means by which the United States Government collects, maintains, and uses personally identifiable information (PII) in a system of records. A ''system of records'' is a group of any records under the control of a Federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register**, for public notice and comment, a system of records notice (SORN) identifying and describing each system of records the agency maintains, including the purposes for which the agency uses PII in the system and the routine uses for which the agency discloses such information outside the agency. As provided in ''Privacy Act Guidelines'' issued by the Office of Management and Budget (OMB) on July 1, 1975 (*see* 40 FR 28966), once an agency has published a routine use that will apply to all of its systems of record (*i.e.*, a general routine use) in the

Federal Register for public notice and comment, the agency may thereafter incorporate the publication by reference in each system's SORN without inviting further public comment on that use. To date, FCA has published eight general routine uses (*see* 64 FR 8175 published February 18, 1999). The amended general routine uses reflect non-substantive changes to two existing FCA general routine uses (*see* 64 FR 8175, published February 18, 1999).

The four new general routine uses implemented by this Notice allow for (i) disclosure of records in response to a breach or suspected breach of an FCA system of records; (ii) disclosure of records in response to a breach or suspected breach of or in response to another agency's system of records; (iii) disclosure of records to contractors or other authorized agents performing work on behalf of the Agency; and (iv) a routine use allowing disclosure to other federal and state agencies to facilitate access to, amendment or correction of records, or to verify the identity of individuals making such requests.

The new general routine uses are compatible with the purposes for which the information to be disclosed was originally collected. Individuals whose personally identifiable information is in FCA systems expect their information to be secured. Sharing their information with appropriate parties in responding to a confirmed or suspected breach of an FCA system, or another agency's system, will help FCA and all Federal agencies protect them against potential misuse of their information by unauthorized persons. Moreover, these new routine uses are necessary to comply with OMB Memorandum M–17–12, ''Preparing for and Responding to a Breach of Personally Identifiable Information'' (January 3, 2017).

Sharing information with contractors or other authorized agents performing work on behalf of the Agency facilitates efficient use of government resources by leveraging contract support in developing and deploying capabilities or enhancing services. Disclosure requirements are limited to only those data elements considered relevant to accomplishing a specific agency function as it relates to the system of records from which the records are disclosed. Sharing information with other federal and state agencies to facilitate access to, amendment or correction of records, or to verify the identity of individuals making requests for access to, amendment or correction of records facilitates transparency efforts while simultaneously ensuring the privacy of individuals to whom the information being requested applies.

In order that the Agency's Statement of General Routine Uses, including those new uses described above, will be contained in a single notice readily accessible by the public, the FCA is republishing the General Statement of Routine Uses previously published on February 18, 1999 (64 FR 8175), which were not revised under this notice.

SYSTEM NAME AND NUMBER:

FCA–1—Employee Attendance, Leave, and Payroll Records—FCA.
FCA–2—Financial Management Records—FCA.
FCA–3—Property Accountability Records—FCA.
FCA–4—Biographical Files—FCA.
FCA–5—Assignments and Communication Tracking System—FCA.
FCA–6—Freedom of Information and Privacy Act Requests—FCA.
FCA–7—Inspector General Investigative Files—FCA.
FCA–8—FCA internet Access System—FCA.
FCA–9—Personnel Security Files—FCA.
FCA–10—Farm Credit System Institution Criminal Referrals—FCA.
FCA–11—Litigation and Administrative Adjudication Files—FCA.
FCA–12—Health and Life Insurance Records—FCA.
FCA–13—Correspondence Files—FCA.
FCA–14—Employee Travel Records—FCA.
FCA–15—Employee Training—FCA.
FCA–16—Examiner Training and Education Records—FCA.
FCA–17—Organization Locator and Personnel Roster System—FCA.
FCA–18—Inspector General Investigative Files—FCA.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

SYSTEM MANAGER(S):

The system manager for each system is described in the system's corresponding SORN located here: *https://www.fca.gov/required-notices/privacy-program/.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority for each system is described in the system's corresponding SORN located here: *https://www.fca.gov/required-notices/privacy-program/.*

PURPOSE(S) OF THE SYSTEM:

The purpose for each system is described in the system's corresponding SORN located here: *https://www.fca.gov/required-notices/privacy-program/.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals covered by each system are described in the system's corresponding SORN located here: *https://www.fca.gov/required-notices/privacy-program/.*

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of individuals covered by each system are described in the system's corresponding SORN located here: *https://www.fca.gov/required-notices/privacy-program/.*

RECORD SOURCE CATEGORIES:

The categories of sources of records for each system is described in the system's corresponding SORN located here: *https://www.fca.gov/required-notices/privacy-program/.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

FCA is amending its General Statement of Routine Uses by making non-substantive changes to routine uses 1 and 5, and adding routine uses 9, 10, 11, and 12.

General Statement of Routine Uses

In addition to the disclosures permitted under 5 U.S.C. 552a(b), we may disclose these records or information in the record systems under 5 U.S.C. 552a(b)(3), as provided below. The following routine uses apply to and are incorporated by reference into each system of records set forth below unless otherwise indicated.

(1) We may disclose a record or information in the record system when it indicates a violation or potential violation of law. Violations may be civil, criminal, or regulatory, arising by statute, regulation, rule, or related order. Disclosure will be made to the appropriate federal, state, local, or foreign authority responsible for investigating or prosecuting relevant violations or charged with enforcing compliance with the law.

(2) We may disclose a record or information in the record system to a responsible licensing authority if the records are relevant and necessary in the particular licensing decision.

(3) We may disclose a record or information in the record system to an agency, office, or establishment of the executive, legislative, or judicial branch of the federal or state government, in

response to its request, in connection with hiring or retaining an employee, issuing a security clearance, reporting on an investigation of an employee, letting a contract, or issuing a license, grant, or other benefit to the subject of the record.

(4) We may disclose a record or information in the record system to a Federal congressional office to respond to an inquiry from that office made at the request of the person who is the subject of the record.

(5) We may disclose a record or information in the record system to the U.S. Department of Justice (''DOJ'') for its use in providing legal advice to the FCA or in representing the FCA in a proceeding before a court, adjudicative body, or other administrative body, where the use of such information by the DOJ is deemed by the FCA to be relevant and necessary to the advice or proceeding, and in the case of a proceeding, such proceeding names as a party in interest:

(a) The FCA;

(b) Any employee of the FCA in his or her official capacity;

(c) Any employee of the FCA in his or her individual capacity where DOJ has agreed to represent the employee; or

(d) The United States, where the FCA determines that litigation is likely to affect the FCA;

(6) We may disclose a record or information in the record system to a court, magistrate, or administrative tribunal in presenting evidence, including disclosures to counsel or witnesses during civil discovery, litigation, administrative proceedings, settlement negotiations, or in connection with criminal proceedings, when FCA is a party to the litigation or proceeding.

(7) We may disclose a record or information in the record system to a court or other adjudicative body before which FCA is authorized to appear when,

(i) FCA, or

(ii) Any FCA employee in his or her individual capacity, is a party or has an interest in the litigation or proceeding and FCA deems the use of such records to be relevant and necessary.

(8) We may disclose a record or information in the record system to the National Archives and Records Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

(9) We may disclose a record or information in the record system to another federal agency or entity, when FCA determines that information from the record system is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) 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.

(10) We may disclose a record or information in the record system to appropriate agencies, entities, and persons when (a) the FCA suspects or has confirmed that there has been a breach of the system of records; (b) the FCA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the FCA (including its information systems, programs, and operations), the federal government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FCA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(11) We may disclose a record or information in the record system to entities and persons performing work on a contract, service, cooperative agreement, or other activity on behalf of the FCA or federal government and who have a need to access the record or information in the performance of their duties or activities.

(12) We may disclose a record or information in the record system to another federal or state agency to (a) make a decision on the access, amendment or correction of records to be made in consultation with or by that agency, or (b) verify an individual's identity or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The storage practices for each system are set out in the corresponding SORN located here: *https://www.fca.gov/required-notices/privacy-program/.*

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Depending on the particular system, paper and electronic records may be retrieved by name or other identifying aspects.

POLICIES AND PROCEDURES FOR RETENTION AND DISPOSAL OF RECORDS:

The retention period for each system is set out in the corresponding SORN located here: *https://www.fca.gov/required-notices/privacy-program/.*

ADMINSITRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

FCA implements multiple layers of security to ensure access to records is limited to those with need-to-know in support of their official duties. Records are physically safeguarded in a secured environment using locked file rooms, file cabinets, or locked offices and other physical safeguards. Computerized records are safeguarded through use of user roles, passwords, firewalls, encryption, and other information technology security measures.

RECORD ACCESS PROCEDURES:

To obtain a record, contact: Privacy Act Officer, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, as provided in 12 CFR part 603.

CONTESTING RECORD PROCEDURES:

Direct requests for amendments to a record to: Privacy Act Officer, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, as provided in 12 CFR part 603.

NOTIFICATION PROCEDURE:

Direct all inquiries about this system of records to: Privacy Act Officer, Farm Credit Administration, McLean, VA 22102–5090.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Any exemptions claimed for each specific system is described in the system's corresponding SORN located here: *https://www.fca.gov/required-notices/privacy-program/.*

HISTORY:

The history of the FCA's various systems can be located at: *https://www.fca.gov/required-notices/privacy-program/.* In order that the Agency's general routine uses will be contained in a single notice readily accessible by the public, the FCA is taking the opportunity to republish the Statement of General Routine Uses previously published in **Federal Register** Vol. 64, No. 100/Tuesday, May 25, 1999, page 21875.

Dated: May 19, 2020.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2020–11199 Filed 5–22–20; 8:45 am]

BILLING CODE 6705–01–P

FARM CREDIT ADMINISTRATION

Privacy Act of 1974; System of Records

AGENCY: Farm Credit Administration.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, notice is hereby given that the Farm Credit Administration (FCA or Agency) is amending an existing system of records, FCA–10—Farm Credit System Institution Criminal Referrals—FCA. The Farm Credit System Institution Criminal Referrals—FCA system is used to track the progress of criminal referrals through the justice system, to notify FCA examiners and Farm Credit System institutions of criminal referrals, and to issue notices/orders of prohibition. The Agency is updating the notice to clarify and include more details about the categories of records maintained in the system, how they are maintained, to update the routine uses, to make administrative updates, and to make non-substantive changes to conform to the system of records notice (SORN) template requirements prescribed in the Office of Management and Budget (OMB) Circular No. A–108.

DATES: You may send written comments on or before June 25, 2020. FCA filed an amended System Report with Congress and the Office of Management and Budget on April 20, 2020. This notice will become effective without further publication on July 6, 2020 unless modified by a subsequent notice to incorporate comments received from the public.

ADDRESSES: We offer a variety of methods for you to submit your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by email or through the FCA's website. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *Email:* Send us an email at *reg-comm@fca.gov.*
- *FCA Website: http://www.fca.gov.* Click inside the ''I want to. . .'' field, near the top of the page; select ''comment on a pending regulation'' from the dropdown menu; and click ''Go.'' This takes you to an electronic public comment form.
- *Mail:* David Grahn, Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of comments we receive at our office in McLean, Virginia, or from our website at *http://www.fca.gov.*

Once you are in the website, click inside the ''I want to . . .'' field, near the top of the page; select ''find comments on a pending regulation'' from the dropdown menu; and click ''Go.'' This will take you to the Comment Letters page, where you can select the SORN for which you would like to read public comments. The comments will be posted as submitted but, for technical reasons, items such as logos and special characters may be omitted. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce internet spam.

FOR FURTHER INFORMATION CONTACT: Autumn R. Agans, Privacy Act Officer, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4019, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION: This publication satisfies the requirement of the Privacy Act of 1974 that agencies publish a system of records notice in the **Federal Register** when there is a revision, change, or addition to the system of records. The substantive changes and modifications to the currently published version of FCA–10—Farm Credit System Institution Criminal Referrals—FCA include:

1. Identifying the records in the system as unclassified.
2. Updating the system location to reflect the system's current location.
3. Updating the system managers to reflect the system's current owner.
4. Expanding and clarifying the categories of records to ensure they are consistent with the purposes for which the records are collected.
5. Expanding and clarifying the routine uses for which information in the system may be disclosed.
6. Expanding and clarifying how records may be stored and retrieved.
7. Revising the retention and disposal section to reflect relevant records schedule.
8. Revising the safeguards section to reflect updated cybersecurity guidance and practices.

Additionally, non-substantive changes have been made to the notice to align with the latest guidance from OMB.

The amended system of records is: FCA–10—Farm Credit System Institution Criminal Referrals—FCA. As required by 5 U.S.C. 552a(r) of the Privacy Act, as amended, FCA sent notice of this proposed system of records to the Office of Management and Budget, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate. The notice is published in its entirety below.

SYSTEM NAME AND NUMBER:

FCA–10—Farm Credit System Institution Criminal Referrals—FCA.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

SYSTEM MANAGER:

Director, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 2243, 2252 and 12 CFR part 612.

PURPOSES OF THE SYSTEM:

Information in this system of records is used to track the progress of criminal referrals through the justice system, to notify FCA examiners, the FCA Office of General Counsel, and Farm Credit System (FCS) institutions of criminal referrals, and to issue notices/orders of prohibition or take other enforcement actions.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who participate or have participated in the conduct of, or who are or were connected with, FCS institutions, such as directors, officers, employees, borrowers, shareholders, and agents, who have been named in criminal referrals, investigatory records or administrative enforcement orders or agreements.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains paper and electronic files consisting of:

(1) Criminal referral forms and accompanying documents,

(2) inter-agency or intra-agency correspondence or memoranda;

(3) newspaper clippings and other similar supplementary materials;

(4) Federal, state, or local criminal law enforcement agency investigatory reports, indictments, and/or arrest or conviction information; and

(5) administrative enforcement orders or agreements.

Records contain personally identifiable information including, but not limited to: Name, address, Social Security number (SSN), taxpayer identification number (TIN), date of birth, relationship to an FCS institution,

and employment information (for referrals involving current or former FCS institution employees, contractors, or agents), information about financial transactions or other financial information for persons suspected of a criminal violation, as well as information about the suspected criminal violation, and name, title, and contact information for identified witnesses of suspected criminal violation or FCS institution employees responsible for completing and submitting the criminal referral form. Records contained in this system (*e.g.,* criminal investigation reports prepared by the Federal Bureau of Investigation, Secret Service, and other Federal law enforcement agencies) may be the property of other agencies. Upon receipt of a request for such records, FCA will immediately notify the proprietary agency of the request and ask how to process the request for access. FCA may forward the request to the proprietary agency for processing in accordance with that agency's regulations.

RECORD SOURCE CATEGORIES:

Farm Credit System institutions; Federal financial regulatory agencies; news media outlets; and criminal law enforcement investigatory and prosecutorial authorities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See the ''General Statement of Routine Uses'' (64FR 8175). The information collected in the system will be used in a manner that is compatible with the purposes for which the information has been collected and, in addition to the applicable general routine uses, may be disclosed for the following purposes:

(1) We may disclose information in this system of records to any financial institution, agency, authority, or other entity affected by the suspected criminal activities.

Disclosure to consumer reporting agencies: None.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in hard copy and electronic form, including in a computerized database.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by individual name, name of submitting FCS institution, date received, chronological number assigned in order of receipt, borrower type, referral type, loss amount, criminal violation, or by some combination thereof.

POLICIES AND PROCEDURES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with the FCA Comprehensive Records Schedule and National Archives and Records Administration regulations.

ADMINSITRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

FCA implements multiple layers of security to ensure access to records is limited to those with need-to-know in support of their official duties. Paper records are physically safeguarded in a secured environment using locked file rooms, file cabinets, or locked offices and other physical safeguards. Computerized records are safeguarded through use of user roles, passwords, firewalls, encryption, and other information technology security measures.

RECORD ACCESS PROCEDURES:

To obtain a record, contact: Privacy Act Officer, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, as provided in 12 CFR part 603.

CONTESTING RECORD PROCEDURES:

Direct requests for amendments to a record to: Privacy Act Officer, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, as provided in 12 CFR part 603.

NOTIFICATION PROCEDURE:

Address inquiries about this system of records to: Privacy Act Officer, Farm Credit Administration, McLean, VA 22102–5090.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

This system is subject to a specific exemption, 5 U.S.C. 552a(k)(2), to the extent investigatory material is compiled for law enforcement purposes. Federal criminal law enforcement investigatory reports maintained as part of this system may be subject to exemptions imposed by the originating agency under 5 U.S.C. 552a(j)(2).

HISTORY:

Federal Register Vol. 64, No. 100/ Tuesday, May 25, 1999, page 21875.

Vol. 70, No. 183/Thursday, September 22, 2005, page 55621.

Dated: May 19, 2020.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2020–11198 Filed 5–22–20; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[AU Docket No. 19–244; DA 20–520; FRS 16785]

Updated Population Data for 95 License Areas for the Auction of Priority Access Licenses in the 3550–3650 MHz Band; Availability of File With Recalculated Bidding Units and Upfront Payment and Minimum Opening Bid Amounts for Auction 105

AGENCY: Federal Communications Commission.

ACTION: Notice; updated data and payment amounts.

SUMMARY: This document announces the availability of updated population data used for calculating bidding units, upfront payment amounts, and minimum opening bid amounts for the licenses to be offered in Auction 105. This document also announces the availability of an updated file listing the population, bidding units, upfront payment amounts and minimum opening bids amounts for licenses to be offered in Auction 105.

DATES: Upfront payments for Auction 105 must be received by 6:00 p.m. ET on June 19, 2020. The mock auction is scheduled for July 20, 2020. Auction 105 is scheduled to begin on July 23, 2020.

FOR FURTHER INFORMATION CONTACT: Email *auction105@fcc.gov* or contact the FCC Auctions Hotline at (717) 338–2868.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction 105 Updated Population Data Public Notice,* AU Docket No. 19–244, DA 20–520, released on May 18, 2020. The complete text of the *Auction 105 Updated Population Data Public Notice,* and any related documents, is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. ET Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, located in Room CY–A257 of the FCC Headquarters, 445 12th Street SW, Washington, DC 20554, except when FCC Headquarters is otherwise closed to visitors. *See, e.g.,* Public Notice, Restrictions on Visitors to FCC Facilities, March 12, 2020. The complete text and related documents are also available on the Commission's website at *www.fcc.gov/auction/105* or by using the search function for AU Docket No. 19–244 on the Commission's ECFS web page at *www.fcc.gov/ecfs.* Alternative formats are available to persons with disabilities by sending an email to *FCC504@fcc.gov* or by calling

the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

1. In the *Auction 105 Procedures Public Notice,* 85 FR 22622, April 23, 2020, the Commission adopted a methodology for calculating bidding units and upfront payment and minimum opening bid amounts for the county-based licenses to be offered in Auction 105 that is based on population and bandwidth. An ''Attachment A'' file listing the bidding units, upfront payment amount, and minimum opening bid amount for each license was made available on the Auction 105 website at *www.fcc.gov/auction/105* and labeled as ''Adopted (3/2/2020).'' The Wireless Telecommunications Bureau (Bureau) and the Office of Economics and Analytics (OEA) now announce the availability of an updated version of this file.

2. Consistent with the Commission's decision regarding county-based license areas in the *2018 3.5 GHz Order,* 83 FR 63076, December 7, 2018, and with existing Commission policies and procedures used in prior auctions, the Bureau and OEA attributed the 2010 decennial census population figures to the county legal boundaries as of January 1, 2017, and used the resulting population figures for calculating bidding units, upfront payment amounts, and minimum opening bid amounts for the licenses to be offered in Auction 105. The Bureau and OEA recently became aware of anomalies in those population figures for 95 of these license areas and have corrected the Attachment A file. Specifically, the population has been changed in the updated file for all 91 license areas in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands, as well as for three areas in Alaska and one area in Virginia. In all but a few of those cases (where the change in population was relatively small), the bidding units, upfront payment amounts, and minimum opening bid amounts have changed accordingly. The revised numbers are higher for some areas and lower for others.

3. The updated file is available on the Auction 105 website at *www.fcc.gov/auction/105* at the ''Updated (May 18, 2020)'' link under the ''Attachment A Files'' heading. Corresponding updates will also be made to the FCC Form 175 including the bidding unit data provided for the license areas and in the upfront payment calculator. The updates to the FCC Form 175 will be made before the resubmission window opens. When making upfront payments applicants are reminded to check their calculations carefully, based on the updated figures, because there is no provision for increasing a bidder's eligibility after the upfront payment deadline.

Federal Communications Commission.

Gary Michaels,

Deputy Chief, Auctions Division, Office of Economics and Analytics.

[FR Doc. 2020–11193 Filed 5–22–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

[OMB No. 3064–0057; –0112; –0127; –0140; and –0175]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Agency information collection activities: submission for OMB Review; comment request.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collections described below. On March 17, 2020, the FDIC requested comment for 60 days on a proposal to renew these information collections. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of these information collections, and again invites comment on their renewal.

DATES: Comments must be submitted on or before June 25, 2020.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *https://www.FDIC.gov/regulations/laws/federal.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Regulatory Counsel, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza, Regulatory Counsel, 202–898–3767, *mcabeza@fdic.gov,* MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collections of Information

1. *Title:* Quarterly Certified Statement Invoice for Deposit Insurance Assessment.

OMB Number: 3064–0057.

Affected Public: FDIC-insured depository institutions.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

Information collection description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated frequency of responses	Estimated time per response (minutes)	Estimated annual burden (hours)
Certified Statement for Quarterly Deposit Insurance Assessment (FDIC Form 6420/07).	Reporting	Mandatory	5,258	Quarterly	20	7,011

Total Estimated Annual Burden: 7,011 hours.

General Description of Collection: The FDIC collects deposit insurance assessments on a quarterly basis. Each quarterly assessment is based on an insured depository institution's quarterly report of condition for the

prior calendar quarter. The FDIC collects the quarterly assessment payments by means of direct debits through the Automated Clearing House network. The information collection consists of the reporting requirement associated with certifying the review by officials of the insured institutions to confirm that the assessment data are accurate and, in cases of inaccuracy, submission of corrected data.

There is no change in the substance or methodology of this information collection. The change in burden is due solely to the decrease in the estimated number of respondents by 823 from the estimated 6,081 annual respondents in the currently-approved information collection to the current estimate of 5,258. The decrease in estimated respondents is the result of the drop in the total number of insured depository institutions.

2. *Title:* Real Estate Lending Standards.

OMB Number: 3064–0112.

SUMMARY OF ANNUAL BURDEN

Information collection description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated frequency of responses	Estimated time per response (Hours)	Estimated A annual burden (Hours)
Real Estate Lending Standards	Recordkeeping	Mandatory	3,344	On Occasion	20	66,880

Total Estimated Annual Burden: 66,880 hours.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

General Description of Collection: Section 1828(o) of the Federal Deposit Insurance Act requires each federal banking agency to adopt uniform regulations prescribing real estate lending standards. Part 365 of the FDIC Rules and Regulations, which implements section 1828(o), requires institutions to have real estate lending policies that include (a) limits and standards consistent with safe and sound banking practices; (b) prudent underwriting standards, including loan-to-value ratio (LTV) limits that are clear and measurable; (c) loan administration policies; (d) documentation, approval and reporting requirements; and (e) a requirement for annual review and approval by the board of directors. The rule also establishes supervisory LTV limits and other underwriting considerations in the form of guidelines. Since banks generally have written policies on real estate lending, the additional burden imposed by this regulation is limited to modifications to existing policies necessary to bring those policies into compliance with the regulation and the development of a system to report loans in excess of the guidelines to the board of directors.

There is no change in the substance or methodology of this information collection. The change in burden is due solely to the decrease in the estimated number of respondents by 534 from the estimated 3,878 annual respondents in the currently-approved information collection to the current estimate of 3,344. The decrease in estimated respondents is the result of the drop in the total number of FDIC-supervised institutions.

3. *Title:* Fast-Track Generic Clearance for the Collection of Qualitative Feedback.

OMB Number: 3064–0127.

Affected Public: General public including FDIC insured depository institutions.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

Information collection description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated frequency of responses	Estimated time per response (hours)	Estimated annual burden (hours)
Occasional Qualitative Surveys	Reporting	Voluntary	850	20	1	17,000

Total Estimated Annual Burden: 17,000 hours.

General Description of Collection: The FDIC is requesting renewal of this approved collection to use occasional qualitative surveys to gather information from the public. While the subject and nature of the surveys to be deployed under this information collection are yet to be determined, based on prior experience it is expected that the number of respondents will range from a few to, at times several thousands, but, in general, these surveys are expected to involve an average of 850 respondents. Likewise, the time to respond to the surveys can range from a few minutes to several hours. It is expected that the average time to respond to a survey is approximately one hour. These surveys are completely voluntary in nature. FDIC estimates that approximately 20 such surveys will be conducted in any given year.

The purpose of the surveys is, in general terms, to obtain anecdotal information about regulatory burden, problems or successes in the bank supervisory process (including both safety-and-soundness and consumer-related exams), the perceived need for regulatory or statutory change, and similar concerns. The information in these surveys is anecdotal in nature, that is, samples are not necessarily random, the results are not necessarily representative of a larger class of potential respondents, and the goal is not to produce a statistically valid and reliable database. Rather, the surveys are expected to yield anecdotal information about the particular experiences and opinions of members of the public, primarily staff at respondent banks or bank customers. The information is used to improve the way FDIC relates to its clients, to develop agendas for regulatory or statutory change, and in some cases simply to learn how particular policies or programs are working, or are perceived in particular cases.

There is no change in the substance or methodology of this information collection. The change in burden is due solely to an increase in the estimated number of surveys to be deployed annually under this information collection. The increase in frequency from 15 to 20 surveys per year, resulted in an increase of 4,250 hours in total estimated annual burden from 12,750 hours to 17,000 hours.

4. *Title:* Insurance Sales Consumer Protection.

OMB Number: 3064–0140.

Affected Public: Insured State nonmember banks and savings associations that sell insurance products; persons who sell insurance products in or on behalf of insured State nonmember banks and savings associations.

Type of Burden: Third-party disclosure.

Obligation to Respond: Mandatory.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

Information collection description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated frequency of responses	Estimated time per response (hours)	Estimated annual burden (hours)
Insurance Sales Consumer Protections	Third Party Disclosure.	Mandatory	2,146	On Occasion	5	10,730

Total Estimated Annual Burden: 10,730.

General Description of Collection: Respondents must prepare and provide certain disclosures to consumers (*e.g.,* that insurance products and annuities are not FDIC-insured) and obtain consumer acknowledgments, at two different times: (1) Before the completion of the initial sale of an insurance product or annuity to a consumer; and (2) at the time of application for the extension of credit (if insurance products or annuities are sold, solicited, advertised, or offered in connection with an extension of credit).

There is no change in the substance or methodology of this information collection. The change in burden is due solely to an increase in the estimated number of respondents which is derived from Call Report data indicating the number of by institutions offering insurance products. The number of respondents increased by 126 from 2,020 to 2,146.

5. *Title:* Interagency Guidance on Sound Incentive Compensation Practices.

OMB Number: 3064–0175.

Affected Public: Insured state nonmember banks and state savings associations.

Obligation to Respond: Voluntary.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

	Type of burden	Estimated number of respondents	Estimated number of responses	Estimated time per response (hours)	Frequency of response	Total annual estimated burden (hours)
Document policies and procedures (Implementation)	Recordkeeping	1	1	40	Annual	40
Annual maintenance of policies and procedures (Ongoing).	Recordkeeping	2,164	1	2	Annual	4,328
Total Hourly Burden						4,368

Methodology and Assumptions: Previously, each institution supervised by the FDIC was estimated to spend 40 hours per year maintaining a record of its policies and procedures regarding incentive based compensation. However, while an institution without any such policies and procedures may take 40 hours to completely document them for the first time, after performing the initial documentation, unless an institution needs to revise its policies and procedures, there should be no further recordkeeping burden. FDIC is using one respondent as a placeholder to represent any institution that adopt incentive based compensation for the first time. The estimate of 40 hours remains unchanged from the 2017 estimate. Supervisory experience shows that approximately 65% of large FDIC-supervised institutions revise their incentive-based compensation policies and procedures annually. FDIC estimates it takes approximately 2 hours for an institution to update its record of its policies and procedures related to incentive compensation. While a majority of the institutions supervised by the FDIC are small, and may not use incentive based compensation, or may use incentive based compensation arrangements less complex than those used at large institutions, FDIC assumes that each year approximately 65 percent of FDIC-supervised institutions will spend approximately 2 hours each revising their records of their incentive based compensation policies and procedures. As of December 31, 2019, the FDIC supervised 3,344 institutions. FDIC assumes that 2,164 (65%) of those institutions will revise their records of incentive based compensation policies and procedures each year.

General Description of Collection: This Guidance helps promote that incentive compensation policies at insured state non-member banks do not encourage excessive risk-taking and are consistent with the safety and soundness of the organization. Under this Guidance, banks are encouraged to: (i) Have policies and procedures that identify and describe the role(s) of the personnel and units authorized to be involved in incentive compensation arrangements, identify the source of significant risk-related inputs, establish appropriate controls governing these inputs to help ensure their integrity, and identify the individual(s) and unit(s) whose approval is necessary for the establishment or modification of incentive compensation arrangements; (ii) create and maintain sufficient documentation to permit an audit of the organization's processes for incentive compensation arrangements; (iii) have any material exceptions or adjustments to the incentive compensation arrangements established for senior executives approved and documented by its board of directors; and (iv) have its board of directors receive and review, on an annual or more frequent basis, an assessment by management of the effectiveness of the design and operation of the organization's incentive compensation system in providing risk-taking incentives that are consistent with the organization's safety and soundness.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on May 20, 2020.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2020–11223 Filed 5–22–20; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Solicitation of Applications for Membership on the Community Advisory Council Extension of Application Period

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On March 27, 2020 the Board published in the **Federal Register** a notice seeking applications for membership on the Community Advisory Council (CAC). The application period for this notice has been extended in light of ongoing challenges for households and businesses caused by the COVID–19 emergency in order to provide additional opportunity for interested persons to submit their application. The application period for individuals who wish to serve as CAC members has been extended until July 3, 2020.

DATES: The application for membership on the Community Advisory Council published on March 27, 2020, (85 FR 17331), has been extended from June 5, 2020 to July 3, 2020.

ADDRESSES: Individuals who are interested in being considered for the CAC may submit an application by any of the means identified in the solicitation notice.[1] Please submit your application using only one method.

FOR FURTHER INFORMATION CONTACT: Jennifer Fernandez, Community Development Analyst, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th Street and Constitution Ave. NW, Washington, DC 20551, or (202) 452–2412, or *CCA-CAC@frb.gov.* Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869.

SUPPLEMENTARY INFORMATION: The Board created the Community Advisory Council (CAC) as an advisory committee to the Board on issues affecting consumers and communities. On March 27, 2020 at 85 FR 17331, the Board published in the **Federal Register** a notice seeking applications for membership on the CAC. That document stated that the application period would close on June 5, 2020. In light of ongoing challenges for households and businesses caused by the COVID–19 emergency, the application period for individuals who wish to be considered as CAC members has been extended in order to provide additional opportunity for interested persons to submit their application. Accordingly, applications now received between Monday, April 6, 2020 and Friday, July 3, 2020 will be considered for selection to the Community Advisory Council for terms beginning January 1, 2021.

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2020–11186 Filed 5–22–20; 8:45 am]

BILLING CODE 6210–01–P

[1] See, 85 FR 17331 (March 27, 2020).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Amendment and Extension of Order Under Sections 362 and 365 of the Public Health Service Act; Order Suspending Introduction of Certain Persons From Countries Where a Communicable Disease Exists

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), a component of the Department of Health and Human Services (HHS), announces the amendment of an Order issued on March 20, 2020 and extended on April 20, 2020 under Sections 362 and 365 of the Public Health Service Act, and associated implementing regulations, that temporarily suspends the introduction of certain aliens based on the Director's determination that introduction of aliens, regardless of their country of origin, migrating through Canada and Mexico into the United States creates a serious danger of the introduction of COVID–19 into the United States, and the danger is so increased by the introduction of such aliens that a temporary suspension is necessary to protect the public health. This amendment and extension was issued on May 20, 2020 and shall remain in effect until the CDC Director determines that the danger of further introduction of COVID–19 into the United States from covered aliens has ceased to be a serious danger to the public health, and the Order is no longer necessary to protect the public health. CDC shall review the latest information regarding the status of the COVID–19 pandemic and associated public health risks every thirty days to ensure that the Order remains necessary to protect the public health.

DATES: This action is effective 12:00 a.m. EDT May 21, 2020.

FOR FURTHER INFORMATION CONTACT: Kyle McGowan, Office of the Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS V18–2, Atlanta, GA 30329. Phone: 404–639–7000. Email: *cdcregulations@cdc.gov.*

SUPPLEMENTARY INFORMATION:

March 20, 2020 Order

On March 20, 2020, the Director of the Centers for Disease Control and Prevention issued an Order temporarily suspending the introduction of certain aliens from Canada and Mexico, including certain aliens who migrate to the United States across the land borders with Canada and Mexico, because the introduction of such aliens creates a serious danger of the introduction of such disease into the United States, and the danger is so increased by the introduction of such aliens that a temporary suspension is necessary to protect the public health (85 FR 17060). The Order suspended the introduction of certain persons into the United States for a period of 30 days.

April 20, 2020 Order

On April 20, 2020, the Director of CDC extended the March 20, 2020 Order until 11:59 p.m. EDT on May 20, 2020 (85 FR 22424). The April 20, 2020 extension found that the determinations of the March 20, 2020 Order remain correct, and further determined that the

suspended introduction of covered aliens should continue for another 30 days because the increasing numbers of COVID–19 infections in Canada, Mexico, and the United States, as well as the highly dynamic domestic healthcare landscape still presented a serious danger of further introduction of COVID–19.

May 20, 2020 Order

Recent data from the Department of Homeland Security (DHS) indicates the Order has mitigated the specific public health risks identified in the March 20, 2020 Order by significantly reducing the population of covered aliens held in POEs and Border Patrol stations. However, since the April 20, 2020 extension, Canada and Mexico continue to see increasing numbers of COVID–19 infections and deaths. Epidemiologically speaking, the United States remains in the acceleration phase of the pandemic. Accordingly, there remains a serious risk to the public health that COVID–19 will continue to spread to unaffected communities within the United States, or further burden already affected areas.

Thus, the Director of CDC is amending the Order Suspending Introduction of Certain Persons from Countries Where a Communicable Disease Exists, issued on March 20, 2020 and extended on April 20, 2020, to clarify that it applies to land and coastal Ports of Entry and Border Patrol stations that would otherwise hold covered aliens in a congregate setting. The Director is also extending the duration of the Order until he determines that the risk of further introduction of COVID–19 into the United States from covered aliens has ceased to be a serious danger to the public health, and the Order is no longer necessary to protect the public health. CDC shall review the latest information regarding the status of the COVID–19 pandemic and associated public health risks every thirty days to ensure that the Order remains necessary to protect the public health.

A copy of the Order is provided below and a copy of the signed Order can be found at *https://www.cdc.gov/quarantine/order-suspending-introduction-certain-persons.html*.

U.S. Department of Health and Human Services Centers for Disease Control and Prevention (CDC)

Order Under Sections 362 & 365 of the Public Health Service Act (42 U.S.C. 265, 268):

Amendment and Extension of Order Suspending Introduction of Certain Persons From Countries Where a Communicable Disease Exists

I. Introduction

I am amending the Order Suspending Introduction of Certain Persons from Countries Where a Communicable Disease Exists, issued on March 20, 2020 (hereinafter, March 20, 2020 Order or Order) and extended on April 20, 2020 (hereinafter, April 20, 2020 Extension or Extension), to clarify that it applies to all land and coastal Ports of Entry (POEs) and Border Patrol stations [1] at or near the United States' border with Canada or Mexico that would otherwise hold covered aliens in a congregate setting. I am extending the duration of the Order until I determine that the danger of further introduction of COVID–19 into the United States has ceased to be a serious danger to the public health, and continuation of the Order is no longer necessary to protect the public health. Every 30 days, the Centers for Disease Control and Prevention (CDC) shall review the latest information regarding the status of the COVID–19 pandemic and associated public health risks to ensure that the Order remains necessary to protect the public health. Upon determining that the further introduction of COVID–19 into the United States is no longer a serious danger to the public health necessitating the continuation of this Order, I will publish a notice in the **Federal Register** terminating this Order and its Extensions.

II. History of Order

A. March 20, 2020 Order

I issued the March 20, 2020 Order pursuant to sections 362 and 365 of the Public Health Service (PHS) Act, 42 U.S.C. 265, 268, and the Act's implementing regulations, which authorize the Director of CDC to suspend the introduction of persons into the United States when the Director determines that the existence of a communicable disease in a foreign country or place creates a serious danger of the introduction of such disease into the United States, and the danger is so increased by the introduction of persons from the foreign country or place that a temporary suspension of such introduction is necessary to protect the public health.

The March 20, 2020 Order suspended introduction of certain ''covered aliens'' into the United States for a period of 30 days. The March 20, 2020 Order described ''covered aliens'' as follows:

> Persons traveling from Canada or Mexico (regardless of their country of origin) who would otherwise be introduced into a congregate setting in a land Port of Entry (POE) or Border Patrol station at or near the United States border with Canada or Mexico, subject to exceptions. This order does not apply to U.S. citizens, lawful permanent residents, and their spouses and children; members of the armed forces of the United States, and associated personnel, and their spouses and children; persons from foreign countries who hold valid travel documents and arrive at a POE; or persons from foreign countries in the visa waiver program who are not otherwise subject to travel restrictions and arrive at a POE.

The March 20, 2020 Order also did not apply to ''persons whom customs officers of DHS determine, with approval from a supervisor, should be excepted based on the totality of the circumstances, including consideration of significant law enforcement, officer and public safety, humanitarian, and public health interests.''

The March 20, 2020 Order was based on the following determinations:

- COVID–19 is a communicable disease that poses a danger to the public health;
- COVID–19 is present in numerous foreign countries, including Canada and Mexico;
- There is a serious danger of the introduction of COVID–19 into the land POEs and Border Patrol stations at or near the United States' borders with Canada and Mexico, and into the interior of the country as a whole, because COVID–19 exists in Canada, Mexico, and the other countries of origin of persons who migrate to the United States across the land borders with Canada and Mexico;
- But for a suspension-of-entry order under 42 U.S.C. 265, covered aliens would be subject to immigration processing at the land POEs and Border Patrol stations, and during that processing many of them (typically aliens who lack valid travel documents and are therefore inadmissible) would be held in the common areas of the facilities, in close proximity to one another, for hours or days; and
- Such introduction into congregate settings of persons from Canada or Mexico would increase the already serious danger to the public health to

[1] As explained below, air POEs are excluded from the Amended Order and Extension because they do not present the same public health risk as land and coastal POEs.

the point of requiring a temporary suspension of the introduction of covered aliens into the United States.

B. April 20, 2020 Extension

On April 20, 2020, I extended the March 20, 2020 Order until 11:59 p.m. EDT on May 20, 2020. The April 20, 2020 Extension found that the determinations of the March 20, 2020 Order remain correct, and further determined that the suspension of introduction of covered aliens should continue for another 30 days based on the increasing numbers of COVID–19 infections in Canada, Mexico, and the United States, and the highly dynamic domestic health care landscape.

As detailed below, the Order has proven effective in reducing the risk of COVID–19 within POEs and Border Patrol stations, and the latest information on the status of the pandemic in Canada, Mexico, and the United States justifies issuing this Amendment and Extension until I determine that the serious danger of further introduction of COVID–19 into the United States has ceased to be a danger to the public health.

III. The Order Has Reduced the Risk of COVID–19 Transmission in POEs and Border Patrol Stations

Recent DHS data indicates the March 20, 2020 Order and April 20, 2020 Extension have significantly mitigated the specific public health risk identified in the initial Order by significantly reducing the population of covered aliens held in congregate settings in POEs and Border Patrol stations, thereby reducing the risk of COVID–19 infection among DHS personnel and others within these facilities.

DHS has provided CDC with statistical information on the impact of the Order and Extension, which supports my decision to further extend the suspension. For example, following issuance of the March 20, 2020 Order, DHS data on operational encounters with covered aliens demonstrate that the population of covered aliens held in POEs and Border Patrol stations was reduced by 88 percent. Specifically, in the 46-day period preceding the March 20, 2020 Order (*i.e.,* February 3, 2020 to March 20, 2020), there was a daily average of 3,249 covered aliens in custody at POEs and Border Patrol stations. In the 47-day period following the March 20, 2020 Order (*i.e.,* March 21, 2020 to May 6, 2020), there was a daily average of 395 covered aliens in custody, with approximately 100 aliens in CBP facilities at any given time. By significantly reducing the number of covered aliens held in POEs and Border Patrol stations, the Order and Extension have reduced the density of covered aliens held in congregate custody within these facilities, which reduces the risk of exposure to COVID–19 for DHS personnel and others in POEs and Border Patrol stations.

IV. Conditions in Canada, Mexico, and the United States Warrant Continued Implementation of the Order

Since the April 20, 2020 Extension, COVID–19 has continued to spread. Canada and Mexico continue to see increasing numbers of COVID–19 infections and deaths. In the United States, many states continue to experience growth in the number of confirmed COVID–19 cases, as more states enter the acceleration phase of the pandemic. Although certain early hotspots are beginning to see improvement, and certain areas of the country are beginning a phased reopening of their communities, millions of Americans continue to comply with stay-at-home orders and practice social distancing, most schools and businesses remain closed, and health care providers across the country continue to strive to meet the demand for COVID–19-related care. Epidemiologically speaking, the United States as a whole remains in the acceleration phase of the pandemic.[2] Accordingly, there remains a serious risk to the public health that COVID–19 will continue to spread to unaffected communities within the United States, or further burden already affected areas. At this critical juncture, it would be counterproductive to undermine ongoing public health efforts by relaxing restrictions on the introduction of covered aliens who pose a risk of further introducing COVID–19 into the United States.

A. Canada

As of May 9, 2020, Canada has reported 66,780 confirmed cases of COVID–19, and a total of 4,628 deaths. Canada has tested 1,067,595 people for COVID–19.[3] The Public Health Agency of Canada believes that the COVID–19 pandemic may have reached its peak, but expects that the number of confirmed COVID–19 cases will continue to increase.[4] The Canadian government estimates that 81 percent of COVID–19 cases are the result of community transmission.[5] Canadian modeling indicates that, with the use of strong epidemic controls resulting in a 2.5 percent infection rate, Canada could see 940,000 people with infections, 73,000 hospitalizations, and 23,000 people requiring intensive care over the course of the COVID–19 pandemic.[6] Canada continues to enforce robust public health measures to slow the spread of COVID–19; non-essential businesses and public schools remain largely closed, and public events remain cancelled.[7]

B. Mexico

As of May 9, 2020, Mexico has reported 29,616 confirmed cases of COVID–19 and 2,961 deaths.[8] The Mexican Health Ministry believes that there are approximately 8 additional cases for each confirmed case of COVID–19.[9] On April 21, 2020, government officials announced that Mexico has entered Phase III of the COVID–19 pandemic, the Mexican government's highest level of public health emergency.[10] As the pandemic continues, there are media reports of hospitals in Mexico City turning away

[2] CDC, Situation Summary (updated Apr. 19, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html; see also* Dr. Anne Schuchat, MMWR and Morbidity and Mortality Weekly Report, U.S. Dep't. of Health and Human Services, Public Health Response to the Initiation and Spread of Pandemic COVID–19 in the United States, February 24–April 21, 2020 (May 8, 2020), *available at https://www.cdc.gov/mmwr/volumes/69/wr/mm6918e2.htm#suggestedcitation.*

[3] Government of Canada, Coronavirus disease (COVID–19): Outbreak Update (May 9, 2020), *https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection.html?topic=tilelink#a2.*

[4] Government of Canada, Epidemiological Summary of COVID–19 Cases in Canada (May 9, 2020), *https://health-infobase.canada.ca/covid-19/epidemiological-summary-covid-19-cases.html.*

[5] *Id.*

[6] Public Health Agency of Canada, COVID–19 in Canada: Using Data and Modeling to Inform Public Health Action (last updated May 3, 2020), *https://www.canada.ca/en/public-health/services/publications/diseases-conditions/covid-19-using-data-modelling-inform-public-health-action.html.*

[7] Schools in Quebec are scheduled to re-open May 11 with restrictions. *See* Solarina Ho, CTV News (May 4, 2020) *https://www.ctvnews.ca/health/coronavirus/when-will-school-resume-what-we-know-province-by-province-1.4923667; see also generally* Marc Montgomery, Radio Canada International (May 5, 2020) *https://www.rcinet.ca/en/2020/05/05/covid-19-the-2020-summer-of-fun-events-that-werent/.*

[8] World Health Organization, Coronavirus Disease 2019 (COVID–19) Situation Report—110 (May 9, 2020), *https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200509covid-19-sitrep-110.pdf?sfvrsn=3b92992c_4.*

[9] Mexico News Daily, New Model Show Highest Number of Virus Cases Will Come Sooner Than Expected (Apr. 24, 2020), *https://mexiconewsdaily.com/news/coronavirus/new-model-shows-virus-cases-will-come-sooner-than-expected/.*

[10] James Pasley, MSN News Insider, Mexico has Moved to ''Phase 3''—its Most Serious Level of Coronavirus Alert—and Faces a Looming Outbreak. Here's how it got to this Point (Apr. 23, 2020), *https://www.msn.com/en-us/news/other/mexico-has-moved-to-phase-3-e2-80-94-its-most-serious-level-of-coronavirus-alert-e2-80-94-and-faces-a-looming-outbreak-heres-how-it-got-to-this-point/ss-BB135RGq/.*

potential COVID–19 cases and fears that Mexico lacks sufficient ventilators.[11] Mexico's initial modeling, based on Chinese data reported by the World Health Organization (WHO), assumed a 0.2 percent infection rate with 250,656 people infected during the acceleration phase of the pandemic.[12] Of those people, 70 percent (175,459) are anticipated to seek medical care.[13] Among people seeking medical care, it is projected that 80 percent (140,367) will be ambulatory patients, 14 percent (25,564) will need to be hospitalized without intensive care, and 6 percent (10,528) will require intensive care.[14] Non-governmental models and estimates indicate that Mexico may have between 620,000 and 730,000 symptomatic COVID–19 cases.[15]

C. United States

As of May 9, 2020, the United States has reported 1,274,036 confirmed cases of COVID–19 and 77,034 deaths.[16] Community transmission of COVID–19 is continuing in many locations across the United States. Public health measures to slow the spread of COVID–19 so as to avoid overwhelming health care systems have, to date, largely proven successful.[17] However, several cities and states, including several located at or near U.S. borders, continue to experience widespread, sustained community transmission that has put their healthcare and public health systems remain at risk of being overwhelmed.[18]

CDC continues to recommend that all Americans practice vigorous hand hygiene, engage in social distancing, limit non-essential travel,[19] and wear cloth face coverings when out in public.[20] Nevertheless, not all areas of the United States are currently experiencing high rates of infection or numbers of confirmed cases.[21] Limiting the spread of COVID–19 to un- or less-affected areas, and slowing the spread of COVID–19 in highly impacted areas, involves limiting the number of foci, or infected individuals, who may enter these areas. Such efforts are critical as individual states begin to ease public health restrictions on businesses and public activities in an effort to mitigate the economic and other costs of the COVID–19 pandemic.[22]

V. The Order Is Amended To Apply to Land and Coastal POEs and Border Patrol Stations At or Near the Border With Canada or Mexico That Would Otherwise Hold Covered Aliens in a Congregate Setting

As noted above, the March 20, 2020 Order and April 20, 2020 Extension defined ''covered alien'' in terms of the public health risk associated with permitting individuals who have traveled from Canada or Mexico to be introduced into a congregate holding area ''in a *land* Port of Entry (POE) or Border Patrol station at or near the United States borders with Canada and Mexico.'' Due to the highly contagious nature of the virus that causes COVID–19 and the mode of transmission, it is determined that the continued introduction of potentially infected individuals into these facilities poses a public health risk given the role of these facilities and their personnel not only in carrying out immigration functions, but also in ensuring safe border crossings for essential goods and persons, and in law enforcement activities such as preventing terrorism and drug trafficking. Because the limited medical capacity in POEs and Border Patrol stations presents a significant obstacle to safely managing the risk of COVID–19 among covered aliens held in these facilities, the public health risk is best addressed by suspending the introduction of covered aliens into land and coastal POEs and Border Patrol stations.[23]

After consulting with DHS regarding its various operations and ability to rapidly stand-up the containment measures and medical capacity needed to deal with the COVID–19 pandemic, CDC determined that protecting the public health of the United States necessitated temporarily suspending the introduction of covered aliens into the congregate holding areas of POEs and Border Patrol stations at or near the United States' border with Canada and Mexico. CDC understands that, at least in theory, it is possible to expand and retrofit POEs and Border Patrol stations with the structural and engineering controls necessary to contain COVID–19, and that DHS personnel could be equipped with the necessary PPE and trained in clinically-informed practices to more safely interact with covered aliens. However, CDC believes such an endeavor would be ill-advised in that it would consume a significant amount of scarce medical resources that could otherwise be used to meet the needs of the domestic population. Nor could such interventions—particularly those involving structural and engineering additions or changes to hundreds of DHS facilities—be implemented quickly enough to mitigate the current risk of allowing covered aliens to be introduced into POEs and Border Patrol stations. As noted above, the Order has effectively reduced the population of covered aliens in POEs and Border Patrol stations at or near the border, thereby significantly reducing the risk COVID–19 spreading within these facilities.[24]

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[11] Andrea Navarro, Bloomberg, Mexico City Top Hospitals Reach Capacity, Reject Virus Patients (Apr. 28, 2020), *https://www.bloomberg.com/news/articles/2020-04-28/mexico-city-top-hospitals-reach-capacity-reject-virus-patients.*

[12] Secretaria De Salud, COVID–19: Comunicado Tecnico Diario (Mar. 17, 2020), available at *https://www.gob.mx/cms/uploads/attachment/file/541879/COVID-19_-_Presentacion_Comunicado_Tecnico_Diario_2020.03.17.pdf.pdf.*

[13] *Id.*

[14] *Id.*

[15] *See* Jorge Galindo, Javier LaFuente, El País, The Magnitude of the Epidemic in Mexico (May 8, 2020), *https://elpais.com/sociedad/2020-05-08/la-magnitud-de-la-epidemia-en-mexico.html;* Juan Montes, The Wall Street Journal, Death Certificates Point to Much Higher Coronavirus Toll in Mexico (May 8, 2020), *https://www.wsj.com/articles/death-certificates-point-to-much-higher-coronavirus-toll-in-mexico-11588957041;* Azam Ahmed, Hidden Toll: Mexico Ignores Wave of Coronavirus Deaths in Capital (May 8, 2020), *https://www.nytimes.com/2020/05/08/world/americas/mexico-coronavirus-count.html.*

[16] CDC, Cases in U.S. (updated May 9, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html.*

[17] Judy Woodruff, Interview with Vice President of the United States Michael Pence, PBS News Hour (Apr. 17, 2020), *https://www.pbs.org/newshour/show/our-health-care-system-has-not-been-overwhelmed-by-covid-19-says-pence.*

[18] *See* Johns Hopkins University, COVID—19 United States Cases by County, *https://coronavirus.jhu.edu/us-map; see also* Letter from Chris D. Van Gorder, President & CEO, Scripps Health, & Daniel L. Gross, Executive Consultant, Sharp HealthCare COVID–19 Strategic Response, to Hon. Alex M. Azar, Secretary of the U.S. Dep't. of Health & Human Services, and Hon. Chad F. Wolf, Acting Secretary of the U.S. Dep't. of Homeland Security (Apr. 28, 2020), *available at https://www.voiceofsandiego.org/wp-content/uploads/2020/04/Border-Concerns-Letter_Scripps-Health_Sharp-HealthCare-4.28.20.pdf; see also* Letter from Hon. Kristin Gaspar, Supervisor, Third District, San Diego County Board of Supervisors, to Hon. Michael Pence, Vice President of the United States (Apr. 19, 2020), *available at https://www.krqe.com/news/border-report/san-diego-county-official-asks-white-house-to-help-mexico-control-covid-19/.*

[19] CDC, COVID–19: How to Protect Yourself & Others (last reviewed May 11, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html.*

[20] CDC, COVID–19: Use of Cloth Face Coverings to Help Slow the Spread of COVID–19 (last reviewed May 11, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html.*

[21] *See* Johns Hopkins University, COVID–19 United States Cases by County, *https://coronavirus.jhu.edu/us-map.*

[22] Executive Office of President and CDC, Guidelines for Opening Up America Again (Apr. 16, 2020), *https://www.whitehouse.gov/openingamerica/.*

[23] The various screening and documentation requirements to board an aircraft justify the exclusion of air POEs from the scope of this Order because they do not pose the same public health risk as land and coastal POEs. In addition, DHS has informed CDC that air POEs do not tend to hold large numbers of persons for the more extended processing that occurs at land and coastal POEs.

[24] *See* supra Section III.

The intent of the March 20, 2020 Order and April 20, 2020 Extension was to suspend the introduction of individuals who have traveled from Canada or Mexico who would otherwise likely have been held in the congregate holding areas of POEs or Border Patrol stations at or near the border with Canada or Mexico, where they could transmit COVID–19 to the DHS personnel and other individuals in those facilities. The public health risk addressed by the Order and Extension was the risk of transmission in the congregate holding areas of POEs and Border Patrol stations created when individuals who have traveled from Canada or Mexico are held for significant periods of time in these facilities because they lack valid documentation for entry into the United States. This public health analysis was based, in part, on the operational issues identified by DHS, and on the observations of the United States Public Health Service Scientist Officer who visited the El Paso del Norte POE on March 12–13, 2020. For the purposes of the public health analysis and risk determinations, it is irrelevant whether a particular POE or Border Patrol station is designated by DHS as a ''land'' or ''coastal'' facility.[25] The relevant factor is whether the facility receives individuals who have traveled from Canada or Mexico and are likely to be held in a congregate setting within a POE or Border Patrol station at or near the border.

DHS has informed CDC that many POEs and Border Patrol stations service both land and coastal borders, such that covered aliens who are apprehended while attempting to enter the United States by a coastal border are held in the same facilities that temporarily hold covered aliens apprehended while crossing into the United States over the land borders with Canada and Mexico.[26] These facilities are substantially similar in all respects relevant to the public health analysis. DHS has informed CDC that, like their land-based counterparts, coastal POEs and Border Patrol stations generally have one or more congregate areas where covered aliens are held for processing, and are not structured or equipped to manage covered aliens exposed to or infected with COVID–19, nor to protect DHS personnel and other individuals within those facilities, including other aliens, from exposure to COVID–19. Similarly, covered aliens at coastal POEs and Border Patrol stations spend periods of time (*i.e.,* hours or days) in the congregate holding areas of these facilities while they are processed for immigration purposes that are material from a public health perspective. All POEs and Border Patrol stations lack medical resources sufficient to provide the appropriate level of care required by those infected with COVID–19 and would be forced to rely on local health systems, many of which are straining to meet the medical needs of the domestic population.[27]

Land and coastal POEs and Border Patrol stations are not structured or equipped to implement recommended COVID–19 screening, isolation/quarantine, or social distancing protocols for even small numbers of covered aliens. As noted in the March 20, 2020 Order, the holding areas of POEs and Border Patrol stations were designed for the purpose of short-term processing and holding in a congregate setting. The vast majority of these facilities lack the areas needed to effectively isolate or quarantine covered aliens while COVID–19 test results are pending. Moreover, the process of screening and isolating/quarantining covered aliens suspected of COVID–19 infection would require covered aliens to move throughout various sections of the facility, creating a risk of exposure to all nearby—including DHS personnel and other aliens.

I hereby amend the March 20, 2020 Order and April 20, 2020 Extension by adding the modifier ''coastal'' so that this Amended Order and Extension expressly applies to land and coastal POE and Border Patrol stations operated by DHS at or near the border with Canada or Mexico. Accordingly, the definition of ''covered alien'' is amended as follows:

Persons traveling from Canada or Mexico (regardless of their country of origin) who would otherwise be introduced into a congregate setting in a land *or coastal* Port of Entry (POE) or Border Patrol station at or near the United States border with Canada or Mexico, subject to exceptions.[28]

This Amendment and Extension does not alter any of the exclusions or exceptions to the March 20, 2020 Order or April 20, 2020 Extension. Like the March 20, 2020 Order and April 20, 2020 Extension, the Amended Order and Extension does not apply to U.S. citizens, lawful permanent residents, and their spouses and children; members of the armed forces of the United States, and associated personnel, and their spouses and children; persons from foreign countries who hold valid travel documents and arrive at a POE; or persons from foreign countries in the visa waiver program who are not otherwise subject to travel restrictions and arrive at a POE. The Amended Order and Extension also does not apply to persons whom customs officers determine, with approval from a supervisor, should be excepted based on the totality of the circumstances, including consideration of significant law enforcement, officer and public safety, humanitarian, and public health interests.[29] DHS shall consult with CDC concerning how these types of case-by-case, individualized exceptions shall be made to help ensure consistency with current CDC guidance and public health assessments.

VI. Extended Duration Subject to Recurring 30 Day Review

As discussed above, the number of confirmed cases of COVID–19 in Canada, Mexico, and the United States continue to increase. The COVID–19 public health emergency determination by the Secretary of HHS has remained in effect since February 4, 2020.[30] As individual states in the United States enter different phases of the pandemic, the demand for COVID–19-related care and the challenges of providing that care are rapidly changing. Although some states are beginning to relax

[25] DHS has advised CDC that ''coastal borders'' refers to any U.S. border that is adjacent to a waterway, rather than land. DHS has further advised CDC that ''waterway'' refers to any large body of water (*e.g.,* Pacific Ocean, Atlantic Ocean, and Gulf of Mexico). For the purpose of this Order, ''coastal'' applies to any waterway from which persons traveling through Canada and Mexico may enter the United States (*e.g.* Pacific, Gulf of Mexico, Lake Michigan, Rio Grande).

[26] Indeed, the DHS enforcement statistics cited in the March 20, 2020 Order included apprehensions of inadmissible aliens who attempted to cross a U.S. coastal border. *See* Exhs. 2–3, Order Suspending Introduction of Certain Persons from Countries where a Communicable Disease Exists (Mar. 20, 2020), available at *https://www.cdc.gov/quarantine/pdf/CDC-Order-Prohibiting-Introduction-of-Persons_Final_3-20-20_3-p.pdf.*

[27] *See* CDC, COVID View Weekly Summary (updated May 8, 2020), *https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html.*

[28] CDC recognizes that in certain limited instances, a fact-based inquiry may be required to determine whether individuals are covered aliens within the meaning of the Amended Order and Extension. For example, it may be unclear whether individuals who arrive at a coastal border by boat departed from Mexico, or another country, such as Haiti. CDC defers to DHS regarding the operational considerations necessary to address such scenarios.

[29] In addition to CBP and U.S. Coast Guard officers, customs officers include any agent or other person, including foreign law enforcement officers, authorized by law or designated by the Secretary of Homeland Security to perform the duties of a customs officer. *See* 19 U.S.C. 1401(i).

[30] Determination of Public Health Emergency, 85 FR 7316 (Feb. 7, 2020); *see also* HHS Secretary, ''Renewal of Determination That A Public Health Emergency Exists,'' April 21, 2020, available at: *https://www.phe.gov/emergency/news/healthactions/phe/Pages/covid19-21apr2020.aspx.*

restrictions and plan for the reopening of their communities, the reopening process will occur in phases that are closely tied to local infection rates, as well as other considerations. As the United States collectively determines how to best balance protecting public health with resuming normal activities, it is critical that the country continues to adhere to existing containment strategies, where possible—including the suspended introduction of covered aliens.

Furthermore, although stay-at-home orders and social distancing have been an important part of controlling the COVID–19 pandemic and ''flattening the curve,'' these strategies alone cannot eliminate the risk of COVID–19 in the United States. Lasting protection from COVID–19 will be achieved with a widely-available vaccine that confers immunity to the uninfected, widely-available therapeutics for those who are infected, or some combination of both.[31] While there is unprecedented collaboration between public and private stakeholders to develop vaccines and therapeutics for COVID–19, a widely available finished product is still months away.

The public health risks that are the basis for this Amended Order and Extension are unlikely to abate in the coming months. Covered aliens cannot be introduced into the congregate holding areas of land and coastal POEs and Border Patrol stations without significantly increasing the risk of infection among DHS personnel and others in those facilities. Accordingly, this Amended Order and Extension shall remain in effect until I determine that the danger of further introduction of COVID–19 into the United States has ceased to be a serious danger to the public health.

CDC shall reassess the Order every 30 days to determine whether the latest relevant information regarding the COVID–19 pandemic warrants continued implementation, or whether the Order should be modified or terminated.

VII. Determination and Implementation

Based on both the foregoing and additional insight gained over the past two months, I find that the determinations underlying the March 20, 2020 Order and April 20, 2020 Extension remain correct, and that the situation in Canada, Mexico, and the United States continues to require suspension of the introduction of covered aliens into land and coastal POEs and Border Patrol stations at or near the border in order to protect the public health from COVID–19.

The March 20, 2020 Order and April 20, 2020 Extension were based on the risk of introduction of individuals who have traveled through Canada and Mexico into the congregate settings of POEs and Border Patrol stations. Because COVID–19 is a contagious disease spreading throughout Canada and Mexico, individuals coming from these countries pose a risk of introducing or spreading COVID–19 into the United States once they enter POEs and Border Patrol stations at or near the border. Because covered aliens lack proper immigration documentation for entering the United States, they would have been likely to spend a material amount of time (*i.e.,* hours or days) in the congregate holding areas of POEs and Border Patrol stations while they undergo immigration processing. POEs and Border Patrol stations have capacity only for short-term processing and holding of inadmissible aliens. They were never intended to provide the medical screening, monitoring, and isolation functions needed to contain COVID–19, especially on the scale demanded by the ongoing pandemic. As POEs and Border Patrol stations lack appropriate medical capabilities, any COVID–19-related care of covered aliens would have to be met by local healthcare systems in the United States, which are already straining to respond to the needs of the domestic population.

Moreover, due to their lack of legal immigration status, there is significant uncertainty that covered aliens would be able to effectively self-quarantine, self-isolate, or otherwise comply with existing social distancing guidelines, if they were conditionally released. CDC and local public health jurisdictions simply lack the resources and personnel necessary to effectively monitor covered aliens who would otherwise be conditionally released into the United States but for the Order. Accordingly, covered aliens must be returned to the country from which they entered the United States, to their country of origin, or to another appropriate location.

The statistical information provided by DHS shows the March 20, 2020 Order and April 20, 2020 Extension have significantly reduced the number of covered aliens in custody at POEs and Border Patrol stations, practically eliminating one channel through which COVID–19 can enter the United States. In light of the current lack of a widely available vaccine or therapeutic for COVID–19, protecting the public health warrants further extending the Order.

Accordingly, I determine that COVID–19 remains a contagious disease that is present in many countries including Canada and Mexico; covered aliens arriving from those countries pose a risk of further introducing or spreading COVID–19 into the United States while they are held in the congregate holding areas of POEs and Border Patrol stations at or near the border; and this risk is serious enough to require suspending the introduction of such covered aliens into all land and coastal POEs and Border Patrol stations at or near the border with Canada or Mexico that would otherwise hold covered aliens in a congregate setting.

I consulted with DHS before issuing this Amended Order and Extension and requested that DHS continue to implement the operational plan developed to carry out the March 20, 2020 Order and April 20, 2020 Extension because CDC does not have the capability, resources, or personnel needed to alternatively issue quarantine or isolation orders.[32]

This Amended Order and Extension applies to all persons traveling from Canada or Mexico (regardless of their country of origin) who would otherwise be introduced into a congregate setting in any land or coastal POE or Border Patrol station at or near the border with Canada and Mexico, subject to exceptions.

This Amended Order and Extension does not apply to U.S. citizens, lawful permanent residents, and their spouses and children; members of the armed forces of the United States, and associated personnel, and their spouses and children; persons from foreign countries who hold valid travel documents and arrive at a POE; or persons from foreign countries in the visa waiver program who are not otherwise subject to travel restrictions and arrive at a POE. Additionally, this Amended Order and Extension does not apply to persons whom customs officers determine, with approval from a supervisor, should be excepted based on the totality of the circumstances, including consideration of significant

[31] CDC does not consider Remdesivir to be a therapeutic for COVID–19 for the purposes of the Amended Order and Extension because Remdesivir is not currently approved by the Food and Drug Administration to treat COVID–19.

[32] As previously discussed in the March 20, 2020 Order, CDC relies on the Department of Defense, other federal agencies, and state and local governments to provide both logistical support and facilities for federal quarantines. *See* 42 U.S.C. 268(b) (requiring customs and Coast Guard officers to aid in the enforcement of quarantine regulations). CDC lacks the resources, staffing, and facilities to quarantine covered aliens. Similarly, DHS has informed CDC that in the near term, it is not financially or logistically practicable for DHS to build additional facilities at POEs and Border Patrol stations for purposes of quarantine or isolation.

law enforcement, officer and public safety, humanitarian, and public health interests. DHS shall consult with CDC concerning how these types of case-by-case, individualized exceptions shall be made to help ensure consistency with current CDC guidance and public health assessments.

This Amended Order and Extension is not a rule subject to notice and comment under the Administrative Procedure Act (APA). In the event this order qualifies as a rule subject to notice and comment, a delay in effective date is not required because the foregoing discussion shows that there is good cause to dispense with prior public notice and the opportunity to comment on this order and a delay in effective date.[33] Given the public health emergency caused by COVID–19, it would be impracticable and contrary to the public health—and, by extension, the public interest—to delay the issuing and effective date of this Order. In addition, because this Order concerns ongoing discussions with Canada and Mexico on how to best control COVID–19 transmission over our shared borders, it directly ''involve[s] . . . a . . . foreign affairs function of the United States.'' 5 U.S.C. 553(a)(1). Notice and comment and a delay in effective date would not be required for that reason as well.

* * * * *

This Amended Order and Extension goes into effect at 12:00 a.m. Eastern Daylight Time (EDT) on May 21, 2020 and shall remain in effect until I determine that the danger of further introduction of COVID–19 into the United States has ceased to be a serious danger to the public health, and the continuation of the Order is no longer necessary to protect the public health. Upon making this determination, I will publish a notice in the **Federal Register** terminating this Order and its Extensions. CDC shall reassess the Order every 30 days to determine whether current conditions warrant continued implementation, modification, or termination of the Order. I may further amend or extend the Order as needed to protect the public health.

* * * * *

Authority

The authority for these orders is Sections 362 and 365 of the Public Health Service Act (42 U.S.C. 265, 268) and 42 CFR 71.40.

[33] *See* 5 U.S.C. 553(b)(B) and (d)(3).

Dated: May 19, 2020.

Robert K. McGowan,

Chief of Staff, Centers for Disease Control and Prevention.

[FR Doc. 2020–11179 Filed 5–20–20; 4:15 pm]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3398–N]

Announcement of the Re-Approval of AABB (Formerly Known as the American Association of Blood Banks) as an Accreditation Organization Under the Clinical Laboratory Improvement Amendments of 1988

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the application of AABB for approval as an accreditation organization for clinical laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) program. We have determined that AABB meets or exceeds the applicable CLIA requirements. In this notice, we announce the approval and grant AABB deeming authority for a period of 4 years. This deeming authority is granted to AABB for the Blood Bank and Transfusion Service (BB/TS) program, the Immunohematology Reference Laboratory (IRL) program, the Molecular Testing (MT) program, and the Cellular Therapy (CT) program.

DATES: The approval announced in this notice is effective from May 26, 2020 to May 27, 2024.

FOR FURTHER INFORMATION CONTACT: Daralyn Hassan, 410–786–9360.

SUPPLEMENTARY INFORMATION:

I. Background and Legislative Authority

On October 31, 1988, the Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (Pub. L. 100–578, enacted on October 31, 1988) (CLIA). CLIA amended section 353 of the Public Health Service Act. We issued a final rule implementing the accreditation provisions of CLIA on July 31, 1992 (57 FR 33992). Under those provisions, we may grant deeming authority to an accreditation organization if its requirements for laboratories accredited under its program are equal to or more stringent than the applicable CLIA program requirements in part 493 (Laboratory Requirements). Subpart E of part 493 (Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program) specifies the requirements an accreditation organization must meet to be approved by us as an accreditation organization under CLIA.

II. Notice of Approval of AABB as an Accreditation Organization

In this notice, we approve AABB as an organization that may accredit laboratories for purposes of establishing its compliance with CLIA requirements for the following specialty and subspecialty areas under CLIA:

- Microbiology, including Bacteriology, Mycology, Parasitology and Virology.
- Diagnostic Immunology, including Syphilis Serology, General Immunology.
- Chemistry, including Routine Chemistry.
- Hematology.
- Immunohematology, including ABO Group & Rh Group, Antibody Detection, Antibody Identification, Compatibility Testing.

We have examined the initial AABB application and all subsequent submissions to determine its accreditation program's equivalency with the requirements for approval of an accreditation organization under subpart E of part 493. We have determined that AABB meets or exceeds the applicable CLIA requirements. We have also determined that AABB will ensure that its accredited laboratories will meet or exceed the applicable requirements in subparts H, I, J, K, M, Q, and the applicable sections of R. Therefore, we grant AABB approval as an accreditation organization under subpart E of part 493, for the period stated in the **DATES** section of this notice for the submitted specialty and subspecialty areas under CLIA. As a result of this determination, any laboratory that is accredited by AABB during the time period stated in the **DATES** section of this notice will be deemed to meet the CLIA requirements for the listed subspecialties and specialties, and therefore, will generally not be subject to routine inspections by a state survey agency to determine its compliance with CLIA requirements. The accredited laboratory, however, is subject to validation and complaint investigation surveys performed by us, or its agent(s).

III. Evaluation of the AABB Request for Approval as an Accreditation Organization Under CLIA

The following describes the process used to determine that the AABB accreditation program meets the necessary requirements to be approved by us and that, as such, we may approve AABB as an accreditation program with deeming authority under the CLIA program. AABB formally applied to us for approval as an accreditation organization under CLIA for the following specialties and subspecialties:

- Microbiology, including Bacteriology, Mycology, Parasitology, Virology.
- Diagnostic Immunology, including Syphilis Serology, General Immunology.
- Chemistry, including Routine Chemistry.
- Hematology.
- Immunohematology, including ABO Group & Rh Group, Antibody Detection, Antibody Identification, Compatibility Testing.

In reviewing these materials, we reached the following determinations for each applicable part of the CLIA regulations:

A. Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or Exemption Under an Approved State Laboratory Program

AABB submitted its mechanism for monitoring compliance with all requirements equivalent to condition-level requirements, a list of all its current laboratories and the expiration date of their accreditation, and a detailed comparison of the individual accreditation requirements with the comparable condition-level requirements. We have determined that AABB policies and procedures for oversight of laboratories performing laboratory testing for the submitted CLIA specialties and subspecialties are equivalent to those required by our CLIA regulations in the matters of inspection, monitoring proficiency testing (PT) performance, investigating complaints, and making PT information available. AABB submitted documentation regarding its requirements for monitoring and inspecting laboratories, and describing its own standards regarding accreditation organization data management, inspection processes, procedures for removal or withdrawal of accreditation, notification requirements, and accreditation organization resources. The requirements of the accreditation programs submitted for approval are equal to or more stringent than the requirements of the CLIA regulations.

B. Subpart H—Participation in Proficiency Testing for Laboratories Performing Nonwaived Testing

The AABB's requirements are equal to the CLIA requirements at § 493.801 through § 493.865. Like CLIA, all of AABB's accredited laboratories are required to participate in an HHS-approved PT program for tests listed in subpart I. Additionally, AABB administers a non-regulated PT program to challenge the ability of the laboratories in the IRL program to resolve complex serological problems. Laboratories in the MT program are required to participate in a graded PT program or a sample exchange program.

C. Subpart J—Facility Administration for Nonwaived Testing

The AABB's requirements are equal to the CLIA requirements at § 493.1100 through § 493.1105.

D. Subpart K—Quality System for Nonwaived Testing

The AABB requirements are equal to or more stringent than the CLIA requirements at § 493.1200 through § 493.1299.

E. Subpart M—Personnel for Nonwaived Testing

We have determined that the AABB requirements are equal to the CLIA requirements at § 493.1403 through § 493.1495 for laboratories that perform moderate and high complexity testing.

F. Subpart Q—Inspections

We have determined that the AABB requirements are equal to the CLIA requirements at § 493.1771 through § 493.1780. AABB will continue to conduct biennial onsite inspections.

G. Subpart R—Enforcement Procedures

AABB meets the requirements of subpart R to the extent that it applies to accreditation organizations. AABB policy sets forth the actions the organization takes when laboratories it accredits do not comply with its requirements and standards for accreditation. When appropriate, AABB will deny, suspend, or revoke accreditation in a laboratory accredited by AABB and report that action to us within 30 days. AABB also provides an appeals process for laboratories that have had accreditation denied, suspended, or revoked.

We have determined that AABB's laboratory enforcement and appeal policies are equal to or more stringent than the requirements of part 493 subpart R as they apply to accreditation organizations.

IV. Federal Validation Inspections and Continuing Oversight

The federal validation inspections of laboratories accredited by AABB may be conducted on a representative sample basis or in response to substantial allegations of noncompliance (that is, complaint inspections). The outcome of those validation inspections, performed by us or our agents, or the state survey agencies, will be our principal means for verifying that the laboratories accredited by AABB remain in compliance with CLIA requirements. This federal monitoring is an ongoing process.

V. Removal of Approval as an Accrediting Organization

Our regulations provide that we may rescind the approval of an accreditation organization, such as that of AABB, for cause, before the end of the effective date of approval. If we determine that AABB has failed to adopt, maintain and enforce requirements that are equal to, or more stringent than, the CLIA requirements, or that systemic problems exist in its monitoring, inspection or enforcement processes, we may impose a probationary period, not to exceed 1 year, in which AABB would be allowed to address any identified issues. Should AABB be unable to address the identified issues within that timeframe, we may, in accordance with the applicable regulations, revoke AABB's deeming authority under CLIA.

Should circumstances result in our withdrawal of AABB's approval, we will publish a notice in the **Federal Register** explaining the basis for removing its approval.

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, record keeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget (OMB) under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The requirements associated with the accreditation process for clinical laboratories under the CLIA program, codified in part 493 subpart E, are currently approved by OMB under OMB approval number 0938–0686.

VII. Executive Order 12866 Statement

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget.

The Administrator of the Centers for Medicare & Medicaid Services (CMS),

Seema Verma, having reviewed and approved this document, authorizes Evell J. Barco Holland, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: April 21, 2020.

Evell J. Barco Holland,

Federal Register Liaison, Department of Health and Human Services.

[FR Doc. 2020–11235 Filed 5–22–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–317]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by July 27, 2020.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number__, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–317 State Medicaid Eligibility Quality Control (MEQC) Sample Plans

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. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection of information; *Title of Information Collection:* State Medicaid Eligibility Quality Control Sampling Plan; *Use:* The Medicaid Eligibility Quality Control (MEQC) program provides states and the District of Columbia a unique opportunity to improve the quality and accuracy of their Medicaid and Children's Health Insurance Program (CHIP) eligibility determinations. The MEQC program is intended to complement the Payment Error Rate Measurement (PERM) program by ensuring state operations make accurate and timely eligibility determinations so that Medicaid and CHIP services are appropriately provided to eligible individuals. Current regulations require that states review equal numbers of active cases and negative case actions (*i.e.,* denials and terminations) through random sampling. Active case reviews are conducted to determine whether or not the sampled cases meet all current criteria and requirements for Medicaid or CHIP eligibility. Negative case reviews are conducted to determine if Medicaid and CHIP denials and terminations were appropriate and undertaken in accordance with due process. *Form Number:* CMS–317 (OMB control number: 0938–0146); *Frequency:* Occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 10; *Total Annual Responses:* 20; *Total Annual Hours:* 520. (For policy questions regarding this collection contact Camiel Rowe at 410–786–0069.)

Dated: May 19, 2020.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2020–11161 Filed 5–22–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3397–PN]

Medicare and Medicaid Programs; Application From The Joint Commission (TJC) for Continued CMS-Approval of Its Ambulatory Surgical Center (ASC) Accreditation Program

AGENCY: Centers for Medicare and Medicaid Services (CMS), HHS.

ACTION: Notice with request for comment.

SUMMARY: This proposed notice acknowledges the receipt of an application from The Joint Commission for continued recognition as a national accrediting organization for Ambulatory Surgical Centers that wish to participate in the Medicare or Medicaid programs.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on June 25, 2020.

ADDRESSES: In commenting, refer to file code CMS–3397–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3397–PN, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3397–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

Erin Imhoff, (410) 786–2337.

Joy Webb, (410) 786–1667.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments.

I. Background

Ambulatory Surgical Centers (ASCs) are distinct entities that operate exclusively for the purpose of furnishing outpatient surgical services to patients. Under the Medicare program, eligible beneficiaries may receive covered services from an ASC provided certain requirements are met. Section 1832(a)(2)(F)(i) of the Social Security Act (the Act) establishes distinct criteria for a facility seeking designation as an ASC. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 416 specify the conditions that an ASC must meet in order to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for ASCs.

Generally, to enter into an agreement, an ASC must first be certified by a State survey agency (SA) as complying with the conditions or requirements set forth in part 416 of our Medicare regulations. Thereafter, the ASC is subject to regular surveys by an SA to determine whether it continues to meet these requirements.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by a Centers for Medicare & Medicaid Services (CMS) approved national accrediting organization (AO) that all applicable Medicare conditions are met or exceeded, we may deem that provider entity as having met the requirements. Accreditation by an AO is voluntary and is not required for Medicare participation.

If an AO is recognized by the Secretary of the Department of Health and Human Services as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program may be deemed to meet the Medicare conditions. The AO applying for approval of its accreditation program under part 488, subpart A, must provide CMS with reasonable assurance that the AO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of AOs are set forth at § 488.5.

The Joint Commission's (TJC's) current term of approval for its ASC program expires December 20, 2020.

II. Approval of Deeming Organization

Section 1865(a)(2) of the Act and § 488.5 require that our findings concerning review and approval of an AO's requirements consider, among other factors, the applying AO's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide CMS with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of TJC's request for continued CMS-approval of its ASC accreditation program. This notice also solicits public comment on whether TJC's requirements meet or exceed the Medicare conditions for coverage (CfCs) for ASCs.

III. Evaluation of Deeming Authority Request

TJC submitted all the necessary materials to enable us to make a determination concerning its request for continued CMS-approval of its ASC accreditation program. This application was determined to be complete on March 24, 2020. Under section 1865(a)(2) of the Act and § 488.5, our review and evaluation of TJC will be conducted in accordance with, but not necessarily limited to, the following factors:

☐ The equivalency of TJC's standards for ASCs as compared with Medicare's CfCs for ASCs.

☐ TJC's survey process to determine the following:

++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

++ The comparability of TJC's processes to those of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ TJC's processes and procedures for monitoring an ASC found out of compliance with TJC's program requirements. These monitoring procedures are used only when TJC identifies noncompliance. If noncompliance is identified through

validation reviews or complaint surveys, the State survey agency monitors corrections as specified at § 488.9(c)(1).

++ TJC's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ TJC's capacity to provide CMS with electronic data and reports necessary for the effective validation and assessment of the organization's survey process.

++ The adequacy of TJC's staff and other resources, and its financial viability.

++ TJC's capacity to adequately fund required surveys.

++ TJC's policies with respect to whether surveys are announced or unannounced, to ensure that surveys are unannounced.

++ TJC's policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys or participate in accreditation decisions.

++ TJC's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as CMS may require (including corrective action plans).

IV. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

V. Response to Public Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including our evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Seema Verma, having reviewed and approved this document, authorizes Evell J. Barco Holland, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: May 7, 2020.

Evell J. Barco Holland,

Federal Register Liaison, Department of Health and Human Services.

[FR Doc. 2020–11234 Filed 5–22–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2020–D–1136, FDA–2020–D–1137, FDA–2020–D–1138, FDA–2020–D–1139]

Guidance Documents Related to Coronavirus Disease 2019 (COVID–19); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of FDA guidance documents related to the Coronavirus Disease 2019 (COVID–19) public health emergency (PHE). This notice of availability (NOA) is pursuant to the process that FDA announced, in the **Federal Register** of March 25, 2020, for making available to the public COVID–19-related guidances. The guidances identified in this notice address issues related to the COVID–19 PHE and have been issued in accordance with the process announced in the March 25, 2020, notice. The guidances have been implemented without prior comment, but they remain subject to comment in accordance with the Agency's good guidance practices.

DATES: The announcement of the guidances is published in the **Federal Register** on May 26, 2020. The guidances have been implemented without prior comment, but they remain subject to comment in accordance with the Agency's good guidance practices.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the name of the guidance(s) that the comments address and the docket number for the guidance (see table 1). Received comments will be placed in the docket(s) and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available

for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)). Submit written requests for single copies of any of these guidances to the addresses noted in table 1. Send two self-addressed adhesive labels to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Stephen Ripley, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7268, Silver Spring, MD 20993–0002, 240–402–7911; Erica Takai, Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5456, Silver Spring, MD 20993–0002, 301–796–6353; Kimberly Thomas, Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6220, Silver Spring, MD 20993–0002, 301–796–2357; Phil Chao, Center for Food Safety and Applied Nutrition (CFSAN), CPK1 Rm 1C001, HFS–024, Food and Drug Administration, College Park, MD 20740, 240–402–2112.

SUPPLEMENTARY INFORMATION:

I. Background

On January 31, 2020, as a result of confirmed cases of COVID–19, and after consultation with public health officials as necessary, Alex M. Azar II, Secretary of Health and Human Services, pursuant to the authority under section 319 of the Public Health Service Act (42 U.S.C. 247d) (PHS Act), determined that a PHE exists and has existed since January 27, 2020, nationwide.[1] On March 13, 2020, President Donald J. Trump declared that the COVID–19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020.[2]

In the **Federal Register** of March 25, 2020 (the March 25, 2020, notice) (available at: *https://www.govinfo.gov/content/pkg/FR-2020-03-25/pdf/2020-06222.pdf*), FDA announced procedures for making available FDA guidances related to the COVID–19 PHE. These procedures, which operate within FDA's established good guidance practices regulations, are intended to allow FDA to rapidly disseminate Agency recommendations and policies related to COVID–19 to industry, FDA staff, and other stakeholders. The March 25, 2020, notice stated that due to the need to act quickly and efficiently to respond to the COVID–19 PHE, FDA believes that prior public participation will not be feasible or appropriate before FDA implements COVID–19-related guidances. Therefore, FDA will issue COVID–19-related guidances for immediate implementation without prior public comment (see section 701(h)(1)(C) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 371(h)(1)(C) and 21 CFR 10.115(g)(2) (§ 10.115(g)(2))). The guidances are available at FDA's web page entitled ''COVID–19-Related Guidance Documents for Industry, FDA Staff, and Other Stakeholders'' (*https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/covid-19-related-guidance-documents-industry-fda-staff-and-other-stakeholders*) and through FDA's web page entitled ''Search for FDA Guidance Documents'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents.*

The March 25, 2020, notice further stated that, in general, rather than publishing a separate NOA for each COVID–19-related guidance, FDA intends to publish periodically a consolidated NOA announcing the availability of certain COVID–19-related guidances FDA issued during the relevant period, as included in table 1. This notice announces COVID–19-related guidances that are posted on FDA's website.

II. Availability of COVID–19-Related Guidances

Pursuant to the process described in the March 25, 2020, notice, FDA is announcing the availability of the following COVID–19-related guidances:

TABLE 1—GUIDANCES RELATED TO THE COVID–19 PUBLIC HEALTH EMERGENCY

Docket No.	Center/office	Title of guidance	Contact information to request single copies
FDA–2020–D–1137	CBER	Investigatory COVID–19 Convalescent Plasma (April 2020) (Updated May 1, 2020).	Office of Communication, Outreach and Development, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002, 1–800–835–4709 or 240–402–8010, *email ocod@fda.hhs.gov.*
FDA–2020–D–1138	CDRH	Enforcement Policy for Clinical Electronic Thermometers During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (April 4, 2020).	*CDRH-Guidance@fda.hhs.gov* Please include the document number 20014 and complete title of the guidance in the request.
FDA–2020–D–1138	CDRH	Enforcement Policy for Infusion Pumps and Accessories During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (April 5, 2020).	*CDRH-Guidance@fda.hhs.gov* Please include the document number 20014 and complete title of the guidance in the request.

[1] On April 21, 2020, the PHE Determination was extended, effective April 26, 2020. These PHE Determinations are available at *https://www.phe.gov/emergency/news/healthactions/phe/Pages/default.aspx.*

[2] Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak (March 13, 2020), available at *https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.*

TABLE 1—GUIDANCES RELATED TO THE COVID–19 PUBLIC HEALTH EMERGENCY—Continued

Docket No.	Center/office	Title of guidance	Contact information to request single copies
FDA–2020–D–1138	CDRH	Enforcement Policy for Remote Ophthalmic Assessment and Monitoring Devices During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (April 6, 2020).	*CDRH-Guidance@fda.hhs.gov* Please include the document number 20014 and complete title of the guidance in the request.
FDA–2020–D–1138	CDRH	Enforcement Policy for Extracorporeal Membrane Oxygenation and Cardiopulmonary Bypass Devices During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (April 6, 2020).	*CDRH-Guidance@fda.hhs.gov* Please include the document number 20014 and complete title of the guidance in the request.
FDA–2020–D–1138	CDRH	Enforcement Policy for Digital Health Devices for Treating Psychological Disorders During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (April 14, 2020).	*CDRH-Guidance@fda.hhs.gov* Please include the document number 20014 and complete title of the guidance in the request.
FDA–2020–D–1138	CDRH	Enforcement Policy for Telethermographic Systems During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (April 16, 2020).	*CDRH-Guidance@fda.hhs.gov* Please include the document number 20014 and complete title of the guidance in the request.
FDA–2020–D–1138	CDRH	Enforcement Policy for Non-Invasive Fetal and Maternal Monitoring Devices Used to Support Patient Monitoring During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (April 23, 2020).	*CDRH-Guidance@fda.hhs.gov* Please include the document number 20014 and complete title of the guidance in the request.
FDA–2020–D–1138	CDRH	Enforcement Policy for Imaging Systems During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (April 23, 2020).	*CDRH-Guidance@fda.hhs.gov* Please include the document number 20014 and complete title of the guidance in the request.
FDA–2020–D–1138	CDRH	Enforcement Policy for Remote Digital Pathology Devices During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency (April 24, 2020).	*CDRH-Guidance@fda.hhs.gov* Please include the document number 20014 and complete title of the guidance in the request.
FDA–2020–D–1136	CDER	Temporary Policy Regarding Non-Standard PPE Practices for Sterile Compounding by Pharmacy Compounders not Registered as Outsourcing Facilities During the COVID–19 Public Health Emergency (April 10, 2020).	*druginfo@fda.hhs.gov* Please include the docket number FDA–2020–D–1136 and complete title of the guidance in the request.
FDA–2020–D–1136	CDER	Policy for the Temporary Use of Portable Cryogenic Containers Not in Compliance With 21 CFR 211.94(e)(1) For Oxygen and Nitrogen During the COVID–19 Public Health Emergency (April 2020) (Updated April 20, 2020).	*druginfo@fda.hhs.gov* Please include the docket number FDA–2020–D–1136 and complete title of the guidance in the request.
FDA–2020–D–1136	CDER	Temporary Policy for Compounding of Certain Drugs for Hospitalized Patients by Outsourcing Facilities During the COVID–19 Public Health Emergency (April 16, 2020) (Updated May 8, 2020).	*druginfo@fda.hhs.gov* Please include the docket number FDA–2020–D–1136 and complete title of the guidance in the request.
FDA–2020–D–1136	CDER	Temporary Policy for Compounding of Certain Drugs for Hospitalized Patients by Pharmacy Compounders not Registered as Outsourcing Facilities During the COVID–19 Public Health Emergency Guidance for Industry (April 20, 2020) (Updated May 8, 2020).	*druginfo@fda.hhs.gov* Please include the docket number FDA–2020–D–1136 and complete title of the guidance in the request.
FDA–2020–D–1136	CDER	Temporary Policy on Repackaging or Combining Propofol Drug Products During the COVID–19 Public Health Emergency (April 22, 2020).	*druginfo@fda.hhs.gov* Please include the docket number FDA–2020–D–1136 and complete title of the guidance in the request.
FDA–2020–D–1139	CFSAN	Temporary Policy on Regulatory Enforcement of 21 CFR Part 118 (the Egg Safety Rule) During the COVID–19 Public Health Emergency (April 6, 2020).	Office of Nutrition and Food Labeling, Food Labeling and Standards Staff, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740.

Although these guidances have been implemented immediately without prior comment, FDA will consider all comments received and revise the guidances as appropriate (see § 10.115(g)(3)).

These guidances are being issued consistent with FDA's good guidance practices regulation (§ 10.115). The guidances represent the current thinking of FDA. They do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Paperwork Reduction Act of 1995

A. CBER

The guidance indicated below refers to previously approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction

Act of 1995 (44 U.S.C. 3501–3521) (PRA). The collections of information in the following FDA regulations and guidance have been approved by OMB as listed in the following table:

TABLE 2—CBER GUIDANCE

COVID–19 guidance title	CFR cite referenced in COVID–19 guidance	Another guidance title referenced in COVID–19 guidance	OMB control No(s).
Investigatory COVID–19 Convalescent Plasma.	21 CFR part 312	N/A	0910–0014
	≤21 CFR 606.121		0910–0116
	21 CFR part 630		0910–0116
	Form FDA 3926		0910–0814

B. CDRH

The guidances listed below refer to previously approved collections of information. These collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations and guidance have been approved by OMB as listed in the following table:

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Table 3.--CDRH Guidances

COVID-19 Guidance Title	CFR Cite Referenced in COVID-19 Guidance	Another Guidance Title Referenced in COVID-19 Guidance	OMB Control No(s).
Enforcement Policy for Clinical Electronic Thermometers During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency	21 CFR part 807, subpart E 21 CFR part 806 21 CFR part 807, subparts A through D 21 CFR parts 830 & 801.20 21 CFR parts 800, 801, 809 21 CFR part 820		0910-0120 0910-0359 0910-0625 0910-0720 0910-0485 0910-0073
Enforcement Policy for Infusion Pumps and Accessories During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency	21 CFR part 807, subpart E 21 CFR part 807, subparts A through D 21 CFR part 820 21 CFR part 806 21 CFR parts 830 and 801.20 21 CFR parts 800, 801, and 809 21 CFR part 803	Emergency Use Authorization of Medical Products and Related Authorities; Guidance for Industry and Other Stakeholders	0910-0595 0910-0120 0910-0625 0910-0073 0910-0359 0910-0720 0910-0485 0910-0437
Enforcement Policy for Remote Ophthalmic Assessment and Monitoring Devices During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency	21 CFR part 807, subpart E 21 CFR part 807, subparts A through D 21 CFR part 822 21 CFR part 820 21 CFR part 806 21 CFR parts 830 and 801.20 21 CFR parts 800, 801, and 809		0910-0120 0910-0625 0910-0449 0910-0073 0910-0359 0910-0720 0910-0485
Enforcement Policy for Extracorporeal Membrane Oxygenation and Cardiopulmonary Bypass Devices During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency	21 CFR part 807, subpart E 21 CFR part 814, subparts A through E 21 CFR parts 800, 801, and 809 21 CFR part 820 21 CFR part 803	Emergency Use Authorization of Medical Products and Related Authorities; Guidance for Industry and Other Stakeholders	0910-0595 0910-0120 0910-0231 0910-0485 0910-0073 0910-0437
Enforcement Policy for Digital Health Devices for Treating Psychiatric Disorders During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency	21 CFR part 807, subpart E 21 CFR part 806 21 CFR part 807, subparts A through D 21 CFR parts 830 and 801.20 21 CFR parts 800, 801, and 809		0910-0120 0910-0359 0910-0625 0910-0720 0910-0485

Enforcement Policy for Telethermographic Systems During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency	21 CFR parts 800, 801, and 809 21 CFR part 806 21 CFR part 807, subparts A through D 21 CFR part 807, subpart E 21 CFR part 820 21 CFR part 822 21 CFR parts 830 and 801.20		0910-0485 0910-0359 0910-0625 0910-0120 0910-0073 0910-0449 0910-0720
Enforcement Policy for Non-Invasive Fetal and Maternal Monitoring Devices Used to Support Patient Monitoring During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency	21 CFR part 807, subpart E 21 CFR parts 800, 801, and 809 21 CFR part 820		0910-0120 0910-0485 0910-0073
Enforcement Policy for Imaging Systems During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency	21 CFR parts 800, 801, and 809 21 CFR part 807, subpart E 21 CFR part 814, subparts A through E 21 CFR part 820 21 CFR parts 1000-1050		0910-0485 0910-0120 0910-0231 0910-0073 0910-0025
Enforcement Policy for Remote Digital Pathology Devices During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency	21 CFR part 807, subpart E 21 CFR part 812 21 CFR part 820 21 CFR parts 830 and 801.20 21 CFR parts 800, 801, and 809 21 CFR part 814, subpart H 21 CFR part 820 21 CFR parts 800, 801, and 809	Administrative Procedures for CLIA Categorization: Guidance for Industry and Food and Drug Administration Staff	0910-0667 0910-0120 0910-0078 0910-0073 0910-0720 0910-0485 0910-0332 0910-0073 0910-0485

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C. CDER

The guidances listed below refer to previously approved collections of information. These collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations and guidances have been approved by OMB as listed in the following table:

TABLE 4—GUIDANCES AND REGULATIONS

COVID–19 guidance title	CFR or FD&C Act cite referenced in COVID–19 guidance	Another guidance title referenced in COVID–19 guidance	OMB control No(s).
Policy for Temporary Use of Portable Cryogenic Containers Not in Compliance With 21 CFR 211.94 for Oxygen and Nitrogen During COVID–19 Public Health Emergency.	21 CFR parts 201, 210, 211.84, 211.94, and 211.100.	Current Good Manufacturing Practice for Medical Gases Medical Gas Containers and Closures; Current Good Manufacturing Practice Requirements.	0910–0139
Temporary Policy for Compounding of Certain Drugs for Hospitalized Patients by Outsourcing Facilities During the COVID–19 Public Health Emergency.	21 CFR 314.81, 21 CFR 600.82, Section 503B(b)(1)(A)(i) of the FD&C Act (21 U.S.C. 353b(b)(1)(A)(i).	Current Good Manufacturing Practice—Guidance for Human Drug Compounding Outsourcing Facilities Under Section 503B of the FD&C Act.	0910–0777 0910–0338 0910–0001 0910–0139

TABLE 4—GUIDANCES AND REGULATIONS—Continued

COVID–19 guidance title	CFR or FD&C Act cite referenced in COVID–19 guidance	Another guidance title referenced in COVID–19 guidance	OMB control No(s).
Temporary Policy for Compounding of Certain Drugs for Hospitalized Patients by Pharmacy Compounders not Registered as Outsourcing Facilities During the COVID–19 Public Health Emergency.	.....	Compounded Drug Products That are Essentially Copies of a Commercially Available Drug Product under Section 503A of the Federal Food, Drug and Cosmetic Act. Temporary Policy for Compounding of Certain Drugs for Hospitalized Patients by Outsourcing Facilities During the COVID–19 Public Health Emergency. Prescription Requirement Under Section 503A of the Federal Food, Drug, and Cosmetic Act. Temporary Policy Regarding Non-Standard PPE Practices for Sterile Compounding by Pharmacy Compounders not Registered as Outsourcing Facilities during the COVID–19 Public Health Emergency.	0910–0001 0910–0139 0910–0338
Temporary Policy on Repackaging or Combining Propofol Drug Products During the COVID–19 Public Health Emergency.	.....	Repackaging of Certain Human Drugs by Pharmacies and Outsourcing Facilities. Temporary Policy for Compounding of Certain Drugs for Hospitalized Patients by Pharmacy Compounders not Registered as Outsourcing Facilities During the COVID–19 Public Health Emergency. Temporary Policy for Compounding of Certain Drugs for Hospitalized Patients by Outsourcing Facilities During the COVID–19 Public Health Emergency.	0910–0139 0910–0572 0910–0777 0910–0800

The guidance indicated below refers to previously approved collections of information. These collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations and guidance have been approved by OMB as listed in the below table. This guidance also contains a new collection of information not approved under a current collection. This new collection of information has been granted a PHE waiver from the PRA by HHS on March 19, 2020, under section 319(f) of the PHS Act. Information concerning the PHE PRA waiver can be found on the HHS website at *https://aspe.hhs.gov/public-health-emergency-declaration-pra-waivers.*

TABLE 5—NEW PRA INFORMATION COLLECTION

COVID–19 guidance title	CFR cite referenced in COVID–19 guidance	Another guidance referenced in COVID–19 guidance	OMB control No.	New collection covered by PHE PRA waiver
Temporary Policy Regarding Non-Standard PPE Practices for Sterile Compounding by Pharmacy Compounders not Registered as Outsourcing Facilities During the COVID–19 Public Health Emergency.	21 CFR parts 210 and 211.	Enforcement Policy for Face Masks and Respirators During the Coronavirus Disease (COVID–19) Public Health Emergency (Revised). Enforcement Policy for Gowns, Other Apparel, and Gloves During the Coronavirus Disease (COVID–19) Public Health Emergency. Electronic Drug Product Reporting for Human Drug Compounding Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act.	0910–0139	Recordkeeping of compounding without standard PPE; recordkeeping of any change of sterilization/aseptic processing methods; documentation of mitigation strategies for sterile compounding without standard PPE.

D. CFSAN

The guidance indicated below refers to previously approved collections of information. These collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations and guidance have been approved by OMB as listed in the following table:

TABLE 6—CFSAN GUIDANCE

COVID–19 guidance title	CFR cite referenced in COVID–19 guidance	Another guidance title referenced in COVID–19 guidance	OMB control No.
Temporary Policy Regarding Enforcement of 21 CFR Part 118 (the Egg Safety Rule) During the COVID–19 Public Health Emergency.	21 CFR part 118	.....	0910–0660

IV. Electronic Access

Persons with access to the internet may obtain COVID–19-related guidances at:

- the FDA web page entitled ''COVID–19-Related Guidance Documents for Industry, FDA Staff, and Other Stakeholders,'' available at *https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/covid-19-related-guidance-documents-industry-fda-staff-and-other-stakeholders;*
- the FDA web page entitled ''Search for FDA Guidance Documents,'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents;* or
- *https://www.regulations.gov.*

Dated: May 19, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–11238 Filed 5–22–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0937–0198]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before June 25, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Sherrette Funn, *Sherrette.Funn@hhs.gov* or (202) 795–7714. When submitting comments or requesting information, please include the document identifier 0937–0198–30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Public Health Service Polices on Research Misconduct (42 CFR part 93)—OMB No. 0937–0198—Extension—Office of Research Integrity.

Abstract: The Office of Research Integrity is requesting an extension on a currently approved collection. The purpose of the Institutional Assurance and Annual Report on Possible Research Misconduct form PHS–6349 is to provide data on the amount of research misconduct activity occurring in institutions conducting PHS-supported research. The purpose of the Assurance of Compliance by Sub-Award Recipients form PHS–6315 is to establish an assurance of compliance for a sub-awardee institution. Forms PHS 6349 and PHS–6315 are also used to provide an annual assurance that the institution has established and will follow administrative policies and procedures for responding to allegations of research misconduct that comply with the Public Health Service (PHS) Policies on Research Misconduct (42 CFR Part 93). Research misconduct is defined as receipt of an allegation of research misconduct and/or the conduct of an inquiry and/or investigation into such allegations. These data enable the ORI to monitor institutional compliance with the PHS regulation.

Need and Proposed Use: The information is needed to fulfill section 493 of the Public Health Service Act (42 U.S.C. 289b), which requires assurances from institutions that apply for financial assistance under the Public Health Service Act for any project or program that involves the conduct of biomedical or behavioral research. In addition, the information is also required to fulfill the assurance and annual reporting requirements of 42 CFR Part 93. ORI uses the information to monitor institutional compliance with the regulation. Lastly, the information may be used to respond to congressional requests for information to prevent misuse of Federal funds and to protect the public interest.

ESTIMATED ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
PHS–6349	Awardee Institutions	5748	1	12/60	1150
PHS–6315	Sub-Awardee Institutions	110	1	5/60	9
Total					1159

Dated: May 20, 2020.

Sherrette A. Funn,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2020–11250 Filed 5–22–20; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Findings of research misconduct have been made against Mr. Logan Fulford (Respondent), who was a graduate research assistant, Cincinnati Children's Hospital Medical Center (CCHMC), and former graduate student, University of Cincinnati (UC). Mr. Fulford engaged in research misconduct in research supported by National Cancer Institute (NCI), National Institutes of Health (NIH), grant R01 CA142724 and National Heart, Lung, and Blood Institute (NHLBI), NIH, grant R01 HL084151. The administrative actions, including supervision for a period of two (2) years, were implemented beginning on May 8, 2020, and are detailed below.

FOR FURTHER INFORMATION CONTACT: Elisabeth A. Handley, Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 240, Rockville, MD 20852, (240) 453–8200.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Mr. Logan Fulford, Cincinnati Children's Hospital Medical Center: Based on the report of an investigation conducted by CCHMC and additional analysis conducted by ORI in its oversight review, ORI found that Mr. Logan Fulford, former graduate research assistant, CCHMC, and former graduate student, UC, engaged in research misconduct in research supported by NCI, NIH, grant R01 CA142724 and NHLBI, NIH, grant R01 HL084151.

Respondent neither admits nor denies ORI's findings of research misconduct; the settlement is not an admission of liability on the part of the Respondent. The parties entered into a Voluntary Settlement Agreement (Agreement) to conclude this matter without further expenditure of time, finances, or other resources.

ORI found that Respondent engaged in research misconduct by intentionally, knowingly, and/or recklessly falsifying data that were included in:

- The transcription factor FOXF1 promotes prostate cancer by stimulating the mitogen-activated protein kinase ERK5. *Science Signaling* 2016 May;9:427 (hereafter referred to as ''*Science Signaling* 2016'').
- Foxf1 Deficient Cancer-Associated Fibroblasts Promote Prostate Cancer Progression via Paracrine Wnt11 Signaling. Unpublished manuscript (hereafter referred to as the ''unpublished manuscript'').

ORI found that Respondent intentionally, knowingly, and/or recklessly falsified immunohistochemistry and western blot data included in *Science Signaling* 2016 and in an unpublished manuscript, by reusing and relabeling images to represent the expression of different proteins and/or different experimental conditions. Specifically:

- In Figure 2C of *Science Signaling* 2016, Respondent reused one immunohistochemistry image, to represent Cle casp-3 expression in Myc-CaP tumors under both Control and FoxF1–OE conditions and used another immunohistochemistry image to represent Cle casp-3 expression in TRAMP tumors under both Control and FoxF1–OE conditions
- in Figure S4E of *Science Signaling* 2016, Respondent reused and relabeled western blot panels to represent the expression of multiple different proteins under different experimental conditions. Specifically:
  - —Respondent used different exposures of the source blot to represent FOXF1 or WNK1 expression in 22RV1 tumors transfected with scramble RNA or shFOXF1, or pERK5 expression in C4–2B tumors transfected with scramble RNA or shFOXF1
  - —Respondent used different exposures and size scaling of the source blot to represent MAP3K2 or pERK5 expression in 22RV1 tumors transfected with scramble RNA or shFOXF1 or FOXF1 or WNK1 expression in C4–2B tumors transfected with scramble RNA or shFOXF1, or FOXF1 or WNK1 expression in C4–2B tumors transfected with scramble or shFOXF1
  - —Respondent used background lightening/darkening and size scaling of the source blot to represent β-ACTIN expression in 22RV1 tumors transfected with scramble or shFOXF1, or Total ERK5 expression in C4–2B tumors transfected with scramble RNA or shFOXF1
  - —Respondent used size scaling and rotation of the source blot to represent Total ERK5 in 22RV1 tumors transfected with scramble RNA or shFOXF1, or β-ACTIN expression in C4–2B tumors transfected with scramble RNA or shFOXF1
- in Figure 7C of *Science Signaling* 2016, Respondent reused and relabeled one source western blot panel to represent the expression of different proteins in the presence of FOXF1 overexpression. Specifically:
  - —different exposures, size scaling, and rotation of the same blot were used to represent β-Actin, pERK5, Total ERK, and MAP3K2 expression in FOXF1-overexpressing Myc-CaP tumors transduced with scramble RNA, shMAP3K2 RNA, shWNK1, or both
- in Figure S3B of *Science Signaling* 2016, Respondent spliced, size scaled, and rotated the source western blot representing expression of Erk5 in TRAMP tumors and represented it as both pERK5 and Total ERK5 expression in TRAMP tumors under both control and FOXF1–OE conditions
- in Figure 3B of the unpublished manuscript, Respondent fabricated the data to falsely represent the upregulation of Wnt11 mRNA in human fibroblasts from prostate cancer samples, compared to those from normal patient samples
- in Figures 3F and S8 of the unpublished manuscript, Respondent reused and relabeled source western blot panels representing Wnt11 expression in HeLa (cervical cancer) to represent Wnt11 expression in MDA–MB–231 fibroblasts (prostate cancer)

As a result of the investigation, *Science Signaling* 2016 was retracted in: *Science Signaling* 2018 Jul;11:541.

Mr. Fulford entered into an Agreement and agreed to the following:

(1) Respondent agreed to have his research supervised for a period of two (2) years beginning on May 8, 2020. Respondent agreed that prior to the submission of an application for U.S. Public Health Service (PHS) support for a project on which Respondent's participation is proposed and prior to Respondent's participation in any capacity on PHS-supported research, Respondent shall ensure that a plan for supervision of Respondent's duties is submitted to ORI for approval. The

supervision plan must be designed to ensure the scientific integrity of Respondent's research contribution. Respondent agreed that he shall not participate in any PHS-supported research until such a supervision plan is submitted to and approved by ORI. Respondent agreed to maintain responsibility for compliance with the agreed upon supervision plan.

(2) The requirements for Respondent's supervision plan are as follows:

i. A committee of 2–3 senior faculty members at the institution who are familiar with Respondent's field of research, but not including Respondent's supervisor or collaborators, will provide oversight and guidance for two (2) years from the effective date of the Agreement. The committee will review primary data from Respondent's laboratory on a quarterly basis and submit a report to ORI at six (6) month intervals, setting forth the committee meeting dates and Respondent's compliance with appropriate research standards and confirming the integrity of Respondent's research.

ii. The committee will conduct an advance review of any PHS grant applications (including supplements, resubmissions, etc.), manuscripts reporting PHS-funded research submitted for publication, and abstracts. The review will include a discussion with Respondent of the primary data represented in those documents and will include a certification to ORI that the data presented in the proposed application/publication is supported by the research record.

(3) If no supervisory plan is provided to ORI, Respondent agreed to provide certification to ORI at the conclusion of the supervision period that he has not engaged in, applied for, or had his name included on any application, proposal, or other request for PHS funds without prior notification to ORI.

(4) Respondent agreed to exclude himself voluntarily from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for a period of two (2) years, beginning on May 8, 2020.

Dated: May 19, 2020.

Elisabeth A. Handley,

Director, Office of Research Integrity, Office of the Assistant Secretary for Health.

[FR Doc. 2020–11158 Filed 5–22–20; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

National Indian Health Outreach and Education

Announcement Type: New.

Funding Announcement Number: HHS–2020–IHS–NIHOE–0001.

Assistance Listing (Catalog of Federal Domestic Assistance or CFDA) Number: 93.933.

Key Dates

Application Deadline Date: June 29, 2020.

Earliest Anticipated Start Date: July 14, 2020.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) is accepting applications for a cooperative agreement for the National Indian Health Outreach and Education program. This program is authorized under: The Snyder Act, 25 U.S.C. 13; the Transfer Act, 42 U.S.C. 2001; the Indian Health Care Improvement Act at 25 U.S.C. 1621b; and Section 330C of the Public Health Service Act, 42 U.S.C. 254c–3. The HIV/AIDS Outreach and Education component is funded by the Office of the Assistant Secretary for Health (OASH), HHS, and is being made available through an intra-Departmental Delegation of Authority (IDDA) to IHS to award funding to be carried out pursuant to Section 301 of the Public Health Service Act. This program is described in the Assistance Listings located at *https://beta.sam.gov* (formerly known as Catalog of Federal Domestic Assistance) under 93.933.

Background

The Indian Health Service is committed to providing quality health care, consistent with its statutory authorities and its government-to-government relationship with each Indian tribe. The IHS mission is to raise the physical, mental, social and spiritual health of American Indians and Alaska Natives to the highest level. To further mission success, the IHS seeks support on a national scale. The IHS serves as the principal federal health care provider and health advocate for approximately 2.6 million American Indians and Alaska Natives from 574 federally recognized Tribes in 37 states, through a network of over 605 hospitals, clinics and health stations on or near Indian reservations and predominantly in rural locations. Tribes administer over half of the annual IHS discretionary appropriation. The IHS also enters into agreements with 41 Urban Indian Organizations (UIOs). These 41 UIOs are 501(c)(3) non-profit organizations that provide culturally appropriate and quality health care and referral services for Urban Indians throughout the United States in 22 states. The IHS seeks to collaborate with local communities, not-for-profit organizations, universities and schools, foundations, businesses, and Federal agencies. This effort will foster outreach and education addressing health policy and health program issues; broadcast educational information to all American Indian and Alaska Native people; provide policy/legislative updates, advocacy, and technical assistance.

Purpose

The purpose of this IHS cooperative agreement is to further IHS's mission and goals related to providing quality health care to the AI/AN community through outreach and education efforts with a focus on improving Indian health care, promoting awareness, visibility, advocacy, training, technical assistance, and education efforts. This program includes the following seven components, as described in this announcement: ''Line Item 128 Health Education and Outreach funds;'' ''Health Care Policy Analysis and Review;'' ''Substance Abuse and Suicide Prevention (SASP) program,'' formerly known as the Methamphetamine and Suicide Prevention Initiative; ''Domestic Violence Prevention (DVP) program,'' formerly known as the Domestic Violence Prevention Initiative—national awareness, visibility, advocacy, outreach and education award; the ''Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS)'' outreach and education; the ''Special Diabetes Program for Indians'' (SDPI); the ''Affordable Care Act (ACA)''; and the ''Indian Health Care Improvement Act (IHCIA).''

II. Award Information

Funding Instrument

Cooperative Agreement.

Estimated Funds Available

The total funding identified for fiscal year (FY) 2020 is approximately $842,311. The award amount for the first budget year is anticipated to be between $246,311 and $842,311. $246,311 is estimated for Line Item 128 Health Education and Outreach (this amount could vary based on Tribal shares assumptions); $125,000 for the Health Care Policy Analysis and Review; $150,000 for activities related

to the SASP program; $50,000 for activities related to the DVP program; $100,000 for HIV/AIDS outreach and education; $66,000 associated with providing legislative education, outreach and communication on the SDPI; and $105,000 for outreach and education activities on the ACA, and the IHCIA. The funding available for competing and subsequent continuation awards issued under this announcement is subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately one award will be issued under this program announcement.

Period of Performance

The period of performance is for three years.

Cooperative Agreement

Cooperative agreements awarded by the Department of Health and Human Services (HHS) are administered under the same policies as a grant. However, the funding agency (IHS) is anticipated to have substantial programmatic involvement in the project during the entire award segment. Below is a detailed description of the level of involvement required for IHS.

Substantial Involvement Description for Cooperative Agreement

1. The IHS assigned program official will work in partnership with the awardee in all decisions involving strategy, hiring of personnel, deployment of resources, release of public information materials, quality assurance, coordination of activities, any training, reports, budget and evaluation. Collaboration includes data analysis, interpretation of findings and reporting.

2. The IHS assigned program official will monitor the overall progress of the awardee's execution of the requirements of the award noted below, as well as their adherence to the terms and conditions of the cooperative agreement. This includes providing guidance for required reports, development of tools and other products, interpreting program findings and assisting with evaluation and overcoming any slippages encountered.

3. The IHS assigned program official will also coordinate the following:

- Routinely scheduled conference calls.
- Appropriate dissemination of required reports to each participating IHS program.

4. IHS will jointly, with the awardee, plan and set an agenda for events that:

- Shares the outcomes of the outreach and health education training provided.
- Fosters collaboration amongst the participating IHS program offices.
- Increases visibility for the partnership between the awardee and IHS.

5. IHS may provide guidance in preparing articles for publication and/or presentations of program successes, lessons learned and new findings.

6. IHS staff will review articles concerning the HHS for accuracy and may, if requested by the awardee, provide relevant articles.

7. IHS will communicate, via routine conference calls and meetings, individual or collective (all participating programs) site visits to the awardee.

8. IHS will provide technical assistance to the awardee as requested.

9. IHS staff may, at the request of the entity's board, participate on study groups, attend board meetings, and recommend topics for analysis and discussion.

III. Eligibility Information

1. Eligibility

To be eligible for this ''New Announcement,'' an eligible applicant must be a 501(c)(3) organization that has demonstrated expertise as follows:

- Representing Tribal governments and providing a variety of services to Tribes, area health boards, Tribal organizations, and federal agencies, and playing a major role in focusing attention on Indian health care needs, resulting in improved health outcomes for Tribes.
- Promoting and supporting health education for AI/AN and coordinating efforts to inform AI/AN of federal decisions that affect Tribal government interests including the improvement of Indian health care.
- Administering national health policy and health programs.
- Maintaining a national AI/AN constituency and clearly supporting critical services and activities within the IHS mission of improving the quality of health care for AI/AN people.
- Supporting improved healthcare in Indian Country.

Note: Please refer to Section IV.2 (Application and Submission Information/Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as tribal resolutions, proof of non-profit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

Applications with budget requests that exceed the highest dollar amount outlined under the Award Information, Estimated Funds Available section, or exceed the Period of Performance outlined under the Award Information, Period of Performance section will be considered not responsive and will not be reviewed. The Division of Grants Management (DGM) will notify the applicant.

Additional Required Documentation

Proof of Non-Profit Status

Organizations claiming non-profit status must submit a current copy of the 501(c)(3) Certificate with the application.

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement are hosted on *https://www.Grants.gov.*

Please direct questions regarding the application process to Mr. Paul Gettys at (301) 443–2114 or (301) 443–5204.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Abstract (one page) summarizing the project.
- Application forms:

1. SF–424, Application for Federal Assistance.
2. SF–424A, Budget Information—Non-Construction Programs.
3. SF–424B, Assurances—Non-Construction Programs.

- Project Narrative (not to exceed *ten* pages for each of the components listed in Section I Purpose). See Section IV.2.A Project Narrative for instructions.

1. Background information on the organization.
2. Proposed scope of work, objectives, and activities that provide a description of what the applicant plans to accomplish.

- Budget Justification and Narrative (not to exceed five pages). See Section IV.2.B Budget Narrative for instructions.
- One-page Timeframe Chart.
- Letters of Support from organization's Board of Directors.

- 501(c)(3) Certificate.
- Biographical sketches for all Key Personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required in order to receive IDC).
- Organizational Chart (optional).
- Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).

Acceptable forms of documentation include:

1. Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or

2. Face sheets from audit reports. Applicants can find these on the FAC website: *https://harvester.census.gov/facdissem/Main.aspx.*

Public Policy Requirements

All federal public policies apply to IHS grants and cooperative agreements with the exception of the Discrimination Policy.

Requirements for Project and Budget Narratives

A. Project Narrative: This narrative should be a separate document that is no more than ten pages per component and must: (1) Have consecutively numbered pages; (2) use black font 12 points or larger; (3) be single-spaced; (4) and be formatted to fit standard letter paper (8–1/2 x 11 inches).

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation Criteria) and place all responses and required information in the correct section noted below or they will not be considered or scored. If the narrative exceeds the page limit, the application will be considered not responsive and not be reviewed. The ten-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part 1—Program Information; Part 2—Program Planning and Evaluation; and Part 3—Program Report. See below for additional details about what must be included in the narrative.

The page limits below are for each narrative and budget submitted.

Part 1: Program Information (limit—two pages)

Section 1: Capabilities and Qualifications

Describe how the applicant has the expertise to provide outreach and education efforts on a continuing basis regarding the pertinent changes and updates in health care for each of the seven components listed herein.

Part 2: Program Planning and Evaluation (limit—six pages)

Section 1: Program Plans

Describe fully and clearly how the applicant plans to address the NIHOE requirements, including how the applicant plans to demonstrate improved health education and outreach services to all federally-recognized Tribes for each of the components described herein. Include proposed timelines as appropriate and applicable.

Section 2: Program Evaluation

Describe fully and clearly how the outreach and education efforts will impact changes in knowledge and awareness in Tribal communities. Identify anticipated or expected benefits for the Tribal constituency.

Describe fully and clearly how each project objective will be evaluated, including a sample list of data variables to be collected (*i.e.,* health education and outreach services, response from community surveys, rating of program or project's ability to use technology, program or project's ability to cover costs of peripherals and software to manage grant). Identify anticipated or expected benefits for the tribal community or target population.

Part 3: Program Report (limit—two pages)

Section 1: Describe your organization's significant program activities and accomplishments over the past five years associated with the goals of this announcement.

Section 2: Describe major activities over the last 24 months. Please identify and summarize recent major health related project activities of the work done regarding each of the four components during the project period.

B. Budget Narrative (limit—five pages).

Provide a budget narrative that explains the amounts requested for each line item of the budget. The budget narrative should specifically describe how each item will support the achievement of proposed objectives. Be very careful about showing how each item in the ''Other'' category is justified. For subsequent budget years, the narrative should highlight the changes from year 1 or clearly indicate that there are no substantive budget changes during the period of performance. Do NOT use the budget narrative to expand the project narrative.

3. Submission Dates and Times

Applications must be submitted through *Grants.gov* by 11:59 p.m. Eastern Daylight Time (EDT) on the Application Deadline Date. Any application received after the application deadline will not be accepted for review. *Grants.gov* will notify the applicant via email if the application is rejected. If technical challenges arise and assistance is required with the application process, contact *Grants.gov* Customer Support (see contact information at *https://www.grants.gov*). If problems persist, contact Mr. Paul Gettys (*Paul.Gettys@ihs.gov*), Acting Director, DGM, by telephone at (301) 443–2114 or (301) 443–5204. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

IHS will not acknowledge receipt of applications.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are allowable up to 90 days before the start date of the award provided the costs are otherwise allowable if awarded. Pre-award costs are incurred at the risk of the applicant.
- The available funds are inclusive of direct and indirect costs.
- Only one cooperative agreement will be awarded per applicant.

6. Electronic Submission Requirements

All applications must be submitted via *Grants.gov*. Please use the *https://www.Grants.gov* website to submit an application. Find the application by selecting the ''Search Grants'' link on the homepage. Follow the instructions for submitting an application under the Package tab. No other method of application submission is acceptable.

If the applicant cannot submit an application through *Grants.gov*, a waiver must be requested. Prior approval must be requested and obtained from Mr. Paul Gettys, Acting Director, DGM. A written waiver request must be sent to *GrantsPolicy@ihs.gov* with a copy to *Paul.Gettys@ihs.gov.* The waiver request must: (1) Be documented

in writing (emails are acceptable) before submitting an application by some other method, and (2) include clear justification for the need to deviate from the required application submission process.

Once the waiver request has been approved, the applicant will receive a confirmation of approval email containing submission instructions. A copy of the written approval must be included with the application that is submitted to the DGM. Applications that are submitted without a copy of the signed waiver from the Director of the DGM will not be reviewed. The Grants Management Officer of the DGM will notify the applicant via email of this decision. Applications submitted under waiver must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date. Late applications will not be accepted for processing. Applicants that do not register for both the System for Award Management (SAM) and *Grants.gov* and/or fail to request timely assistance with technical issues will not be considered for a waiver to submit an application via alternative method.

Please be aware of the following:

- Please search for the application package in *https://www.Grants.gov* by entering the Assistance Listing (CFDA) number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application, please contact *Grants.gov* Customer Support (see contact information at *https://www.grants.gov*).
- Upon contacting *Grants.gov*, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to twenty working days.
- Please follow the instructions on *Grants.gov* to include additional documentation that may be requested by this funding announcement.
- Applicants must comply with any page limits described in this funding announcement.
- After submitting the application, the applicant will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. IHS will not notify the applicant that the application has been received.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

Applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B that uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, please access the request service through *https://fedgov.dnb.com/webform,* or call (866) 705–5711.

The Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), requires all HHS recipients to report information on sub-awards. Accordingly, all IHS grantees must notify potential first-tier sub-recipients that no entity may receive a first-tier sub-award unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that are not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Please see *SAM.gov* for details on the registration process and timeline. Registration with the SAM is free of charge, but can take several weeks to process. Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, are available on the DGM Grants Management, Policy Topics web page: *https://www.ihs.gov/dgm/policytopics/.*

V. Application Review Information

Weights assigned to each section are noted in parentheses. The ten-page project narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See ''Multi-year Project Requirements'' at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 possible points. Points are assigned as follows:

1. Evaluation Criteria

A. Introduction and Need for Assistance (15 Points)

(1) Describe the organization's current health, education and technical assistance operations as related to the broad spectrum of health needs of the AI/AN community. Include what programs and services are currently provided (*i.e.,* federally-funded, state-funded, etc.), any memorandums of agreement with other national, area or local Indian health board organizations. This could also include HHS agencies that rely on the applicant as the primary gateway organization to AI/AN communities that are capable of providing the dissemination of health information. Include information regarding technologies currently used (*i.e.,* hardware, software, services, websites, etc.), and identify the source(s) of technical support for those technologies (*i.e.,* in-house staff, contractors, vendors, etc.). Include information regarding how long the applicant has been operating and its length of association/partnerships with area health boards, etc. (historical collaboration).

(2) Describe the organization's current technical assistance ability. Include what programs and services are currently provided, programs and services projected to be provided, memorandums of agreement with other national Indian organizations that deem the applicant as the primary source of health policy information for AI/AN, memorandums of agreement with other area Indian health boards, etc.

(3) Describe the population to be served by the proposed projects.

(4) Identify all previous IHS cooperative agreement awards received, dates of funding and summaries of the projects' accomplishments. State how previous cooperative agreement funds facilitated education, training and technical assistance nationwide for AI/ANs and relate the progression of health care information delivery and development relative to the current proposed projects. (Copies of reports will not be accepted.)

(5) Describe collaborative and supportive efforts with national, area and local Indian health boards.

(6) Explain the need/reason for your proposed projects by identifying specific gaps or weaknesses in services or infrastructure that will be addressed by the proposed projects. Explain how these gaps/weaknesses have been assessed.

(7) If the proposed projects include information technology (*i.e.,* hardware, software, etc.), provide further information regarding measures taken or to be taken that ensure the proposed projects will not create other gaps in services or infrastructure (*i.e.,* negatively or adversely affect IHS interface capability, Government Performance Results Act reporting requirements, contract reporting requirements, information technology compatibility, etc.), if applicable.

(8) Describe the effect of the proposed projects on current programs (*i.e.,* federally-funded, state-funded, etc.) and, if applicable, on current equipment (*i.e.,* hardware, software, services, etc.). Include the effect of the proposed projects on planned/anticipated programs and/or equipment.

(9) Describe how the projects relate to the purpose of the cooperative agreement by addressing the following: Identify how the proposed projects will address outreach and education regarding each of the components listed.

B. Project Objective(s), Work Plan and Approach (40 Points)

(1) Identify the proposed objective(s) for each of the four projects, as applicable. Objectives should be:

- Measurable and (if applicable) quantifiable.
- Results oriented.
- Time-limited.

Example: Issue quarterly newsletters, provide alerts and quantify number of contacts with Tribes.

Goals must be clear and concise. Objectives must be measurable, feasible and attainable for each of the selected projects.

(2) Address how the proposed projects will result in change or improvement in program operations or processes for each proposed project objective for all of the projects. Also address what tangible products, if any, are expected from the projects, (*i.e.,* policy analysis, outreach events, summits, etc.).

(3) Address the extent to which the proposed projects will provide, improve, or expand services that address the need(s) of the target population. Include a current strategic plan and business plan that includes the expanded services. Include the plan(s) with the application submission.

(4) Submit a work plan in the appendix which includes the following information.

- Provide the action steps on a timeline for accomplishing each of the projects' proposed objective(s).
- Identify who will perform the action steps.
- Identify who will supervise the action steps.
- Identify what tangible products will be produced during and at the end of the proposed projects' objective(s).
- Identify who will accept and/or approve work products during the duration of the proposed projects and at the end of the proposed projects.
- Include any training that will take place during the proposed projects and who will be attending the training.
- Include evaluation activities planned in the work plans.

(5) If consultants or contractors will be used during the proposed project, please include the following information in their scope of work (or note if consultants/contractors will not be used).

- Educational requirements.
- Desired qualifications and work experience.
- Expected work products to be delivered on a timeline.

If a potential consultant/contractor has already been identified, please include a resume in the Appendix.

(6) Describe what updates will be required for the continued success of the proposed projects. Include when these updates are anticipated and where funds will come from to conduct the update and/or maintenance.

C. Program Evaluation (20 Points)

Each proposed objective requires an evaluation component to assess its progression and ensure its completion. Also, include the evaluation activities in the work plan.

Describe the proposed plan to evaluate both outcomes and process. Outcome evaluation relates to the results identified in the objectives, and process evaluation relates to the work plan and activities of the project.

(1) For outcome evaluation, describe:

- What will the criteria be for determining success of each objective?
- What data will be collected to determine whether the objective was met?
- At what intervals will data be collected?
- Who will collect the data and their qualifications?
- How will the data be analyzed?
- How will the results be used?

(2) For process evaluation, describe:

- How will each project be monitored and assessed for potential problems and needed quality improvements?
- Who will be responsible for monitoring and managing each project's improvements based on results of ongoing process improvements and their qualifications?
- How will ongoing monitoring be used to improve the projects?
- Describe any products, such as manuals or policies, that might be developed and how they might lend themselves to replication by others.
- How will the organization document what is learned throughout each of the projects' periods?

(3) Describe any evaluation efforts planned after the grant period has ended.

(4) Describe the ultimate benefit to the AI/AN population that the applicant organization serves that will be derived from these projects.

D. Organizational Capabilities, Key Personnel and Qualifications (15 Points)

This section outlines the broader capacity of the organization to complete the project outlined in the work plan. It includes the identification of personnel responsible for completing tasks and the chain of responsibility for successful completion of the projects outlined in the work plan.

(1) Describe the organizational structure of the organization beyond health care activities, if applicable.

(2) Describe the ability of the organization to manage the proposed projects. Include information regarding similarly sized projects in scope and financial assistance, as well as other cooperative agreements/grants and projects successfully completed.

(3) Describe what equipment (*i.e.,* fax machine, phone, computer, etc.) and facility space (*i.e.,* office space) will be available for use during the proposed projects. Include information about any equipment not currently available that will be purchased through the cooperative agreement/grant.

(4) List key personnel who will work on the projects. Include title used in the work plans. In the appendix, include position descriptions and resumes for all key personnel. Position descriptions should clearly describe each position and duties, indicating desired qualifications and experience requirements related to the proposed projects. Resumes must indicate that the proposed staff member is qualified to carry out the proposed projects' activities. If a position is to be filled, indicate that information on the proposed position description.

(5) If personnel are to be only partially funded by this cooperative agreement, indicate the percentage of time to be allocated to the projects and identify the resources used to fund the remainder of the individual's salary.

E. Categorical Budget and Budget Justification (10 Points)

This section should provide a clear estimate of the projects' program costs and justification for expenses for the entire cooperative agreement period. The budgets and budget justifications should be consistent with the tasks identified in the work plans.

(1) Provide a categorical budget for each of the 12-month budget periods requested for each of the four projects.

(2) If indirect costs are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the rate agreement in the appendix.

(3) Provide a narrative justification explaining why each line item is necessary/relevant to the proposed project. Include sufficient cost and other details to facilitate the determination of cost allowability (*i.e.,* equipment specifications, etc.).

Multi-Year Project Requirements

Applications must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project. This attachment will not count as part of the project narrative or the budget narrative.

Additional Documents Can Be Uploaded as Appendix Items in *Grants.gov*

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Rate Agreement.
- Organizational chart.
- Map of area identifying project location(s).
- Additional documents to support narrative (*i.e.* data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the Objective Review Committee (ORC) based on evaluation criteria. Incomplete applications and applications that are not responsive to the administrative thresholds will not be referred to the ORC and will not be funded. The applicant will be notified of this determination. Applicants must address all program requirements and provide all required documentation.

3. Notifications of Disposition

All applicants will receive an Executive Summary Statement from the IHS Office of Direct Service and Contracting Tribes within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application. The summary statement will be sent to the Authorizing Official identified on the face page (SF–424) of the application.

A. Award Notices for Funded Applications

The Notice of Award (NoA) is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period. Each entity approved for funding must have a user account in GrantSolutions in order to retrieve the NoA. Please see the Agency Contacts list in Section VII for the systems contact information.

B. Approved But Unfunded Applications

Approved applications not funded due to lack of available funds will be held for one year. If funding becomes available during the course of the year, the application may be reconsidered.

Note: Any correspondence other than the official NoA executed by an IHS grants management official announcing to the project director that an award has been made to their organization is not an authorization to implement their program on behalf of the IHS.

VI. Award Administration Information

1. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements for HHS Awards, located at 45 CFR part 75.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' located at 45 CFR part 75, subpart E.

E. Audit Requirements:

- Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' located at 45 CFR part 75, subpart F.

2. Indirect Costs

This section applies to all recipients that request reimbursement of indirect costs (IDC) in their application budget. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement, and submit it to DGM, prior to DGM issuing an award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate agreement is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate agreement is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* or the Department of Interior (Interior Business Center) *https://ibc.doi.gov/ICS/tribal.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under ''Agency Contacts'' or the main DGM office at (301) 443–5204.

3. Reporting Requirements

The awardee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the awardee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports are required to be submitted electronically by attaching them as a ''Grant Note'' in GrantSolutions. Personnel responsible for submitting

reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually, within 30 days after the budget period ends (specific dates will be listed in the NoA Terms and Conditions). These reports must include a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the period of performance.

B. Financial Reports

Federal Financial Report (FFR or SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Payment Management Services, HHS at *https://pms.psc.gov.* The applicant is also requested to upload a copy of the FFR (SF–425) into our grants management system, GrantSolutions. Failure to submit timely reports may result in adverse award actions blocking access to funds.

Awardees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Post Conference Grant Reporting

The following requirements were enacted in Section 3003 of the Consolidated Continuing Appropriations Act, 2013, and Section 119 of the Continuing Appropriations Act, 2014; Office of Management and Budget Memorandum M–12–12: All HHS/IHS awards containing grants funds allocated for conferences will be required to complete a mandatory post award report for all conferences. Specifically: The total amount of funds provided in this award/cooperative agreement that were spent for ''Conference X'', must be reported in final detailed actual costs within 15 days of the completion of the conference. Cost categories to address should be: (1) Contract/Planner, (2) Meeting Space/Venue, (3) Registration website, (4) Audio Visual, (5) Speakers Fees, (6) Non-Federal Attendee Travel, (7) Registration Fees, (8) Other.

D. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by federal agencies. The Transparency Act also includes a requirement for recipients of federal grants to report information about first-tier sub-awards and executive compensation under federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the period of performance is made up of more than one budget period) and where: (1) The period of performance start date was October 1, 2010 or after, and (2) the primary awardee will have a $25,000 sub-award obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Policy website at *https://www.ihs.gov/dgm/policytopics/.*

E. Compliance With Executive Order 13166 Implementation of Services Accessibility Provisions for All Grant Application Packages and Funding Opportunity Announcements

Recipients of federal financial assistance (FFA) from HHS must administer their programs in compliance with federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, disability, age and, in some circumstances, religion, conscience, and sex. This includes ensuring programs are accessible to persons with limited English proficiency. The HHS Office for Civil Rights provides guidance on complying with civil rights laws enforced by HHS. Please see *https://www.hhs.gov/civil-rights/for-providers/provider-obligations/index.html* and *http://www.hhs.gov/ocr/civilrights/understanding/section1557/index.html.*

- Recipients of FFA must ensure that their programs are accessible to persons with limited English proficiency. HHS provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency. Please see *https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/fact-sheet-guidance/index.html* and *https://www.lep.gov.* For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at *https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=53.*
- Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see *http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html.*
- HHS funded health and education programs must be administered in an environment free of sexual harassment. Please see *https://www.hhs.gov/civil-rights/for-individuals/sex-discrimination/index.html; https://www2.ed.gov/about/offices/list/ocr/docs/shguide.html;* and *https://www.eeoc.gov/eeoc/publications/fs-sex.cfm.*
- Recipients of FFA must also administer their programs in compliance with applicable federal religious nondiscrimination laws and applicable federal conscience protection and associated anti-discrimination laws. Collectively, these laws prohibit exclusion, adverse treatment, coercion, or other discrimination against persons or entities on the basis of their consciences, religious beliefs, or moral convictions. Please see *https://www.hhs.gov/conscience/conscience-protections/index.html* and *https://www.hhs.gov/conscience/religious-freedom/index.html.*

Please contact the HHS Office for Civil Rights for more information about obligations and prohibitions under federal civil rights laws at *https://www.hhs.gov/ocr/about-us/contact-us/index.html* or call 1–800–368–1019 or TDD 1–800–537–7697.

F. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS), at *https://www.fapiis.gov,* before making any award in excess of the simplified acquisition threshold (currently

$150,000) over the period of performance. An applicant may review and comment on any information about itself that a federal awarding agency previously entered. IHS will consider any comments by the applicant, in addition to other information in FAPIIS in making a judgment about the applicant's integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by applicants as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, non-federal entities (NFEs) are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10,000,000 for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, the IHS must require a non-federal entity or an applicant for a federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award.

Submission is required for all applicants and recipients, in writing, to the IHS and to the HHS Office of Inspector General all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. See 45 CFR 75.113.

Disclosures must be sent in writing to: U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Paul Gettys, Acting Director, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, (Include ''Mandatory Grant Disclosures'' in subject line), Office: (301) 443–5204, Fax: (301) 594–0899, Email: *Paul.Gettys@ihs.gov;* AND U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW, Cohen Building, Room 5527, Washington, DC 20201, URL: *https://oig.hhs.gov/fraud/report-fraud/,* (Include ''Mandatory Grant Disclosures'' in subject line), Fax: (202) 205–0604 (Include ''Mandatory Grant Disclosures'' in subject line) or Email: *MandatoryGranteeDisclosures@oig.hhs.gov.*

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (see 2 CFR parts 180 & 376).

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Mr. Kenneth Coriz, Program Analyst, ODSCT, Mail Stop, 8E17, 5600 Fishers Lane, Rockville, Maryland 20857, Phone: (301) 443–1104, Email: *Kenneth.Coriz@ihs.gov.*

2. Questions on grants management and fiscal matters may be directed to: Patience Musikikongo, Grants Management Specialist, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2059, Fax: (301) 594–0899, Email: *Patience.Musikikongo@ihs.gov.*

3. Questions on systems matters may be directed to: Paul Gettys, Acting Director, DGM, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2114; or the DGM main line (301) 443–5204, Fax: (301) 594–0899, Email: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The Public Health Service strongly encourages all grant, cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Michael D. Weahkee,

Assistant Surgeon General, RADM, U.S. Public Health Service, Director, Indian Health Service.

[FR Doc. 2020–11210 Filed 5–22–20; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Aging and Technology.

Date: June 22, 2020.

Time: 12:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Kimberly Firth, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Suite 2W200, Bethesda, MD 20892, (301) 402–7702, *firthkm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 19, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–11148 Filed 5–22–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, NIA, May 19, 2020, 8:00 a.m. to May 21, 2020, 6:30 p.m., National Institute on Aging, Biomedical Research Center, 251 Bayview Boulevard, Baltimore, MD, 21224 which was published in the **Federal Register** on March 23, 2020, 85 FR 16376.

The meeting notice is amended to change the date of the meeting from May 19–21, 2020 to September 21–22, 2020. The meeting is partially Closed to the public.

Dated: May 19, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–11149 Filed 5–22–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; Limited Competition: Research Centers in Minority Institutions (RCMI) Coordinating Center (U24 Clinical Trial Not Allowed).

Date: June 15, 2020.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 7201 Wisconsin Ave., Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Deborah Ismond, Ph.D.,Scientific Review Officer, Division of Scientific Programs, NIMHD, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 402–1366, *ismonddr@mail.nih.gov*.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; NIMHD Research Centers in Minority Institutions (RCMI) (U54 Clinical Trials Optional).

Date: July 6–8, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 7201 Wisconsin Ave., Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Xinli Nan, M.D., Ph.D., Scientific Review Officer, Office of Extramural Research Administration, NIMHD, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 594–7784, *Xinli.Nan@nih.gov*.

Dated: May 19, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–11153 Filed 5–22–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training in Veterinary and Comparative Medicine.

Date: June 16, 2020.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: John Harold Laity, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–8254, *john.laity@nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group; Hypertension and Microcirculation Study Section.

Date: June 18–19, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bukhtiar H. Shah, DVM, Ph.D., Scientific Review Officer, Vascular and Hematology IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, (301) 806–7314, *shahb@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Health Disparities and Equity Promotion Study Section.

Date: June 18–19, 2020.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jessica Bellinger, Ph.D., Scientific Review Officer, Center for Scientific of Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, Bethesda, MD 20892, (301) 827–4446, *bellingerjd@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: May 19, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–11146 Filed 5–22–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; AMSC Member Conflict Panel.

Date: June 10, 2020.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Kan Ma, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 814, Bethesda, MD 20892, (301) 451–4838, *mak2@mail.nih.gov*.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin

Diseases Special Emphasis Panel; AMS Member Conflict Panel.

Date: June 23, 2020.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Kan Ma, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 814, Bethesda, MD 20892, (301) 451–4838, *mak2@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 19, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–11151 Filed 5–22–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Arthritis and Musculoskeletal and Skin Diseases Initial Review Group; Arthritis and Musculoskeletal and Skin Diseases Clinical Trials Review Committee.

Date: June 4–5, 2020.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nakia C. Brown, Ph.D., Scientific Review Officer, NIH/NIAMS, 6701 Democracy Blvd. Suite 816, Plaza One, Bethesda, MD 20892, (301) 827–4905, *brownnac@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Arthritis and Musculoskeletal and Skin Diseases Initial Review Group; Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee.

Date: June 18–19, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Helen Lin, Ph.D., Scientific Review Officer, NIH/NIAMS/RB, 6701 Democracy Blvd., Suite 800, Plaza One, Bethesda, MD 20817, (301) 594–4952, *linh1@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 19, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–11150 Filed 5–22–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel SBIR Applications: New Technologies for Development and Integration of Novel Components for Open and Closed Loop Hormone Replacement Platforms for T1D Therapy.

Date: June 19, 2020.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, National Institutes of Health, Room 7015, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–4721, *ryan.morris@nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel: Diabetes Distress RFA.

Date: July 17, 2020.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Video Meeting).

Contact Person: Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, National Institutes of Health, Room 7353, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 19, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–11152 Filed 5–22–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Pragmatical trials in AD.

Date: July 9, 2020.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Ramesh Vemuri, Ph.D., Chief, Scientific Review Branch, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Gateway Building, Suite 2W200, Bethesda, MD 20892, (301) 402–7700, *rv23r@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 19, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–11147 Filed 5–22–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Petrospect, Inc. (Honolulu, HI), as a Commercial Gauger

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

ACTION: Notice of approval of Petrospect, Inc. (Honolulu, HI), as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Petrospect, Inc. (Honolulu, HI), has been approved to gauge petroleum and certain petroleum products for customs purposes for the next three years as of August 21, 2019.

DATES: Petrospect, Inc. (Honolulu, HI) was approved, as a commercial gauger as of August 21, 2019. The next triennial inspection date will be scheduled for August 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Petrospect, Inc., 499 North Nimitz Hwy.—Pier 21, Honolulu, HI 96817 has been approved to gauge petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Petrospect, Inc. (Honolulu, HI) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
11	Physical Properties Data.
12	Calculations.
17	Marine Measurement.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories*.

Dated: April 30, 2020.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–11196 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of King Laboratories Inc. (Tampa, FL) as a Commercial Gauger and Laboratory

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

ACTION: Notice of accreditation and approval of King Laboratories Inc. (Tampa, FL), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that King Laboratories Inc. (Tampa, FL), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of June 20, 2019.

DATES: King Laboratories Inc. (Tampa, FL) was approved and accredited as a commercial gauger and laboratory as of June 20, 2019. The next triennial inspection date will be scheduled for June 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that King Laboratories Inc., 1515 W Hillsborough Ave., Tampa, FL 33603, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

King Laboratories Inc. (Tampa, FL) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Marine Measurement.

King Laboratories Inc. is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–02	D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27–08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27–53	D 2709	Standard Test Method for Water and Sediment in Middle Distillate Fuels by Centrifuge.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.*

Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories*

Dated: April 30, 2020.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–11195 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Intertek USA, Inc. (St. Croix, USVI) as a Commercial Gauger and Laboratory

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

ACTION: Notice of accreditation and approval of Intertek USA, Inc. (St. Croix, USVI), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. (St. Croix, USVI), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of February 12, 2020.

DATES: Intertek USA, Inc. (St. Croix, USVI) was approved and accredited as a commercial gauger and laboratory as of February 12, 2020. The next triennial inspection date will be scheduled for February 2023.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–3974.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Intertek USA, Inc., 1 Estate Hope, St. Croix, USVI 00850, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Intertek USA, Inc. (St. Croix, USVI) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
1	Vocabulary.
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
11	Physical Properties Data.
12	Calculations.
17	Marine Measurement.

Intertek USA, Inc. (St. Croix, USVI) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–05	D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27–46	D 5002	Standard Test Method for Density, Relative Density, and API Gravity of Crude Oils by Digital Density Analyzer.
27–48	D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
N/A	D 2163	Standard Test Method for Determination of Hydrocarbons in Liquefied Petroleum (LP) Gases and Propane/Propene Mixtures by Gas Chromatography.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories*

Dated: April 30, 2020.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–11197 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Intertek USA, Inc. (Kapolei, HI) as a Commercial Gauger

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

ACTION: Notice of approval of Intertek USA, Inc. (Kapolei, HI), as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. (Kapolei, HI), has been approved to gauge petroleum and certain petroleum products for customs

purposes for the next three years as of October 9, 2019.

DATES: Intertek USA, Inc. (Kapolei, HI) was approved as a commercial gauger as of August 20, 2019. The next triennial inspection date will be scheduled for August 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that Intertek USA, Inc., 2149 Lauwiliwili Street #110, Kapolei, HI 96707, has been approved to gauge petroleum and certain petroleum products in accordance with the provisions of 19 CFR 151.13.

Intertek USA, Inc. (Kapolei, HI) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Marine Measurement.

Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: April 30, 2020.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2020–11194 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4502–DR; Docket ID FEMA–2020–0001]

District of Columbia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the District of Columbia (FEMA–4502–DR), dated March 29, 2020, and related determinations.

DATES: The declaration was issued March 29, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 29, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the District of Columbia resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the District of Columbia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the District of Columbia. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, MaryAnn Tierney, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the District of Columbia have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the District of Columbia.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11172 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4542–DR; Docket ID FEMA–2020–0001]

South Carolina; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of South Carolina (FEMA–4542–DR), dated May 1, 2020, and related determinations.

DATES: This amendment was issued May 12, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of South Carolina is hereby amended to include the following areas among those areas determined to have

been adversely affected by the event declared a major disaster by the President in his declaration of May 1, 2020.

Barnwell and Berkeley Counties for Individual Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11170 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4496–DR; Docket ID FEMA–2020–0001]

Massachusetts; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Massachusetts (FEMA–4496–DR), dated March 27, 2020, and related determinations.

DATES: The declaration was issued March 27, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 27, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the Commonwealth of Massachusetts resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the Commonwealth of Massachusetts.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance limited to the Crisis Counseling Program and assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the Commonwealth. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, W. Russell Webster, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Massachusetts have been designated as adversely affected by this major disaster:

Individual Assistance limited to the Crisis Counseling Program in all areas in the Commonwealth of Massachusetts.

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the Commonwealth of Massachusetts.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11180 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4505–DR; Docket ID FEMA–2020–0001]

Rhode Island; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Rhode Island (FEMA–4505–DR), dated March 30, 2020, and related determinations.

DATES: The declaration was issued March 30, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 30, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the State of Rhode Island resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Rhode Island.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, W. Russell Webster, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Rhode Island have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Rhode Island.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11167 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4503–DR; Docket ID FEMA–2020–0001]

Alabama; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA–4503–DR), dated March 29, 2020, and related determinations.

DATES: The declaration was issued March 29, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 29, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the State of Alabama resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Alabama.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Gracia B. Szczech, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Alabama have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Alabama.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11181 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4506–DR; Docket ID FEMA–2020–0001]

Pennsylvania; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Pennsylvania (FEMA–4506–DR), dated March 30, 2020, and related determinations.

DATES: The declaration was issued March 30, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 30, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the Commonwealth of Pennsylvania resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the Commonwealth of Pennsylvania.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the Commonwealth. Consistent with the

requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, MaryAnn Tierney, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Pennsylvania have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the Commonwealth of Pennsylvania.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11175 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4497–DR; Docket ID FEMA–2020–0001]

Kentucky; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–4497–DR), dated March 28, 2020, and related determinations.

DATES: The declaration was issued March 28, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 28, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the Commonwealth of Kentucky resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the Commonwealth. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Gracia B. Szczech, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Kentucky have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the Commonwealth of Kentucky.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11177 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4504–DR; Docket ID FEMA–2020–0001]

Kansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA–4504–DR), dated March 29, 2020, and related determinations.

DATES: The declaration was issued March 29, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 29, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the State of Kansas resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Kansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds

available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Paul Taylor, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Kansas have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Kansas.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11178 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4501–DR; Docket ID FEMA–2020–0001]

Georgia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Georgia (FEMA–4501–DR), dated March 29, 2020, and related determinations.

DATES: The declaration was issued March 29, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 29, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the State of Georgia resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Georgia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Gracia B. Szczech, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Georgia have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Georgia.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11169 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2020–0014; OMB No. 1660–0132]

Agency Information Collection Activities: Proposed Collection; Comment Request; Consolidated FEMA-National Training and Education Division (NTED) Level 3 Training Evaluation Forms

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a reinstatement, with change, of a previously approved information collection for which approval has expired. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the use of the three separate Kirkpatrick Training Program Evaluation Level 3 instruments by three geographically separated National Training and Education (NTED) Training Organizations. The Training Partners Program Branch (TPP) located at FEMA Headquarters, The Center for Domestic Preparedness (CDP) located in Anniston AL, and The Emergency Management Institute (EMI) located at Emmitsburg, MD. While these three instruments contain five common questions or data sets other questions are required due to unique occupational and operational

needs of their respective customers and the different course/program content or subject material that is designed to develop interoperable National Preparedness Core Capabilities, Community Lifelines, and/or Recovery Sector capabilities across and among various responder communities. Level 3 data is used to measure and monitor transfer or retention of knowledge, skills and abilities obtained during training to the students work environment and/or organizational work environment. Data collected is utilized to continuously improve course material, delivery and to inform key stakeholders on course/program performance in accordance with the GPRA Modernization Act of 2010.

DATES: Comments must be submitted on or before July 27, 2020.

ADDRESSES: Submit comments at *www.regulations.gov* under Docket ID FEMA–2020–0014. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID. All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link on the homepage of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Samuel Phillips at *Samuel.Phillips@fema.dhs.gov* for questions regarding the new TPP Level 3 Post Course Assessment Form. Beverly Borden at *Beverly.borden@fema.dhs.gov for* questions on the two CDP Level 3 forms, and Dana Moats at *Dana.Moat@fema.dhs.gov* or Scott Vandermark at *Scott.vandermark@fema.dhs.gov* for questions or inquires on the EMI FEMA Follow-up Evaluation Survey. You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: In support of Presidential Policy Directive (PPD—8) National Preparedness, the National Preparedness Goal (NPG) and National Preparedness System (NPS) FEMA's NTED provides program oversight of three geographically separated training organizations: TPP in Washington, DC, CDP in Anniston, AL, and EMI in Emmitsburg, MD. These organizations with the National Domestic Preparedness Consortium (NDPC) and the Continuing Training Grant (CTG) members comprise the National Training and Education System (NTES) and are organized to optimize the 6 U.S.C. 748 required National Training Program on behalf of the FEMA Administrator in collaboration with other Federal agencies. Working collective as a NTES the training capabilities and capacity of the Nation increase the planning, capability and capacity to design, develop, deliver and evaluate training and education solutions to build sustainable and interoperable National Core Capabilities, Community Lifelines, and Recovery Sectors that prevent, protect, mitigate, respond and recover the Nation from acts of terrorism and natural disasters.

As member of the Federal Government FEMA's NTED and component organizations have developed these training evaluation instruments to measure their individual and collective program performance as required by the GPRA Modernization Act of 2010. Paragraph(a) of 31 U.S.C. 1115 covers Federal Government and Agency Performance Plans while paragraph (b) covers Agency Performance Plans (6) requires a balanced set of performance indicators to be used in measuring or assessing progress toward each performance goal, including, as appropriate, customer service, efficiency, output, and outcome indicators.

This information collection expired on February 28, 2019. FEMA is requesting a reinstatement, with change, of a previously approved information collection for which approval has expired.

Collection of Information

Title: Consolidated FEMA-National Training and Education Division (NTED) Level 3 Training Evaluation Forms.

Type of information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

OMB Number: 1660–0132.

Form Titles and Numbers: FEMA Form 016–0–2, Post Course Assessment National Training & Education Division, Training Partners Program (TPP); FEMA Form 092–0–2A, PER–220 Field Force Operations (FFO) Post-Graduate Questionnaire for Students; FEMA Form 092–0–2B, PER–220 Field Force Operations (FFO) Post-Graduate Training Evaluation for Supervisors; and FEMA Form 519–0–1, Emergency Management Institute (EMI): FEMA Follow-up Evaluation Survey.

Abstract: This data collection is required in support of GPRAMA 2010 Section 115 to provide National Preparedness Training Program performance evaluation data to FEMA; DHS Executives; Congress; and State, local, Tribal and territorial (SLTT) elected officials. This instrument is part of a larger training program evaluation collection that applies the Kirkpatrick Training Evaluation Model. Respondents include SLTT emergency responders from Law Enforcement, Emergency Medical and Public Health communities.

Affected Public: State, local, Tribal, and territorial employees. Others include non-profits and Federal Emergency Support Function Lead Agency employees.

Estimated Number of Respondents: 124,692.

Estimated Number of Responses: 124,692.

Estimated Total Annual Burden Hours: 31,174.

Estimated Total Annual Respondent Cost: $1,379,085.

Estimated Respondents' Operation and Maintenance Costs: N/A.

Estimated Respondents' Capital and Start-Up Costs: N/A.

Estimated Total Annual Cost to the Federal Government: $180,082.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Maile Arthur,

Acting Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2020–11185 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–53–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4495–DR; Docket ID FEMA–2020–0001]

Guam; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the territory of Guam (FEMA–4495–DR), dated March 27, 2020, and related determinations.

DATES: The declaration was issued March 27, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 27, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the territory of Guam resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the territory of Guam.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the territory. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Robert J. Fenton, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the territory of Guam have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the territory of Guam.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11171 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4499–DR; Docket ID FEMA–2020–0001]

Oregon; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Oregon (FEMA–4499–DR), dated March 28, 2020, and related determinations.

DATES: The declaration was issued March 28, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 28, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the State of Oregon resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Oregon.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael F. O'Hare, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Oregon have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Oregon.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11174 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4537–DR; Docket ID FEMA–2020–0001]

American Samoa; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the territory of American Samoa (FEMA–4537–DR), dated April 17, 2020, and related determinations.

DATES: The declaration was issued April 17, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 17, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the territory of American Samoa resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the territory of American Samoa.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the territory. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Robert J. Fenton, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the territory of American Samoa have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the territory of American Samoa.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11165 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4498–DR; Docket ID FEMA–2020–0001]

Colorado; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Colorado (FEMA–4498–DR), dated March 28, 2020, and related determinations.

DATES: The declaration was issued March 28, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 28, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the State of Colorado resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Colorado.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Lee K. dePalo, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Colorado have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Colorado.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11166 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4494–DR; Docket ID FEMA–2020–0001]

Michigan; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Michigan (FEMA–4494–DR), dated March 27, 2020, and related determinations.

DATES: The declaration was issued March 27, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 27, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the State of Michigan resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Michigan.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance limited to the Crisis Counseling Program and assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, James K. Joseph, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Michigan have been designated as adversely affected by this major disaster:

Individual Assistance limited to the Crisis Counseling Program in all areas in the State of Michigan.

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Michigan.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11168 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4500–DR; Docket ID FEMA–2020–0001]

Connecticut; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Connecticut (FEMA–4500–DR), dated March 28, 2020, and related determinations.

DATES: The declaration was issued March 28, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 28, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the emergency conditions in the State of Connecticut resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Connecticut.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, W. Russell Webster, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Connecticut have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Connecticut.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to

Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–11164 Filed 5–22–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–NCTC–2019–N153; FXGO16610900600 (201) FF09X35000; OMB Control Number 1018–New]

Agency Information Collection Activities; Native Youth Community Adaptation and Leadership Congress

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing a new information collection in use without an OMB Control Number.

DATES: Interested persons are invited to submit comments on or before July 27, 2020.

ADDRESSES: Send your comments on the information collection request by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: JAO/1N (PERMA–PRB), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–NYCALC in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed information collection request (ICR) that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Service offers eligible Native American, Alaskan Native, and Pacific Islander high school students the opportunity to apply for the Native Youth Community Adaptation and Leadership Congress (Congress). The mission of the Congress is to develop future conservation leaders with the skills, knowledge, and tools to address environmental change and conservation challenges to better serve their schools and home communities. The Congress supports and operates under the following authorities:

- Executive Order (E.O.) 13175, ''Consultation and Coordination With Indian Tribal Governments'' (November 6, 2000);
- E.O. 13515, ''Increasing Participation of Asian Americans and Pacific Islanders in Federal Programs'' (October 14, 2009);
- E.O. 13592, ''Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities'' (December 2, 2011);
- Public Law 116–9, ''John D. Dingell, Jr. Conservation, Management, and Recreation Act'' (March 12, 2019);
- White House Memorandum on Government-to-Government Relationships with Native Governments (2004);
- Department of the Interior Secretarial Order (SO) 3206, ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'' (June 5, 1997);
- SO 3317, ''DOI Policy: Department of the Interior Policy on Consultation with Indian Tribes'' (December 1, 2011);
- SO 3335, ''Reaffirmation of the Federal Trust Responsibility to Federally Recognized Indian Tribes and Individual Indian Beneficiaries'' (2014); and
- Service Policy 520 FW 1, ''Native American Policy'' (January 20, 2016).

The weeklong environmental conference fosters an inclusive, meaningful, educational opportunity for aspiring Native youth leaders interested in addressing environmental issues facing Native American, Alaskan Native, and Pacific Islander communities. Eligible students—representing a diverse mix of Native communities from various geographic locations, both urban and rural—compete for the opportunity to represent their Native communities from across the country. The students learn about environmental change and conservation while strengthening their leadership skills for addressing conservation issues within their own Native communities.

Through a cooperative agreement with the New Mexico Wildlife Federation (NMWF), the Service solicits and evaluates applications from eligible students interested in applying for the program. The NMWF notifies successful applicants and arranges all travel for them. Information collected from each applicant via an online application administered by the NMWF includes:

- Applicant's full name, contact information, date of birth, and tribal/community affiliation;
- Emergency contact information for applicant;
- Name and contact information of applicant's mentor;
- Applicant's school name and address;
- Applicant's current grade in school;
- Applicant's participation in extracurricular activities, school clubs, or community organizations;
- Applicant's volunteer experience; and
- Applicant's accomplishments or awards received.

Each applicant also provides essay responses to questions concerning topics such as environmental issues affecting his or her home/tribal community, how or whether the

environmental issues are addressed, and/or how, as a Native youth leader, he or she can lead the community in adapting to a changing environment. Successful applicants must also provide basic medical information to assure their health and safety while on site at the NCTC for the Congress. The on-site nurse maintains this strictly confidential information for use only during an emergency.

The following Federal partners assist and support the Service's administration of the Congress:

- The U.S. Department of the Interior—
—Bureau of Indian Affairs;
—Bureau of Land Management;
—National Park Service;
—United States Geological Survey;
- The U.S. Department of Agriculture—U.S. Forest Service;
- The U.S. Department of Commerce—National Oceanic and Atmospheric Administration;
- The Federal Emergency Management Agency; and
- The National Aeronautics and Space Administration.

Title of Collection: Native Youth Community Adaptation and Leadership Congress.

OMB Control Number: 1018–New.

Form Number: None.

Type of Review: Existing collection of information in use without an OMB Control Number.

Respondents/Affected Public: Eligible high school or college students interested in applying for the program.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

Activity	Total annual responses	Completion time per response (hours)	Total annual burden hours
Application	105	4	420
Student Medical Information	100	.5	50
Totals:	205	.....	470

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

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: May 20, 2020.

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2020–11190 Filed 5–22–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[201A2100DD/AAKC001030/ A0A501010.999900253G]

Living Languages Grant Program (LLGP); Solicitation of Proposals

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Office of Indian Energy and Economic Development (IEED), through its Living Languages Grant Program (LLGP), is soliciting proposals from Tribes for grants to fund Native language instruction and immersion programs for Native students not enrolled at Bureau of Indian Education (BIE) schools, including those Tribes in States without BIE-funded schools.

DATES: Applications will be accepted until 11:59 p.m. ET on August 24, 2020.

ADDRESSES: Email applications to *LLGP@bia.gov* in accordance with the directions at Step 4 of this notice.

FOR FURTHER INFORMATION CONTACT: Stephanie Henning, Special Assistant, Living Languages Grant Program (LLGP), Office of the Assistant Secretary—Indian Affairs, Room 4149, 1849 C Street NW, Washington, DC 20240; telephone: (202) 568–0877; email: *stephanie.henning@bia.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

Award Ceiling: 200,000.

Award Floor: 25,000.

CFDA Number: 15.151.

Cost Sharing or Matching Requirement: No.

Number of Awards: 15–60.

Category: Education Program Enhancements.

II. Number of Projects Funded

IEED anticipates award of approximately fifteen (15) to sixty (60) grants under this announcement ranging in value from approximately $25,000 to $200,000. The program can fund projects only one year at a time. IEED will use a competitive evaluation process based on criteria described in the Evaluation Criteria section (section X of this notice).

III. Background

The Office of the Assistant Secretary—Indian Affairs, through IEED, is soliciting proposals from Indian Tribes as listed in 85 FR 5462 for grant funding to support Tribal programs to document Native languages or build Tribal capacity to create or expand language preservation programs. The LLGP will exclude as grantees BIE schools and BIE-funded schools or programs targeting students enrolled in those schools.

The funding will focus on small or start-up programs whose objective is to document or build the capacity to preserve Native languages that are losing users but which still have active users at the grandparent generation. The LLGP seeks to document, preserve, and revitalize languages that are used for face-to-face communication; languages that can be used by a child-bearing generation, but are not being transmitted to children; languages whose only active users are members of the grandparent generation or older; languages whose only active users are members of the grandparent generation or older but who have little opportunity to use them; and

languages that serve as a reminder of heritage identity for an ethnic community, but which lack proficient speakers.

These grants will be funded under a non-recurring appropriation of the BIA budget. Congress appropriates funds on a year-to-year basis. Thus, while some LLGP projects may extend over several years, funding for successive years depends on each fiscal year's appropriations.

IEED administers this program through its Division of Economic Development (DED).

The funding periods and amounts referenced in this solicitation are subject to the availability of funds at the time of award, as well as the Department of the Interior (DOI) and Indian Affairs priorities at the time of the award. Neither DOI nor Indian Affairs will be held responsible for proposal or application preparation costs. Publication of this solicitation does not obligate DOI or Indian Affairs to award any specific grant or to obligate all or any part of available funds. Future funding is subject to the availability of appropriations and cannot be guaranteed. DOI or Indian Affairs may cancel or withdraw this solicitation at any time.

IV. Eligibility for Funding

Only federally recognized Tribes listed on the *Indian Entities Recognized by and Eligible to Receive Services from the United States Bureau of Indian Affairs* at 85 FR 5462 are eligible for LLGP grants. Indian Tribes are referred to using the term ''Tribe'' throughout this notice. While only Tribes may be applicants for LLGP grants, grantees may select or retain for-profit or non-profit Tribal organizations as defined by 25 U.S.C. 5304(*l*) or community groups to perform a grant's scope of work.

Excluded as grantees are BIE-operated schools and BIE-funded schools or programs targeting students enrolled in those schools.

V. Applicant Procurement Procedures

The applicant is subject to the procurement standards in 2 CFR 200.318 through 200.326. In accordance with 2 CFR 200.318, an applicant must use its own documented procurement procedures which reflect Tribal laws and regulations, provided that the procurements conform to applicable Federal law and standards identified in 25 CFR part 2.

VI. Limitations

The LLGP grant funding must be expended in accordance with applicable statutory and regulatory requirements, including 2 CFR part 200.

Applicants that are currently under BIA sanction Level 2 or higher resulting from non-compliance with the Single Audit Act are ineligible for an LLGP award. Applicants at Sanction Level 1 will be considered for funding.

An applicant may submit more than one grant application. For example, an applicant may submit an application to fund an after-school language instruction program and a separate application to support a summer language instruction program. However, applications should address one project and any submissions that contain multiple project proposals will not be considered. IEED will apply the same objective ranking criteria to each proposal.

The purpose of LLGP grants is to fund Native language instruction and immersion programs only. LLGP awards may not be used for:

- Indirect costs or administrative costs as defined by the Federal Acquisition Regulation (FAR);
- Legal fees;
- Contract negotiation fees; and
- Any other activities not authorized by the grant award letter.

VII. Language Instructor Credentials

Instructors identified in LLGP proposals for funding need only be approved by the Tribal applicant and need not be credentialed or certified by a state, educational institution, or other external entity.

VIII. LLGP Application Guidance

All LLGP applicants must use the standard forms Application for Federal Assistance SF–424 and the Project Narrative Attachment Form. These forms can be found at *www.grants.gov.* A complete proposal must contain the five mandatory components as described below.

Step 1. Complete the Application for Federal Assistance SF–424

Instructions to Download the Application for Federal Assistance SF–424

1. Go to *www.grants.gov.*

2. Select the ''forms'' tab. This will open a page with a table titled ''SF–424 FAMILY FORMS.''

3. Under the column ''Agency Owner,'' third row down, is listed, *Grants.gov*—Application for Federal Assistance SF–424.

4. Click on the blue PDF letters to download the three-page document.

Application for Federal Assistance SF–424 (Mandatory Component 1)

Within the Application for Federal Assistance SF–424, please complete the following sections:

- Item 8a. Applicant Information—Legal Name.
- Item 8b.
- Item 8c.
- Item 8d. Address.
- Item 8f. Name and contact information of person to be contacted on matters involving this application.
- Item 9. Select I: Indian/Native American Tribal Government (Federally Recognized).
- Item 11. CFDA Title box—Type in the numbers: 15.151
- Item 12. Title box—Type in: IEED LLGP Grant.
- Item 15. Descriptive Title of Applicant's Project. Type in short description of proposal.
- Item 21. Read certification statement. Check ''agree'' box.
- Authorized Representative section: Complete all boxes except ''signature of authorized representative.'' Be sure to type in the Tribal leader's information. Be sure to include the Tribal leader's preferred title (*e.g.,* Governor, President, Chairman).

Save the Application for Federal Assistance SF–424 and name the file using the following format: *Tribal Name* LLGP Grant Application SF–424.

Example for naming the SF–424 Application for Federal Assistance file: Pueblo of Laguna LLGP Grant Application SF–424.

Step 2. Prepare the Project Narrative, Budget, Critical Information Documents, and Obtain a Tribal Resolution

Project Narrative (Mandatory Component 2)

The Project Narrative must not exceed 15 pages. At a minimum, it should include:

- A technical description of the language project;
- A description of the project's objectives and goals;
- Deliverable products that the project is expected to generate; and
- Resumes of key personnel to be retained, if available, and the names of subcontractors, if applicable. This information may be included as an attachment to the application and will not be counted towards the 15-page limitation.

Project Narratives are not judged based on their length. Please do not submit any attachments or documents beyond what is listed above, *e.g.,* Tribal history.

Budget (Mandatory Component 3)

The Budget should consist of a one-page, detailed budget estimate in Excel format with applicable attachments listed below. The budget must identify the amount of grant funding requested and a comprehensive breakdown of all projected and anticipated expenditures, including contracted personnel fees, consulting fees (hourly or fixed), travel costs, data collection and analysis costs, computer rentals, report generation, drafting, advertising costs for a proposed project and other relevant project expenses, and their subcomponents.

- Travel costs should be itemized by airfare, vehicle rental, lodging, and per diem, based on the current Federal government per diem schedule.
- Data collection and analysis costs should be itemized in sufficient detail for the IEED review committee (Committee) to evaluate the charges.
- Other expenses may include computer rental, report generation, drafting, and advertising costs for a proposed project.

Critical Information Page (Mandatory Component 4)

Applicants must include a critical information page that includes:

- Project Manager's contact information;
- Data Universal Numbering System (DUNS) number;
- An active Automated Standard Application for Payment (ASAP) number;
- Counties where the project is located; and
- Congressional District number where the project is located.

Tribal Resolution Attachment (Mandatory Component 5)

Applicants must include as an attachment to their application a Tribal resolution issued in the fiscal year of the grant application, authorizing the submission of a FY 2020 LLGP grant application. It must be signed by authorized Tribal representative(s). The Tribal resolution must also include:

- A description of the language project to be developed; and
- An explicit reference to the Project Narrative being submitted.

Step 3. Prepare the Project Narrative Attachment Form for Submission

Note: Mandatory components 2–5 must be submitted using the Project Narrative Attachment Form.

Instructions to download the Project Narrative Attachment Form

- Go to *www.grants.gov*.
- Select the ''forms'' tab. This will open a page within the table titled ''SF–424 FAMILY FORMS.''
- Under the column ''Agency Owner'' three quarters down the table (52nd row), is listed, *Grants.gov*—Project Narrative Attachment Form.
- Click on the blue PDF letters to download the one page document.

When the applicant has successfully downloaded the Project Narrative Attachment Form, follow the next steps to upload documents:

- On the Project Narrative Attachment Form, click on the button titled ''Add Project Narrative File.''
- Select the Project Narrative that you want to upload and click ''open'' to upload the file.
- On the same Project Narrative Attachment Form, you will find a grey button titled ''Add Optional Project Narrative File.'' Use this button to upload the Budget Narrative, Critical Information Page, and the Tribal Resolution as attachments.

When the applicant has completed uploading the Project Narrative and the attachments (Budget, Tribal Resolution, and Critical Information Page) to the Project Narrative Attachment Form, the applicant will save and name the file using the following format: *Tribal Name* LLGP Grant Attachments.

Example for naming the Project Narrative Attachment Form file: Pueblo of Laguna LLGP Grant Attachments.

Step 4. Submit the Completed LLGP Grant Proposal

Applicants must submit the Application for Federal Assistance SF–424 form and the Project Narrative Attachment Form in a single email to the email listed in the **ADDRESSES** section of this notice and:

- State ''LLGP APPLICATION NARRATIVE AND SF–424'' in the email subject line; and
- Include ''Attention: James R. West, Program Analyst, Office of Indian Energy and Economic Development'' in the first line of the email.

Applications and mandatory attachments received and date stamped after the time listed in the **DATES** section of this notice will not be considered by the Awarding Official. IEED will accept applications at any time before the deadline and will send a notification of receipt to the return email address on the application package, along with a determination of whether the application is complete.

Incomplete Applications. Applications submitted without one or more of the five mandatory components described above will be returned to the applicant with an explanation. The applicant will then be allowed to correct any deficiencies and resubmit the proposal for consideration on or before the deadline. This option will not be available to an applicant once the deadline has passed.

IX. Review and Selection Process

Upon receiving an LLGP application, IEED will determine whether the application is complete. Any proposal that is received after the date and time in the **DATES** section of this notice will not be reviewed. If an application is not complete and the submission deadline has not passed, the applicant will be notified and given an opportunity to resubmit its application.

The Committee, comprised of IEED staff from other Federal agencies, and subject matter experts, will evaluate the proposals against the ranking criteria. Proposals will be evaluated using the three ranking criteria listed below, with a maximum achievable total of 100 points.

Final award selections will be approved by the Assistant Secretary—Indian Affairs and the Associate Deputy Secretary, U.S. Department of the Interior. Applicants not selected for award will be notified in writing.

X. Evaluation Criteria

Clarity and Reasonableness: 20 points. The Committee will review LLGP grant proposals for completeness, organization, and the reasonableness of identified costs, all in the context of achieving a project's stated goals and objectives. The Committee will examine whether the budget submitted is detailed enough to explain how and when funds are to be spent and whether line-item budget numbers are appropriate and reasonable to complete the proposed tasks.

Qualitative Impact: 40 points. The proposal should clearly state how the project would document, preserve, or revitalize a Native language whose status is described at Section III of this notice. The Committee will evaluate the extent to which the Native language addressed by the proposal is jeopardized or nearing extinction and the degree to which the proposal could enliven the language by arresting or minimizing intergenerational disruption.

Quantitative Impact: 40 points. The proposal should estimate the number of students or percentage of Tribal members who will be directly and indirectly benefitted by the proposal. This criterion is not intended to favor proposals submitted by Tribes with larger populations or disadvantage those submitted by Tribes with smaller ones.

Because LLGP funds are limited, however, the Committee must conduct a cost-benefit analysis of each proposal. On this basis, the Committee will prefer applicants that are currently receiving little or no federal funding for language preservation activities.

LLGP applications will be ranked using only these criteria (as described above):

- Clarity and Reasonableness: 20.
- Qualitative Impact: 40.
- Quantitative Impact: 40.
- Total: 100.

XI. Transfer of Funds

IEED's obligation under this solicitation is contingent on receipt of congressionally appropriated funds. No liability on the part of the U.S. Government for any payment may arise until funds are made available to the awarding officer for this grant and until the recipient receives notice of such availability, to be confirmed in writing by the grant officer.

All payments under this agreement will be made by electronic funds transfer through the ASAP. All award recipients are required to have a current and accurate DUNS number to receive funds. All payments will be deposited to the banking information designated by the applicant in the System for Award Management (SAM).

XII. Reporting Requirements for Award Recipients

The applicant must deliver all products and data required by the signed Grant Agreement for the proposed LLGP project to IEED within 30 days of the end of each quarter and 90 days after completion of the project.

IEED requires that deliverable products be provided in both digital format and printed hard copies. Reports can be provided in either Microsoft Word or Adobe Acrobat PDF format. Spreadsheet data can be provided in Microsoft Excel, Microsoft Access, or Adobe PDF formats. All vector figures should be converted to PDF format. Raster images can be provided in PDF, JPEG, TIFF, or any of the Windows metafile formats. The contract between the grantee and the consultant conducting the LLGP funded project must include deliverable products and require that the products be prepared in the format described above.

The contract should include budget amounts for all printed and digital copies to be delivered in accordance with the grant agreement. In addition, the contract must specify that all products generated for the project belong to the grantee and cannot be released to the public without the grantee's written approval. Products include, but are not limited to, all reports and technical data obtained, status reports, and the final report.

In addition, this funding opportunity and financial assistance award must adhere to the following provisions:

XIII. Conflicts of Interest

Applicability

- This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.
- In the procurement of supplies, equipment, construction, and services by recipients and by sub-recipients, the conflict of interest provisions in 2 CFR 200.318 apply.

Requirements

- Non-Federal entities must avoid prohibited conflicts of interest, including any significant financial interests that could cause a reasonable person to question the recipient's ability to provide impartial, technically sound, and objective performance under or with respect to a Federal financial assistance agreement.
- In addition to any other prohibitions that may apply with respect to conflicts of interest, no key official of an actual or proposed recipient or sub-recipient, who is substantially involved in the proposal or project, may have been a former Federal employee who, within the last one (1) year, participated personally and substantially in the evaluation, award, or administration of an award with respect to that recipient or sub-recipient or in development of the requirement leading to the funding announcement.
- No actual or prospective recipient or sub-recipient may solicit, obtain, or use non-public information regarding the evaluation, award, administration of an award to that recipient or sub-recipient or the development of a Federal financial assistance opportunity that may be of competitive interest to that recipient or sub-recipient.

Notification

- Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112, Conflicts of Interest.
- Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Financial Assistance Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by sub-recipients.
- Restrictions on Lobbying. Non-Federal entities are strictly prohibited from using funds under this grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR part 18 and 31 U.S.C. 1352.
- Review Procedures. The Financial Assistance Officer will examine each conflict of interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement, and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.
- Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the Government may be cause for termination of the award. Failure to make the required disclosures may result in any of the remedies described in 2 CFR 200.338, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR part 180).

Data Availability

- Applicability. The Department of the Interior is committed to basing its decisions on the best available science and providing the American people with enough information to thoughtfully and substantively evaluate the data, methodology, and analysis used by the Department to inform its decisions.
- Use of Data. The regulations at 2 CFR 200.315 apply to data produced under a Federal award, including the provision that the Federal Government has the right to obtain, reproduce, publish, or otherwise use the data produced under a Federal award as well as authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.
- Availability of Data. The recipient shall make the data produced under this award and any subaward(s) available to the Government for public release, consistent with applicable law, to allow meaningful third party evaluation and reproduction of the following:
  - The scientific data relied upon;
  - The analysis relied upon; and
  - The methodology, including models, used to gather and analyze data.

XIV. Questions and Requests for IEED Assistance

IEED staff may provide technical consultation, upon written request by an applicant. The request must clearly

identify the type of assistance sought. Technical consultation does not include funding to prepare a grant proposal, grant writing assistance, or pre-determinations as to the likelihood that a proposal will be awarded. The applicant is solely responsible for preparing its grant proposal. Technical consultation may include clarifying application requirements, and registration information for SAM or ASAP.

XV. Separate Document(s)

- Application for Federal Assistance SF–424 Form.
- Project Narrative Attachment Form (this form includes the Project Narrative, Budget, Tribal Resolution, and Critical Information page).

XVI. Paperwork Reduction Act

The information collection requirements contained in SF–424, Application for Federal Assistance have been reviewed and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3504(h). The OMB control number is 4040–0004. The authorization expires on December 31, 2022. An agency may not conduct or sponsor, and you are not required to respond to, any information collection that does not display a currently valid OMB Control Number.

XVII. Authority

This is a discretionary grant program authorized under the Snyder Act (25 U.S.C. 13) and the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94). The Snyder Act authorizes the BIA to expend such moneys as Congress may appropriate for the benefit, care, and assistance of Indians for the purposes listed in the Act. LLGP grants facilitate one of the purposes listed in the Snyder Act: ''General support and civilization, including education.'' The Further Consolidated Appropriations Act, 2020, authorizes the BIA to ''carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts, and grants, either directly or in cooperation with States and other organizations.'' Further, the Conference Report specifies $3,000,000 for grants to federally recognized Indian Tribes and Tribal organizations to provide Native language instruction and immersion programs to Native students not enrolled in BIE schools, including those Tribes and organizations in states without Bureau-funded schools.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2020–11201 Filed 5–22–20; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-30306; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before May 9, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by June 10, 2020.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before May 9, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

IOWA

Dubuque County

Loras College Historic District, Roughly bounded by Alta Vista St., Loras Blvd., Kirkwood St., Cox St., West 17th St., and Henion St., Dubuque, SG100005277

MASSACHUSETTS

Franklin County

North Cemetery, 114 Montague Rd., Leverett, SG100005276

OHIO

Ottawa County

North Bass School, 515 Kenny Rd., Isle St. George, SG100005289

PENNSYLVANIA

Cumberland County

Locust Grove Cemetery, (African American Churches and Cemeteries in Pennsylvania, c. 1644—c. 1970 MPS), 111–119 North Queen St., Shippensburg, MP100005291

Northampton County

R. K. Laros Silk Mill, 601–699 East Broad St., Bethlehem, SG100005292

VIRGINIA

Albemarle County

Campbell Hall, 110 Bayly Dr., Charlottesville vicinity, SG100005279

Norfolk Independent City

Norfolk Fire Department Station No. 12, 1650 West Little Creek Rd., Norfolk, SG100005281

WISCONSIN

Dodge County

Juneau, Solomon and Josette, House, 201 South Milwaukee St. (WI 175), Theresa, SG100005282

A request for removal has been made for the following resources:

MICHIGAN

Delta County

Bay de Noquet Lumber Company Waste Burner, South end of River St., Nahma, OT11000177

Menominee County

Alvin Clark (schooner), Mystery Ship Seaport, L. Michigan, Menominee vicinity, OT74000996

Wayne County

Grand Riviera Theater, 9222 Grand River Ave., Detroit, OT82002901

Chateau Frontenac Apartments (East Jefferson Avenue Residential TR), 10410 East Jefferson Ave., Detroit, OT91000213

Additional documentation has been received for the following resource:

VIRGINIA

Richmond Independent City

Almshouse, The (Additional Documentation), 210 Hospital St., Richmond, AD81000647

(Authority: Section 60.13 of 36 CFR part 60)

Dated: May 11, 2020.

Julie H. Ernstein,

Supervisory Archeologist,National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2020–11200 Filed 5–22–20; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1120]

Certain Human Milk Oligosaccharides and Methods of Producing the Same; Notice of Commission Final Determination Finding a Violation of Section 337; Issuance of a Limited Exclusion Order; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 of the Tariff Act of 1930 (''section 337''), as amended, in this investigation. The Commission has issued a limited exclusion order (''LEO'') prohibiting the importation by respondent Jennewein Biotechnologie GmbH (''Jennewein'') of Rheinbreitbach, Germany of certain human milk oligosaccharides that infringe complainant's asserted claims. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–4716. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 21, 2018, based on a complaint, as amended and supplemented, filed on behalf of Glycosyn LLC of Waltham, Massachusetts (''Glycosyn''). *See* 83 FR 28865 (June 21, 2018). The complaint, as amended and supplemented, 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 human milk oligosaccharides by reason of infringement of claims 1–40 of U.S. Patent No. 9,453,230 (''the '230 patent'') and claims 1–28 of U.S. Patent No. 9,970,018 (''the '018 patent''). *See id.* The notice of investigation named Jennewein as a respondent in this investigation. *See id.* The Office of Unfair Import Investigations (''OUII'') is also named as a party to the investigation. *See id.*

The ALJ conducted an evidentiary hearing on May 14–17, 2019, and on September 9, 2019, issued the FID finding a violation of section 337 based on the infringement of claims 1–3, 5, 8, 10, 12, 18, and 24–28 of the '018 patent (hereinafter, the ''Asserted Claims''). In addition, the FID finds that the Asserted Claims are neither invalid under 35 U.S.C. 103 and 112, nor unenforceable for inequitable conduct. Furthermore, the FID finds that the domestic industry requirement is satisfied. All asserted claims in the '230 patent were withdrawn during the investigation. The FID also contains a recommended determination (''RD'') recommending that the Commission issue an LEO barring entry of articles that infringe the '018 patent. The RD also recommends that the Commission impose a 5 percent bond during the period of Presidential review. Furthermore, as directed by the Commission, the RD provides findings with respect to the public interest and recommends that the Commission determine that the public interest factors do not preclude entry of the proposed LEO. Glycosyn does not seek and the RD does not recommend issuance of a cease and desist order.

On October 9 and 10, 2019, respectively, Glycosyn and Jennewein filed statements on the public interest pursuant to Commission Rule 210.50. On October 23, 2019, non-party DuPont Nutrition & Health filed a public interest submission pursuant to the Commission's notice requesting public interest comments. *See* 84 FR 49335 (Sept. 19, 2019).

On January 30, 2020, the Commission issued a notice determining to review the FID in part. *See* 85 FR 6573 (Feb. 5, 2020). The Commission's notice requested written submissions in response to certain questions relating to issues under review and on issues of remedy, the public interest, and bonding. On February 18, 2020, the parties, including OUII, filed written submissions in response to the notice, and on February 25, 2020, the parties filed responses to each other's submissions. On February 18, 2020, non-party Abbott Laboratories filed a written submission concerning the public interest.

Having examined the record of this investigation, including the FID, the RD, and the parties' and non-parties' submissions, the Commission has determined to affirm with modification the FID's determination of a violation of section 337 with respect to claims 1–3, 5, 8, 10, 12, 18, and 24–28 of the '018 patent. Specifically, as explained in the Commission Opinion filed concurrently herewith, the Commission has determined to affirm with modification the FID's findings with respect to infringement by the accused Jennewein bacterial strains and to reverse the FID's decision not to adjudicate infringement with respect to Jennewein's TTFL12 bacterial strain. As to the TTFL12 strain, the Commission has determined that it does not infringe the Asserted Claims. All findings in the FID that are not inconsistent with the Commission's determination are affirmed.

The Commission has determined that the appropriate remedy is an LEO against Jennewein's infringing products. The Commission has also determined that the public interest factors enumerated in subsection 337(d)(1) (19 U.S.C. 1337(d)(1)) do not preclude the issuance of the LEO. The Commission has further determined to set a bond during the period of Presidential review at five (5) percent of the entered value of Jennewein's infringing products (19 U.S.C. 1337(j)).

The Commission's order and opinion were delivered to the President and to the United States Trade Representative on the day of their issuance.

The Commission's vote for these determinations took place on May 19, 2020.

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: May 19, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–11176 Filed 5–22–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–449 & 731–TA–1118–1121 (Second Review)]

Light-Walled Rectangular Pipe and Tube From China, Korea, Mexico, and Turkey; Cancellation of Hearing for Second Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: Applicable Date: May 8, 2020.

FOR FURTHER INFORMATION CONTACT: Andres Andrade ((202) 205–2078), 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 reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: Effective January 13, 2020, the Commission established a schedule for the conduct of these reviews (85 FR 3717, January 22, 2020). Subsequently, counsel for the domestic interested parties filed a request for consideration of cancellation of the hearing. Counsel indicated a willingness to submit written responses to any Commission questions in lieu of conducting a hearing. No other party has requested to appear at the hearing. Consequently, the public hearing in connection with these reviews, scheduled to begin at 9:30 a.m. on Thursday, May 14, 2020, is canceled. Parties to these reviews should respond to any written questions posed by the Commission in their posthearing briefs, which are due to be filed on Friday, May 22, 2020.

For further information concerning these reviews see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These reviews are 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: May 19, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–11156 Filed 5–22–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1172]

Certain Filament Light-Emitting Diodes and Products Containing Same Notice of a Commission Determination Not To Review Two Initial Determinations Terminating the Investigation Based Upon Withdrawal of the Complaint; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''Commission'') has determined not to review two initial determinations (''IDs'') (Order Nos. 23 and 24) of the presiding administrative law judge (''ALJ''), which terminated the investigation as to certain respondents based upon withdrawal of the complaint (Order No. 23), and terminated the investigation in its entirety based upon withdrawal of the complaint (Order No. 24). The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Esq., 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 may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 4, 2019, based on a complaint filed by The Regents of the University of California, of Oakland, California (''the University of California''). 84 *FR* 46564, 46564 (Sept. 4, 2019). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, in the sale for importation, or the sale within the United States after importation of certain filament light-emitting diodes and products containing same, by reason of the infringement of certain claims of U.S. Patent Nos. 7,781,789; 9,240,529; 9,859,464; and 10,217,916. *Id.* The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation names as respondents Amazon.com, Inc. and Amazon.com Services, Inc., both of Seattle, Washington (collectively, ''Amazon''); Bed Bath and Beyond Inc. of Union, New Jersey (''Bed Bath and Beyond''); IKEA of Sweden AB of Almhult, Sweden; IKEA Supply AG of Pratteln, Switzerland, as well as IKEA Distribution Services Inc. and IKEA North America Services, LLC, both of Conshohocken, Pennsylvania (collectively, ''IKEA''); Target Corporation of Minneapolis, Minnesota (''Target''); and Walmart Inc. of Bentonville, Arkansas (''Walmart''). *Id.* The Office of Unfair Import Investigations was also named as a party. *Id.* The investigation has previously terminated as to Bed Bath and Beyond on the basis of settlement, Order No. 10 (Jan. 27, 2020), *not reviewed,* Notice (Feb. 25, 2020), and as to certain patent claims based on withdrawal of the complaint, Order No. 11 (Jan. 27, 2020), *not reviewed,* Notice (Feb. 25, 2020); Order No. 7 (Dec. 2, 2019), *not reviewed,* Notice (Dec. 20, 2019).

On February 28, 2020, the University of California moved to terminate the investigation as to Amazon, Target, and Walmart based upon withdrawal of the complaint. *See* 19 CFR 210.21(a). After resolving certain objections by the Commission investigative attorney, Amazon and IKEA, *see* Order No. 23 at 1–4, on April 27, 2020, the ALJ granted the motion as an ID (Order No. 23). Order No. 23 finds that the motion complies with Commission rules, *id.* at 4, and that there are no extraordinary circumstances for denying the motion, *id.* at 5.

On April 14, 2020, the University of California moved to terminate the investigation in its entirety based upon withdrawal of the complaint. *See* 19 CFR 210.21(a). On April 14, 2020, the Commission investigative attorney filed a response in support of the motion. No other responses were filed. On April 29, 2020, the ALJ granted the motion as an ID (Order No. 24). Order No. 24 finds that the motion complies with Commission rules and that there are no extraordinary circumstances for denying the motion. Order No. 24 at 3.

No petitions for review of Order No. 23 or Order No. 24 were filed.

The Commission has determined not to review the subject IDs.

The investigation is hereby terminated in its entirety.

The Commission vote for these determinations took place on May 20, 2020.

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: May 20, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–11245 Filed 5–22–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 04–20]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

TIME AND DATE: Thursday, May 28, 2020, at 10:00 a.m.

PLACE: This meeting will be held by teleconference. There will be no physical meeting place.

STATUS: Open. Members of the public who wish to observe the meeting via teleconference should contact Patricia M. Hall, Foreign Claims Settlement Commission, Tele: (202) 616–6975, two business days in advance of the meeting. Individuals will be given call-in information upon notice of attendance to the Commission.

MATTERS TO BE CONSIDERED: 10:00 a.m.—Issuance of Proposed Decisions under the Guam World War II Loyalty Recognition Act, Title XVII, Public Law 114–328.

CONTACT PERSON FOR MORE INFORMATION: Requests for information, advance notices of intention to observe an open meeting, and requests for teleconference dial-in information may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 441 G St. NW, Room 6234, Washington, DC 20579. Telephone: (202) 616–6975.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2020–11268 Filed 5–21–20; 11:15 am]

BILLING CODE 4410–BA–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; IRAP Program and Performance Reports for Standards Recognition Entities

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL or Department) Employment and Training Administration (ETA) is soliciting comments concerning a proposed authority to conduct the information collection request (ICR) titled, ''IRAP Program and Performance Reports for Standards Recognition Entities.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by July 27, 2020.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ETA–2020–0003. 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 *http://www.regulations.gov.* Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

Comments submitted in response to this comment request will become a matter of public record and will be summarized and included in the request for Office of Management and Budget (OMB) approval of the final ICR. In addition, comments regardless of the delivery method will be posted without change on the *http://www.regulations.gov* website; consequently, the Department recommends commenters not include personal information such as a Social Security Number, personal address, telephone number, email address, or confidential business information that they do not want made public. It is the responsibility of the commenter to determine what to include in the public record.

FOR FURTHER INFORMATION CONTACT: Contact Stephen Sage by telephone at (202)693–3221 (this is not a toll-free number) or by email at *sage.stephen@dol.gov.*

Authority: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

This information collection is authorized under the National Apprenticeship Act (29 U.S.C. 50). This data collection includes two reports for Standards Recognition Entities (SREs): (1) A program report which is required within 30 days of recognizing a new program or changing the status of a current program; and (2) a performance report which is required on an annual basis for each Industry-Recognized Apprenticeship Program (IRAP) they recognize. The information collected in these reports is aligned with the amendments to 29 CFR part 29, as set forth in subpart B. Pursuant to § 29.22(h), SREs are required to report data that will reflect the outcomes of the IRAPs it has recognized. Section 29.22(h) also requires SREs to make publicly available certain data about IRAPs and performance outcomes, which it must submit to the Department.

The Department's Office of Apprenticeship (OA) will use this information for quality assurance, data collection, and performance assessment of SREs to evaluate whether an SRE complies with the Departmental regulations and standards. Specifically, OA will use the information gathered to gauge the qualifications, plans, and processes of an SRE seeking re-recognition to determine whether it meets the standards described in subpart B. Among the required data are the industry-recognized credentials attained by apprentices for each IRAP.

These program and performance reporting requirements help to demonstrate that the Department is promoting high-quality standards of apprenticeship, consistent with the directions in the National Apprenticeship Act, by requiring accountability from SREs. By enhancing oversight and accountability of SREs, these measures help the Department ensure that SREs are recognizing apprenticeship programs that adhere to the standards of high-quality apprenticeship required by the rule. The Department views these program and performance reports as ensuring SRE's compliance with § 29.22(a)(4), as required by § 29.21(b)(2) and accountability to the quality-control relationship. Additionally, § 29.22(j) requires an SRE to make publicly available the aggregated number of complaints pertaining to each IRAP in a format and with the frequency prescribed by the Administrator. Further, § 29.24 requires the publication of SREs and IRAPs and that the Administrator will make publicly available a list of recognized, suspended, and derecognized SREs and IRAPs. The Department views these program and performance reports as ensuring overall compliance with these rules.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention 1205–0NEW.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: New.

Title of Collection: IRAP Program and Performance Reports for Standards Recognition Entities.

Reports:

- IRAP Program Report for Standards Recognition Entities
- Annual Performance Report for Standards Recognition Entities

OMB Control Number: 1205–0NEW.

Affected Public: State and Local Governments; Private Sector—businesses or other for-profits and not-for-profit institutions.

Estimated Number of Respondents: 3,794.

Frequency: Annually and 30 days upon recognizing, derecognizing or suspending an IRAP Sponsor.

Total Estimated Annual Responses: 12,447.

Estimated Average Time per Response: The Department estimates that it will take an SRE 6 hours and 3.75 minutes to provide the Administrator with information on its IRAP Sponsors. The Department estimates that it will take an IRAP 25 hours to provide performance information to its SRE, so the total burden is estimated at 89,525 hours (= 3,581 IRAPs × 25 hours).

Estimated Total Annual Burden Hours: 111,118 hours.

Total Estimated Annual Other Cost Burden: $0.

John Pallasch,

Assistant Secretary for Employment and Training.

[FR Doc. 2020–11188 Filed 5–22–20; 8:45 am]

BILLING CODE 4510–FR–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–025–LA–3; ASLBP No. 20–967–03–LA–BD01]

Southern Nuclear Operating Company; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission, *see* 37 FR 28,710 (Dec. 29, 1972), and the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

SOUTHERN NUCLEAR OPERATING COMPANY

(VOGTLE ELECTRIC GENERATING PLANT, UNIT 3)

This proceeding involves an application by Southern Nuclear Operating Company (SNC) to amend the combined license for the Vogtle Electric Generating Plant, Unit 3, located in Burke County, Georgia. SNC proposes to modify the north-south minimum seismic gap requirements above grade between the nuclear island and the annex building west of Column Line I from elevation 141 feet through 154 feet to accommodate as-built localized non-conformances. In response to a notice filed in the **Federal Register**, *see* 85 FR 13,944 (Mar. 10, 2020), the Blue Ridge Environmental Defense League and its chapter Concerned Citizens of Shell Bluff (collectively, BREDL) filed a petition to intervene and request for hearing. *See* Petition for Leave to Intervene and Request for Hearing by [BREDL] Regarding [SNC's] Request for a License Amendment and Exemption of Unit 3 Auxiliary Building Wall 11 Seismic Gap Requirements, LAR–20–001 (May 11, 2020).

The Board is comprised of the following Administrative Judges: G. Paul Bollwerk, III, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Sue H. Abreu, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Gary S. Arnold, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302.

Dated: May 19, 2020.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel, Rockville, Maryland.

[FR Doc. 2020–11140 Filed 5–22–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412; NRC–2020–0120]

Energy Harbor Nuclear Corp., Energy Harbor Nuclear Generation LLC, Beaver Valley Power Station, Unit Nos. 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a temporary exemption from certain periodic training and requalification requirements for security personnel at the Beaver Valley Power Station, Unit Nos. 1 and 2, in response to an April 23, 2020, request, as supplemented on May 6, 2020, from Energy Harbor Nuclear Corp.

DATES: The temporary exemption was issued on May 19, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0120. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0120. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The NRC staff's approval is available in ADAMS under Accession No. ML20119B083.

FOR FURTHER INFORMATION CONTACT: Jennifer C. Tobin, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2328, email: *Jennifer.Tobin@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: May 19, 2020.

For the Nuclear Regulatory Commission.

Jennifer C. Tobin,

Project Manager,Plant Licensing Branch I, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

Attachment—Exemption

Nuclear Regulatory Commission

Docket Nos. 50–334 and 50–412

Energy Harbor Nuclear Corp., Energy Harbor Nuclear Generation LLC, Beaver Valley Power Station, Unit Nos. 1 and 2, Exemption

I. Background

Energy Harbor Nuclear Corp. (EHNC) and Energy Harbor Nuclear Generation LLC (collectively, the licensees) are the holders of Renewed Facility Operating License Nos. DPR–56 and NPF–73 for Beaver Valley Power Station, Unit Nos. 1 and 2 (Beaver Valley), which consist of two pressurized-water reactors (PWRs) located in Beaver County, Pennsylvania. The licenses provide, among other things, that the facility is subject to all the rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect.

II. Request/Action

By letter dated April 23, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20114E136), as supplemented by letter dated May 6, 2020 (ADAMS Accession No. ML20128J218), EHNC requested a temporary exemption from certain periodic requalification requirements for security personnel in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, Appendix B, Section VI, ''Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties,'' pursuant to 10 CFR 73.5, ''Specific exemptions.'' Specifically, due to the Coronavirus Disease 2019 (COVID–19) public health emergency (PHE) currently affecting the United States and the state of emergency declared by the Commonwealth of Pennsylvania on March 6, 2020, EHNC requested a temporary exemption from the following requirements in 10 CFR part 73, Appendix B, Section VI, related to periodic training and requalification of security personnel at Beaver Valley:

• *Paragraph B.5.(a):* ''At least annually, armed and unarmed individuals shall be required to demonstrate the capability to meet the physical requirements of this appendix [10 CFR part 73, Appendix B] and the licensee training and qualification plan.''

• *Paragraph C.3.(l)(1) in part:* ''Each member of each shift who is assigned duties and responsibilities required to implement the safeguards contingency plan and licensee protective strategy participates in at least one (1) tactical response drill on a quarterly basis and one (1) force-on-force exercise on an annual basis.''

• *Paragraph D.1.(b)(3) in part:* ''Armed individuals shall be administered an annual written exam that demonstrates the required knowledge, skills, and abilities to carry out assigned duties and responsibilities as an armed member of the security organization.''

• *Paragraph D.2.(a):* ''Armed and unarmed individuals shall be requalified at least annually in accordance with the requirements of this appendix [10 CFR part 73, Appendix B] and the Commission-approved training and qualification plan.''

• *Paragraph E.1.(c):* ''The licensee shall conduct annual firearms familiarization training in accordance with the Commission-approved training and qualification plan.''

• *Paragraph E.1.(f) in part:* ''Armed members of the security organization shall participate in weapons range activities on a nominal four (4) month periodicity.''

• *Paragraph F.5.(a):* ''Armed members of the security organization shall be re-qualified for each assigned weapon at least annually in accordance with Commission requirements and the Commission-approved training and qualification plan, and the results documented and retained as a record.''

EHNC requested that this temporary exemption expire 90 days following the end of the COVID–19 PHE, or December 31, 2020, whichever occurs first.

III. Discussion

On January 31, 2020, the U.S. Department of Health and Human Services declared a PHE for the United States to aid the nation's healthcare community in responding to COVID–19.

Pursuant to 10 CFR 73.5, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 73 when the exemptions are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

EHNC is requesting a temporary exemption from the requirements in paragraphs B.5.(a), C.3.(l)(1), D.1.(b)(3), D.2.(a), E.1.(c), E.1.(f), and F.5.(a) of 10 CFR part 73, Appendix B, Section VI, related to the periodic training and requalification of security personnel pursuant to 10 CFR 73.5. EHNC is requesting this temporary exemption to support licensee isolation activities (*e.g.,* social distancing, group size limitations, and self-quarantining) to help protect required site personnel from COVID–19 and ensure personnel remain capable of maintaining plant security. EHNC stated that these ''isolation activities restrict certain training activities.'' EHNC stated, in part, that:

Range activities are challenged by current social distancing and safety guidelines relevant to COVID–19 response standards. Weapons range activities require significant staff support that potentially places armed individuals in the Energy Harbor Nuclear Corp. security organization and other security staff in close proximity to one another, increasing the likelihood of staff and officer exposure to COVID–19. Range

activities present additional hygiene issues relevant to range facilities during the PHE.

EHNC also stated that the requested exemption does not change physical security plans or defensive strategy. More specifically, EHNC stated that security personnel impacted by this exemption are currently satisfactorily qualified on all required tasks and are monitored regularly by supervisory personnel.

Licensee Provided Controls To Maintain the Knowledge, Skills, and Abilities of Security Personnel

EHNC has identified controls that have been or will be implemented at Beaver Valley to ensure impacted security personnel maintain the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities during the period of this temporary exemption (*i.e.,* up to 90 days after the end of the COVID–19 PHE, or December 31, 2020, whichever occurs first). A discussion of how these controls relate to the current requirements is provided below:

1. *Paragraph B.5.(a) of 10 CFR 73, Appendix B, Section VI:* The purpose of the annual physical requirements in paragraph B.5.(a) is to ensure armed and unarmed members of the licensee's security organization are capable of performing their assigned duties necessary for implementing the licensee's Commission-approved security plans, protective strategy, and implementing procedures. To help ensure impacted security personnel maintain the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities at Beaver Valley, EHNC has established measures ''to ensure security personnel self-report and notify supervision or medical personnel, as appropriate, of changes related to their physical fitness that could impact their ability to perform their respective job function.''

2. *Paragraph C.3.(l)(1) of 10 CFR 73, Appendix B, Section VI:* The purpose of the quarterly tactical drills and the annual licensee-conducted force-on-force exercises is to ensure that the site security force maintains its contingency response readiness. Participation in these drills and exercises also supports the requalification of security force members. To help ensure impacted security personnel maintain the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities at Beaver Valley, EHNC described the measures it is taking to ensure contingency response readiness. These measures are: Conducting individual table top discussions during shifts and reviewing response locations with adherence to social distancing standards; providing officers with shift discussion topics utilizing lessons learned from previous exercises and based on training lesson plans/material objectives; and providing for officer follow-up questions and answers relevant to the focus topics with adherence to social distancing standards.

3. *Paragraphs D.1.(b)(3), D.2.(a), E.1.(c), and F.5.(a) of 10 CFR 73, Appendix B, Section VI:* The purpose of the annual requalification requirements is to ensure the licensee's armed and unarmed individuals possess the requisite knowledge, skills, and abilities to effectively perform assigned duties in accordance with the Commission-approved security plans, protective strategy, and implementing procedures for the site. To help ensure impacted security personnel maintain the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities at Beaver Valley, EHNC stated that it ''has established measures to ensure that individuals maintain performance capability despite not completing the annual requalification for the annual written exam, firearms familiarization and weapons requalification.'' These measures include lesson plan objective-based discussions topics regarding critical tasks necessary for performance of security duties and regarding the fundamentals of marksmanship.

4. *Paragraph E.1.(f) of 10 CFR 73, Appendix B, Section VI:* The purpose of the weapons range activity is to ensure that armed individuals in the licensee's security organization maintain weapons proficiency in support of the licensee's physical protection program. To help ensure impacted security personnel maintain the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities at Beaver Valley, EHNC stated that it ''will establish measures to ensure that individuals maintain performance capability despite not completing weapons range activities on a nominal four-month periodicity. Those measures include discussion topics regarding relevant range activities and are based on range training lesson plan objectives to maintain knowledge of weapon performance requirements.''

Restoring Compliance With 10 CFR Part 73, Appendix B, Section VI

EHNC requested that this exemption expire 90 days following the end of the COVID–19 PHE, or December 31, 2020, whichever occurs first. EHNC indicates that the additional time period after the end of the COVID–19 PHE will be used to restore compliance with the periodic security training and requalification requirements at Beaver Valley. To support restoring compliance with these requirements, EHNC stated that it will maintain a list with the names of the individuals that do not meet the periodic security requalification requirements, including the date(s) when each individual exceeds the required training periodicities. It is the NRC's expectation that any annual licensee-conducted force-on-force exercises that are delayed will be rescheduled so that they are completed after the PHE ends. Security personnel that miss one or more quarterly tactical drills during the period of the exemption would need to resume participation in those drills after the exemption expires.

A. The Exemption Is Authorized by Law

EHNC is requesting an exemption from the requirements related to periodic training and requalification of security personnel in paragraphs B.5.(a), C.3.(l)(1), D.1.(b)(3), D.2.(a), E.1.(c), E.1.(f), and F.5.(a) of 10 CFR part 73, Appendix B, Section VI. In accordance with 10 CFR 73.5, the Commission may grant exemptions from the regulations in 10 CFR part 73, as authorized by law. The NRC staff finds that granting the proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or other laws, and is, thus, authorized by law.

B. The Exemption Will Not Endanger Life or Property or the Common Defense and Security

EHNC stated that the requested exemption will not endanger life or property or the common defense and security. The requested exemption would temporarily allow the identified security training and requalification requirements to be deferred for security personnel currently satisfactorily qualified at Beaver Valley. EHNC indicated that although it had scheduled these requalification activities to comply with the regulation, these activities must be rescheduled to allow implementation of the EHNC pandemic response plan mitigation strategies. EHNC asserts that these strategies serve the public interest by ensuring adequate staff isolation and maintaining staff health to perform their job function actions during the COVID–19 PHE.

EHNC stated that the requested exemption is related to training requalification and does not change physical security plans or defensive strategy. EHNC stated that security personnel impacted by the requested exemption are currently satisfactorily qualified on all required tasks. EHNC also stated that security personnel are monitored regularly by supervisory personnel. As discussed above, EHNC identified controls that have been or will be implemented at Beaver Valley to ensure impacted security personnel maintain the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities. Therefore, EHNC stated that granting the requested temporary exemption will not endanger or compromise the common defense or security or the safeguarding of Beaver Valley. EHNC requested that the exemption expire 90 days following the end of the COVID–19 PHE, or December 31, 2020, whichever occurs first. EHNC stated that this timeframe is needed for it to restore compliance with the periodic security training and requalification requirements at Beaver Valley.

The NRC staff finds that the controls EHNC has or will establish for the duration of the exemption are adequate to ensure that the required security posture at Beaver Valley is maintained. These controls are adequate because they include a variety of mechanisms to help ensure impacted security personnel continue to maintain the knowledge, skills, and abilities required to perform assigned duties and responsibilities, and as a result, will continue to ensure adequate security of Beaver Valley. In addition, the requested duration of the exemption would allow EHNC time to restore normal requalification processes at Beaver Valley in a systematic manner. For example, it may take time after the PHE has ended for security personnel affected by COVID–19 to fully recover and return to duty status. Based on the above, the NRC staff concludes that the proposed exemption would not endanger life or property or the common defense and security.

C. Otherwise in the Public Interest

On April 17, 2020, the Cybersecurity & Infrastructure Security Agency (CISA) within the U.S. Department of Homeland Security (DHS) published Version 3.0 of its ''Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID–19 Response.'' Although that guidance is advisory in nature, it is designed to ensure ''continuity of functions critical to public health and safety, as well as economic and national security.'' In addition, the Centers for Disease Control and Prevention (CDC) has issued recommendations (*e.g.,* social distancing, limiting assemblies) to limit the spread of COVID–19.

EHNC stated, in part, that:

The Energy Harbor Nuclear Corp. pandemic response plan is based on [the Nuclear Energy Institute (NEI) guidance document] NEI 06–03, *Pandemic Threat Planning, Preparation, and Response Reference Guide* (Reference 4), which recommends isolation strategies such as sequestering, use of super crews or minimum staffing as well as social distancing, group size limitations and self-quarantining, in the event of a pandemic, to prevent the spread of the virus to the plant. NEI 06–03 provides other mitigation strategies that serve the public interest during a pandemic by ensuring adequate staff is isolated from the pandemic and remains healthy to perform their job function.

Keeping [Beaver Valley] in operation during the pandemic will help to support the public need for reliable electricity supply to cope with the pandemic. As the US Departments of Homeland Security and Energy have stated in their guidance, the electric grid and nuclear plant operation make up the nation's critical infrastructure similar to the medical, food, communications, and other critical industries. If the plant operation is impacted because it cannot comply with the security training requalification requirements while isolation activities are in effect for essential crew members, the area electrical grid would lose this reliable source of baseload power. In addition, [Beaver Valley] personnel could face the added transient challenge of shutting down their respective plant and possibly not restarting it until the pandemic passes. This does not serve the public interest in maintaining a safe and reliable supply of electricity.

EHNC stated that the requalification activities for security personnel at Beaver Valley must be rescheduled to allow implementation of the EHNC pandemic response plan mitigation strategies. In addition, EHNC indicated that this exemption would support the licensee's implementation of isolation activities (*e.g.,* social distancing, group size limitations, and self-quarantining) at Beaver Valley. EHNC stated these actions serve the public interest by ensuring adequate staff isolation and maintaining staff health to perform their job function during the COVID–19 PHE.

Based on the above and the NRC staff's aforementioned findings, the NRC staff concludes that granting the temporary exemption is in the public interest because it allows EHNC to maintain the required security posture at Beaver Valley while the facility continues to provide electrical power. The exemption also enables EHNC to reduce the risk of exposing essential security personnel at Beaver Valley to COVID–19.

D. Environmental Considerations

NRC approval of this exemption request is categorically excluded under 10 CFR 51.22(c)(25), and there are no special circumstances present that would preclude reliance on this exclusion. The NRC staff determined, per 10 CFR 51.22(c)(25)(vi)(E), that the requirements from which the exemption is sought involve education, training, experience, qualification, requalification, or other employment suitability requirements. The NRC staff also determined that approval of this exemption request involves no significant hazards consideration because it does not authorize any physical changes to the facility or any of its safety systems, nor does it change any of the assumptions or limits used in the facility licensee's safety analyses or introduce any new failure modes; no significant change in the types or significant increase in the amounts of any effluents that may be released offsite because this exemption does not affect any effluent release limits as provided in the facility licensee's technical specifications or by the regulations in 10 CFR part 20, ''Standards for Protection Against Radiation''; no significant increase in individual or cumulative public or occupational radiation exposure because this exemption does not affect limits on the release of any radioactive material or the limits provided in 10 CFR part 20 for radiation exposure to workers or members of the public; no significant construction impact because this exemption does not involve any changes to a construction permit; and no significant increase in the potential for or consequences from radiological accidents because this exemption does not alter any of the assumptions or limits in the facility licensee's safety analysis. In addition, the NRC staff determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. As such, there are no special circumstances present that would preclude reliance on this categorical exclusion. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

IV. Conclusions

Accordingly, the NRC has determined that pursuant to 10 CFR part 73.5, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants EHNC's request to exempt Beaver Valley from the requirements for periodic requalification of security personnel in paragraphs B.5.(a), C.3.(l)(1), D.1.(b)(3), D.2.(a), E.1.(c), E.1.(f), and F.5.(a) of 10 CFR part 73, Appendix B, Section VI. This exemption expires 90 days after the end of the COVID–19 PHE, or December 31, 2020, whichever occurs first.

Dated: May 19, 2020.

For the Nuclear Regulatory Commission.

Craig G. Erlanger, Director,

Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–11221 Filed 5–22–20; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Submission for OMB Emergency Review: Request for Comments

AGENCY: Peace Corps.

ACTION: Notice of information collection—OMB emergency review and request for comments requested.

SUMMARY: The Peace Corps has submitted the following information collection request, utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 and OMB regulations. OMB approval has been requested by the Office of Strategic Information, Research and Planning (OSIRP). 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 submissions of responses.

DATES: Comments on this proposal for emergency review should be received by May 22, 2020. If granted, the emergency approval is only valid for 180 days. We are requesting OMB to take action within two calendar days from the close of this **Federal Register** Notice on the request for emergency review.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk

Officer for the Peace Corps or sent via email to *oira_submission@omb.eop.gov* or faxed to (202) 395–3086.

FOR FURTHER INFORMATION CONTACT: Virginia Burke, FOIA Officer, Peace Corps, 1275 First Street NE, Washington, DC 20526, (202) 692–1887, or email at *pcfr@peacecorps.gov.*

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.13. The Peace Corps plans to follow this emergency request with a submission for a 3 year approval through OMB's normal PRA clearance process. We are seeking an emergency clearance to allow us to collect information from Returned Peace Corps Volunteers.

Title: Returned Peace Corps Volunteer Evacuation Survey.

OMB control number: Pending.

Type of Request: New Emergency Review.

Affected public: Volunteers, Trainees, and Response Volunteers, who were recently evacuated from their countries of service in response to the coronavirus disease 2019 (COVID 19) pandemic.

Respondents' obligation to reply: Voluntary.

Burden to the public:

a. *Number of respondents:* 7,000.

b. *Frequency of response:* 1.

c. *Completion time:* 15 Minutes.

d. *Annual burden hours:* 1,750.

e. *Estimated cost to respondents:* $0.00.

This notice issued in Washington, DC, on May 20, 2020.

Virginia Burke,

FOIA/Privacy Act Officer/Management.

[FR Doc. 2020–11267 Filed 5–22–20; 8:45 am]

BILLING CODE 6051–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88902; File No. SR–CboeBYX–2020–015]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Certain Rules in Connection With the Exchange's Disciplinary Process

May 19, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 8, 2020, 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 and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit 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'') proposes to amend certain rules in connection with the Exchange's disciplinary process. 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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 8.8 in connection with the timing before which an offer of settlement becomes final, to amend Rule 8.10 in connection with the Board's review of offers of settlement, and to amend Rule 8.11 to be consistent with the corresponding rules of the Exchange's affiliated exchanges, Cboe Exchange, Inc. (''Cboe Options'') and Cboe C2 Exchange, Inc. (''C2'').[5]

First, the Exchange proposes to amend Rule 8.8 which governs offers of settlement during a disciplinary proceeding pursuant to Chapter 8 (Discipline). Specifically, it proposes to amend the timing for which the Chief Regulatory Officer's (''CRO'') decision regarding an offer shall become final pursuant to Rule 8.8(a). Rule 8.8(a) currently provides that a Respondent may submit to the CRO a written offer of settlement, and the CRO may accept an offer of settlement, and, in doing so, issues a decision, including findings and conclusions and imposing a penalty, consistent with the terms of such offer. Pursuant to Rule 8.8(a), the CRO may also reject an offer of settlement and the matter then proceeds as if such offer had not been made. According to Rule 8.8(a), a decision of the CRO issued upon acceptance of an offer of settlement as well as the determination of the CRO whether to accept or reject such an offer does not currently become final until 20 business days after such decision is issued, and the Respondent may not seek review thereof.

The Exchange proposes to eliminate the 20-business day timeframe before which the CRO's determination and decision in connection with an offer of settlement becomes final. This is consistent with the corresponding offer of settlement rules of the Exchange's affiliated exchanges, Cboe Options and C2,[6] which do not have any such waiting period before which the CRO's acceptance (and accompanying decision) or rejection of an offer of settlement becomes final. In addition to providing consistency between the rules of the affiliated exchanges, the proposed rule change also removes a process that unnecessarily prolongs disciplinary proceedings. Where a matter could be either immediately closed or continued to the next steps of the proceedings upon the CRO's acceptance or rejection, respectively, of an offer of settlement, the current process unnecessarily leaves a matter open.

Second, and in line with the proposed rule change to Rule 8.8, the Exchange also proposes to remove Rule 8.8 offers of settlement from the list of certain procedural decisions in Rule 8.10 that may be reviewed by the Board on its own initiative within 20 business days after the issuance of the decision. This is also consistent with the corresponding disciplinary review rules of Cboe Options and C2, which do not include offers of settlement as decisions

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Cboe Options Rule 13.11. The Exchange notes that C2 incorporates Cboe Options Disciplinary rules by reference.

[6] *See* Cboe Options Rule 13.8(a). The Exchange notes that C2 incorporates Cboe Options Disciplinary rules by reference.

that the Board may review on its own initiative.[7] The Exchange notes that the Board has not previously initiated a review of an offer of settlement. Therefore, the Exchange believes maintaining a 20-business day waiting period for a review that is not invoked is unnecessary and merely exhausts additional Exchange and Member resources in the time that a matter could have been resolved or have continued through proceedings. Allowing the CRO to accept or reject offers of settlement with finality will significantly expedite the settlement process while ensuring that the independence and integrity of the regulatory process is maintained, as the CRO's regulatory decision-making responsibilities are entirely separate from those responsible for the Exchange's business interests.

Finally, the Exchange proposes to amend Rule 8.11 to incorporate the Principal Considerations in Determining Sanctions (''Principal Considerations'') into proposed Rule 8.11(c), which are currently in corresponding Rule 13.11.01 of Cboe Options and C2, and the general provision regarding sanctions into proposed Rule 8.11(a), which are currently in corresponding Rule 13.11(a) of Cboe Options and C2, in order to promote consistency and uniformity across the affiliated exchanges in determining appropriate remedial sanctions.[8] Particularly, the proposed rule change incorporates the general authority of the CRO, Hearing Panel, and committee of the Board [9] to determine and apply sanctions, consistent with Cboe Options and C2 Rule 13.11(a), into proposed Rule 8.11(a), which provides that Members and persons associated with Members shall (subject to any rule or order of the Securities and Exchange Commission) be appropriately disciplined by the CRO, Hearing Panel, or the committee of the Board, as applicable, for violations under these Rules by expulsion, suspension, limitation of activities, functions and operations, fine, censure, being suspended or barred from being associated with a Member, suspension or revocation of membership, or any other fitting sanction. This authority is already enumerated in Rule 8.1, however, the proposed provision provides consistency with the rules of the Exchange's affiliated options exchanges.[10] As proposed in Rule 8.11(c), the Principal Considerations promote consistency and uniformity in the imposition of penalties, and should be considered in connection with the imposition of sanctions in all cases in determining appropriate remedial sanctions through the resolution of disciplinary matters through offers of settlement or after formal disciplinary hearings. The Principal Considerations include the following:

(1) Disciplinary sanctions are remedial in nature. The CRO, Hearing Panel or committee of the Board,[11] as applicable, should design sanctions to prevent and deter future misconduct by wrongdoers, to discourage others from engaging in similar misconduct, and to improve overall business standards of Exchange Members. Pursuant to this Rule 8.11, the CRO, Hearing Panel or committee of the Board, as applicable, may impose sanctions including expulsion, suspension, limitation of activities, fine, censure, suspension or revocation of one or more Members, or any other fitting sanction.

(2) An important objective of the disciplinary process is to deter future misconduct by imposing progressively escalating sanctions on recidivists. The CRO, Hearing Panel or committee of the Board, as applicable, should consider a party's relevant disciplinary history in determining sanctions.

(3) The CRO, Hearing Panel or committee of the Board, as applicable, should consider prior similar disciplinary decisions (relevant precedent) in determining an appropriate sanction and may consider relevant precedent from other self-regulatory organizations.

(4) The CRO, Hearing Panel or committee of the Board, as applicable, should tailor sanctions to address the misconduct at issue. The CRO, Hearing Panel or committee of the Board, as applicable, should impose sanctions tailored to the misconduct at issue. For example, the CRO, Hearing Panel or committee of the Board, as applicable, may require a Member [12] to, among other things: Retain a qualified independent consultant to improve future compliance with regulatory requirements; disclose disciplinary history to new and/or existing clients; implement heightened supervision of certain employees; or requalify by examination in any or all registered capacities.

(5) Aggregation of violations may be appropriate in certain instances for purposes of determining sanctions. The CRO, Hearing Panel or committee of the Board, as applicable, may aggregate individual violations of particular rules and treat such violations as a single offense for purposes of determining sanctions. Aggregation may be appropriate when the Exchange utilizes a comprehensive surveillance program in the detection of potential rules violations. Aggregation may also be appropriate where the Exchange has reviewed activity over an extensive time period during the course of an investigation of matters disclosed either through a routine examination of the Member or as the result of a complaint. Similarly, where no exceptional circumstances are present, the Exchange may impose a fine based upon a determination that there exists a pattern or practice of violative conduct. The Exchange also may aggregate similar violations generally if the conduct was unintentional, there was no injury to public investors, or the violations resulted from a single systemic problem or cause that has been corrected.

(6) The CRO, Hearing Panel or committee of the Board, as applicable, should evaluate appropriateness of disgorgement and/or restitution. The CRO, Hearing Panel or committee of the Board, as applicable, should evaluate the appropriateness of disgorgement and/or restitution in those cases where the amount of harm is quantifiable and the harmed party is identifiable.

(7) The CRO, Hearing Panel or committee of the Board, as applicable, should consider contributions or settlements by a respondent or any related Member to the harmed party as it relates to the conduct that is the subject of the disciplinary matter.

(8) The CRO, Hearing Panel or committee of the Board, as applicable, may consider a party's inability to pay

[7] *See* Cboe Options Rule 13.10(c).

[8] The Exchange notes that its other affiliated exchanges, Cboe BZX Exchange, Inc. (''BZX''), Cboe EDGX Exchange, Inc. (''EDGX''), and Cboe BYX Exchange, Inc. (''BYX''), also intend to incorporate these portions of Cboe Options and C2 Rule 13.11 into their Rule 8.11.

[9] The Exchange notes that it maintains the inclusion of committee of the Board (along with the CRO and Hearing Panel) in connection with the imposition of sanctions throughout proposed Rules 8.11(a) and (c), which is currently a difference in text between Cboe Options and C2 Rule 13.11 and current Rule 8.11 and maintains consistency throughout current Rule 8.11.

[10] The proposed change also amends the current language under Rule 8.11 to be provided in paragraph (b), with a heading that reads ''Effective Date of Judgment'', which is consistent with the corresponding heading in Cboe Options and C2 Rule 13.11. No changes are made to the current language. It also adds in the same header language for Rule 8.11 (''Judgment and Sanction'') as that of Cboe Options and C2 Rule 13.11.

[11] *See supra* note 9. The committee of the Board would, thus, also apply the Principal Considerations to any determinations made during a review related to sanctions.

[12] The Exchange notes that, to the extent Cboe Options and C2 Rule 13.11.01 state ''TPH and TPH organization'', the Exchange uses the term ''Member'', which, pursuant to its definition in Rule 1.5(n), covers the same scope of exchange membership as the aforementioned language in Cboe Options and C2 Rule 13.11.01.

in connection with the imposition of monetary sanctions.

The Exchange notes that the CRO, Hearing Panel or committee of the Board, as applicable, already consider the above proposed Principal Considerations when determining appropriate remedial sanctions throughout the resolution of disciplinary matters. However, the Exchange now proposes to codify such considerations in order to ensure that the CRO, Hearing Panel or committee of the Board, as applicable, consider aggravating and/or mitigating factors in the same manner across each disciplinary matter which will, in turn, provide for consistency, fairness and that the most appropriate disciplinary measure is implemented during proceedings.

The Exchange intends to announce the operative date of the updates to Rules 8.8, 8.10, and 8.11 at least 30 days in advance via a regulatory notice. To facilitate an orderly transition from the current rules to the proposed rules, the Exchange proposes to apply the current rules to all matters where a subject has received notice pursuant to Rule 8.2(d) prior to the operative date. As a consequence of this transition process, the Exchange will retain the existing processes during the transition period until such time that there are no longer any matters proceeding under the current rules. To facilitate this transition process, the Exchange will retain a transitional Chapter 8 that will contain the Exchange's rules, as they are at the time this proposal is filed with the Commission. This transitional Chapter 8 will apply only to matters initiated prior to the operational date of the changes proposed herein and it will be posted to the Exchange's public rules website. When the transition is complete and there are no longer any Members or associated persons subject to current Chapter 8, the Exchange will remove the transitional Chapter 8 from its public rules website.

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.[13] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[14] 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[15] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule changes are designed to be consistent with the corresponding rules of its affiliated exchanges,[16] which have been previously filed with the Commission. The Exchange believes that by providing consistent disciplinary rules across the affiliated exchanges the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system by increasing the understanding of the Exchange's disciplinary process for Members that participate across the affiliated exchanges, as well as result in greater uniformity, and less burdensome and more efficient regulatory processes. Moreover, the Exchange believes that removing an unnecessary waiting period in the disciplinary process, as well as a review provision that is not used, would serve to expedite the outcome of a matter or the progression of a matter through the next steps in the process, thereby protecting investors and the public interest by conserving Exchange and Member resources. The proposed rule change to remove the waiting period before an offer of settlement becomes final and the Board's initiative to review such will provide for a more efficient, streamlined disciplinary process as a matter would then be either immediately closed or continued to the next steps of the proceedings upon the CRO's acceptance or rejection, respectively, of an offer of settlement. Additionally, and as stated above, the CRO's regulatory decision-making responsibilities are entirely separate from those responsible for the Exchange's business interests, therefore, allowing the CRO to accept or reject offers of settlement with finality will significantly expedite the settlement process while ensuring that the independence and integrity of the regulatory process is maintained. In light of these proposed changes, the Exchange notes that the proposed addition of the Principal Considerations will ensure that the CRO determines each offer of settlement using the same set of fair standards and factors, thereby protecting investors and the public interest throughout the disciplinary process.

In addition to this, the Exchange also believes that the proposed rule in consistent with Section 6(b)(6) of the Act,[17] which requires the rules of an exchange provide that its members be appropriately disciplined for violations of the Act as well as the rules and regulations thereunder, or the rules of the Exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction, as well as Section 6(b)(7) of the Act,[18] in that it provides fair procedures for the disciplining of Members and persons associated with Members, the denial of Member status to any person seeking Membership therein, the barring of any person from becoming associated with a Member thereof, and the prohibition or limitation by the Exchange of any person with respect to access to services offered by the Exchange or a Member thereof. Specifically, the proposed rule change to incorporate Principal Considerations that the CRO, Hearing Panel or committee of the Board, as applicable, may take into consideration when determining disciplinary sanctions will ensure that the Exchange implements the most appropriate disciplinary mechanisms for violations and a fair process in determining such.

Finally, the Exchange believes that its proposed transition plan would allow for a more orderly and less burdensome transition for the Exchange's Members. The proposed application of current rules to all matters where a subject has received notice pursuant to Rule 8.2(d) prior to the operative date provides a clear demarcation between matters that would proceed under the new rules and those that would be completed under the current rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] *Id.*

[16] *See supra* note 5.

[17] 15 U.S.C. 78f(b)(6).

[18] 15 U.S.C. 78f(b)(6).

proposed rule changes are not intended to address competitive issues, but rather, are concerned with facilitating less burdensome regulatory compliance and processes and enhancing the quality of the regulatory processes. The Exchange believes the proposed rule changes would reduce the burdens within the disciplinary process, as well as move matters through the process expeditiously by providing for more efficient finality of offers of settlement, to the benefit of all Members. Moreover, the proposed Principal Considerations will apply to all remedial sanctions throughout the disciplinary process in the same manner, thereby equally benefitting all Members by providing for fair and consistent disciplinary determinations. Additionally, the proposed rule changes are consistent with the rules of the Exchange's affiliates, Cboe Options and C2, which have been previously filed with the Commission.[19]

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and Rule 19b–4(f)(6) thereunder.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–CboeBYX–2020–015 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–2020–015. 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–2020–015 and should be submitted on or before June 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–11133 Filed 5–22–20; 8:45 am]

BILLING CODE 8011–01–P

[19] *See* Cboe Options Rules 13.8, 13.10(c), 13.11(a), and 13.11.01.

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 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.

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA–5506]

Notice of Intention To Cancel Registration Pursuant to Section 203(H) of the Investment Advisers Act of 1940

May 20, 2020.

Notice is given that the Securities and Exchange Commission (the ''Commission'') intends to issue an order, pursuant to Section 203(h) of the Investment Advisers Act of 1940 (the ''Act''), cancelling the registration of McDaniel Investments, LLC [File No. 801–108541], hereinafter referred to as the ''*registrant.*''

Section 203(h) provides, in pertinent part, that if the Commission finds that any person registered under Section 203, or who has pending an application for registration filed under that section, is no longer in existence, is not engaged in business as an investment adviser, or is prohibited from registering as an investment adviser under section 203A, the Commission shall by order, cancel the registration of such person.

The registrant has not filed a Form ADV amendment with the Commission as required by rule 204–1 under the Act and appears to be no longer in business as an investment adviser or is otherwise not engaged in business as an investment adviser.[1] Accordingly, the Commission believes that reasonable grounds exist for a finding that this registrant is no longer eligible to be registered with the Commission as an investment adviser and that the registration should be cancelled pursuant to section 203(h) of the Act.

Notice is also given that any interested person may, by June 15, 2020, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the cancellation, accompanied by a statement as to the nature of his or her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, and he or she may request that he or she be

[1] Rule 204–1 under the Act requires any adviser that is required to complete Form ADV to amend the form at least annually and to submit the amendments electronically through the Investment Adviser Registration Depository.

notified if the Commission should order a hearing thereon. Any such communication should be emailed to the Commission's Secretary at *Secretarys-Office@sec.gov.*

At any time after June 22, 2020, the Commission may issue an order cancelling the registration, upon the basis of the information stated above, unless an order for a hearing on the cancellation shall be issued upon request or upon the Commission's own motion. Persons who requested a hearing, or who requested to be advised as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. Any adviser whose registration is cancelled under delegated authority may appeal that decision directly to the Commission in accordance with rules 430 and 431 of the Commission's rules of practice (17 CFR 201.430 and 431).

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.*

FOR FURTHER INFORMATION CONTACT: Christopher Staley, Senior Counsel at 202–551–8475; SEC, Division of Investment Management, Investment Adviser Regulation Office, 100 F Street NE, Washington, DC 20549–8549.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.[2]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–11253 Filed 5–22–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88904; File No. SR–NYSEArca–2020–43]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Rules To Add New Rule 7.19–E

May 19, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 8, 2020, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, 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 to amend its rules to add new Rule 7.19–E (Pre-Trade Risk Controls). 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

In order to assist ETP Holders' efforts to manage their risk, the Exchange proposes to amend its rules to add new Rule 7.19–E (Pre-Trade Risk Controls) to establish a set of pre-trade risk controls by which Entering Firms and their designated Clearing Firms (as defined below) may set credit limits and other pre-trade risk controls for an Entering Firm's trading on the Exchange and authorize the Exchange to take action if those credit limits or other pre-trade risk controls are exceeded.

For purposes of this proposed rule change, the Exchange proposes to define the term ''Entering Firm'' to mean an ETP Holder that either has a correspondent relationship with a Clearing Firm whereby it executes trades and the clearing function is the responsibility of the Clearing Firm or clears for its own account [3] and to define the term ''Clearing Firm'' to mean an ETP Holder that acts as principal for clearing and settling a trade, whether for its own account or for an Entering Firm.[4]

1. Overview

In order to help firms manage their risk, the Exchange proposes to offer optional pre-trade risk controls that would authorize the Exchange to take automated actions if a designated credit limit or other pre-trade risk control for a firm is breached. Because Clearing Firms bear the risk on behalf of their correspondent Entering Firms, the Exchange proposes to make the proposed pre-trade risk controls available not only to Entering Firms, but also to their Clearing Firms, if so authorized by the Entering Firm. These pre-trade risk controls would provide Entering Firms and their Clearing Firms with enhanced abilities to manage their risk with respect to orders on the Exchange.

As proposed, these optional controls would allow Entering Firms and their Clearing Firms (if designated by the Entering Firm) to each define different pre-set risk thresholds and to choose the automated action the Exchange would take if those thresholds are breached, which would range from notifying the Entering Firm and Clearing Firm that a limit has been breached, blocking new orders, or canceling orders until the Entering Firm has been reinstated to trade on the Exchange.

Although use of the proposed Exchange-provided pre-trade risk controls are optional, all orders on the Exchange will pass through risk checks. As such, an Entering Firm that does not choose to set limits or permit its Clearing Firm to set limits on its behalf will not achieve any latency advantage with respect to its trading activity on the Exchange. In addition, the Exchange expects that any latency added by the pre-trade risk controls will be *de minimis.*

The proposed pre-trade risk controls described are meant to supplement, and not replace, the ETP Holders' own internal systems, monitoring and procedures related to risk management. The Exchange does not guarantee that these controls will be sufficiently comprehensive to meet all of an ETP Holder's needs, the controls are not designed to be the sole means of risk management, and using these controls will not necessarily meet an ETP Holder's obligations required by Exchange or federal rules (including, without limitation, the Rule 15c3–5

[2] 17 CFR 200.30–5(e)(2).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* proposed Rule 7.19–E(a)(1).

[4] *See* proposed Rule 7.19–E(a)(2). As required by Rule 7.14–E, an ETP Holder is required to give up the name of the clearing firm through which each transaction on the Exchange will be cleared.

under the Act [5] (''Rule 15c3–5'')). Use of the Exchange's pre-trade risk controls will not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and Commission rules remains with the ETP Holder.[6]

2. Proposed Rule Change

Proposed Rule 7.19–E(a) would set forth the definitions that would be used for purposes of the Rule. In addition to the defined terms of ''Entering Firm'' and ''Clearing Firm,'' as described above, the Exchange proposes the following definitions:

• The term ''Single Order Maximum Notional Value Risk Limit'' would mean a pre-established maximum dollar amount for a single order before it can be traded.

• The term ''Single Order Maximum Quantity Risk Limit'' would mean a pre-established maximum number of shares that may be included in a single order before it can be traded.

• The term ''Gross Credit Risk Limit'' would mean a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both buy and sell orders are counted as positive values. For purposes of calculating the Gross Credit Risk Limit, unexecuted orders in the NYSE Arca Book,[7] orders routed on arrival pursuant to Rule 7.37–E(a)(1), and executed orders are included.

Proposed Rule 7.19–E(b) would set forth the Pre-Trade Risk Controls that would be available to Entering Firms and Clearing Firms. Under proposed Rule 7.19–E(b)(1), an Entering Firm may select one or more of the following optional pre-trade risk controls with respect to its trading activity on the Exchange: (i) Gross Credit Risk Limits; (ii) Single Order Maximum Notional Value Risk Limits; and (iii) Single Order Maximum Quantity Risk Limits, which would collectively be referred to as the ''Pre-Trade Risk Controls.''

In addition, under proposed Rule 7.19–E(b)(2)(A), an Entering Firm that does not self-clear may designate its Clearing Firm to (i) view any Pre-Trade Risk Controls set by the Entering Firm, or (ii) set one or more Pre-Trade Risk Controls on the Entering Firm's behalf, or both. Proposed Rule 7.19–E(b)(2)(B) provides that an Entering Firm would be able to view any Pre-Trade Risk Controls that its Clearing Firm sets with respect to the Entering Firm's trading activity on the Exchange. Because both an Entering Firm and Clearing Firm (if so designated by the Entering Firm) would be able to access information about Pre-Trade Risk Controls, this mechanism would foster transparency between an Entering Firm and its Clearing Firm regarding which Pre-Trade Risk Control limits may have been set. For example, if an Entering Firm designates its Clearing Firm to view the Pre-Trade Risk Controls set by that Entering Firm, its Clearing Firm may determine that it does not need to separately set Pre-Trade Risk Controls on behalf of such Entering Firm.

Because the Entering Firm is the ETP Holder that is entering orders on the Exchange, the Exchange will not take action based on a Clearing Firm's instructions about the Entering Firm's trading activities on the Exchange without first receiving consent from the Entering Firm. Accordingly, proposed Rule 7.19–E(b)(2)(C) would provide that if an Entering Firm designates a Clearing Firm to set Pre-Trade Risk Controls for the Entering Firm, the Entering Firm would be consenting to the Exchange taking certain prescribed actions (discussed further below) with respect to the Entering Firm's trading activity as provided for in proposed Rules 7.19–E(c) and (d), described below. The Exchange would consider an Entering Firm to provide such consent by authorizing a Clearing Firm to enter Pre-Trade Risk Controls via the risk management tool that will be provided to Entering Firms in connection with this proposed rule change. Once such authorization is provided by the Entering Firm, the Clearing Firm would have access to the Pre-Trade Risk Controls that the Entering Firm designates. The proposed Rule makes clear that by designating a Clearing Firm to set limits on its trading activities, the Entering Firm will have authorized the Exchange to act pursuant to the Clearing Firm's instructions if the limits set by the Clearing Firm are breached.

Proposed Rule 7.19–E(b)(3) would set forth how the Pre-Trade Risk Controls could be set or adjusted. Proposed Rule 7.19–E(b)(3)(A) would provide that Pre-Trade Risk Controls may be set before the beginning of a trading day and may be adjusted during the trading day. Proposed Rule 7.19–E(b)(3)(B) would provide that Entering Firms or Clearing Firms may set Pre-Trade Risk Controls at the MPID level or at one or more sub-IDs associated with that MPID.[8] The Exchange believes that supporting Pre-Trade Risk Controls at both an MPID and sub-ID level would provide both Entering Firms, and if designated, their Clearing Firms, more granular control over how such risk controls are determined and monitored.

Proposed Rule 7.19–E(b)(4) would provide that with respect to Gross Credit Risk Limits, an Entering Firm and, if so designated, its Clearing Firm, will receive notifications when the Entering Firm is approaching or has breached a limit set by itself or by the Clearing Firm. The Exchange believes that by providing such notifications, the Entering Firm, and if designated, its Clearing Firm, would have advance notice that the Entering Firm is approaching a designated limit and could take steps to mitigate the potential that an automated breach action would be triggered.

Proposed Rule 7.19–E(c) would set forth the actions the Exchange would be authorized to take when a Pre-Trade Risk Control set by an Entering Firm or a Clearing Firm is breached, which would be referred to as ''Automated Breach Actions.'' These proposed actions would be automated; if a Pre-Trade Risk Control is breached, the Exchange would automatically take the designated action and would not need further direction from either the Entering Firm or Clearing Firm to take such action.

At the outset, proposed Rule 7.19–E(c)(1) would provide that if both an Entering Firm and its Clearing Firm set the same type of Pre-Trade Risk Control for the Entering Firm but have set different limits, the Exchange would enforce the more restrictive limit. For example, if an Entering Firm sets a Single Order Maximum Notional Value Risk Limit of $20 million and its Clearing Firm sets the same risk limit at $15 million, the Exchange will take action when the more restrictive limit is breached—*i.e.,* $15 million.

Proposed Rule 7.19–E(c)(2) would set forth the Automated Breach Action the Exchange would take if an order would breach the designated limit of either a Single Order Maximum Notional Value Risk Limit or Single Order Maximum Quantity Risk Limit. As proposed, the Exchange would reject the incoming order that would have breached the applicable limit.

Proposed Rule 7.19–E(c)(3)(A) would set forth the Automated Breach Actions the Exchange would take if a designated

[5] *See* 17 CFR 240.15c3–5.

[6] The Exchange proposes Commentary .01 to Rule 7.19–E to provide that ''[t]he pre-trade risk controls described in this Rule are meant to supplement, and not replace, the ETP Holder's own internal systems, monitoring and procedures related to risk management and are not designed for compliance with Rule 15c3–5 under the Exchange Act. Responsibility for compliance with all Exchange and SEC rules remains with the ETP Holder.''

[7] The term ''NYSE Arca Book'' is defined in Rule 1.1–E(jj) to refer to the Exchange's electronic file of orders, which contains all orders entered on the Exchange.

[8] Entering Firms may request that the Exchange create sub-IDs associated with their MPIDs.

Gross Credit Risk Limit is breached. The Exchange proposes to provide options of which Automated Breach Action the Exchange would be authorized to take if a Gross Credit Risk Limit is breached. Such Automated Breach Actions would be taken at the MPID or sub-ID level that is associated with the designated Gross Credit Risk Limit. As proposed, when setting Gross Credit Risk Limits, the Entering Firm or Clearing Firm setting the limit would be required to indicate one of the following actions that the Exchange would take if such limit is breached:

• ''Notification Only.'' As set forth in proposed Rule 7.19–E(c)(3)(A)(i), if this option is selected, the Exchange would continue to accept new orders and order instructions and would not cancel any unexecuted orders in the NYSE Arca Book. Proposed Rule 7.19–E(b)(4), described above, sets forth the notifications that would be provided to an Entering Firm, and if designated, a Clearing Firm regarding the Pre-Trade Risk Controls that have been set. With the ''Notification Only'' action, the Exchange would provide such notifications, but would not take any other automated actions with respect to new or unexecuted orders.

• ''Block Only.'' As set forth in proposed Rule 7.19–E(c)(3)(A)(ii), if this option is selected, the Exchange would reject new orders and order instructions but would not cancel any unexecuted orders in the NYSE Arca Book. The Exchange would continue to accept instructions from the Entering Firm to cancel one or more orders in full (including Auction-Only Orders) or any instructions specified in proposed Rule 7.19–E(e) (described below), but would not take any automated action to cancel orders.

• ''Cancel and Block.'' As set forth in proposed Rule 7.19–E(c)(3)(A)(iii), if this option is selected, in addition to the Block actions described above, the Exchange would also cancel all unexecuted orders in the NYSE Arca Book other than Auction-Only Orders.

If an Entering Firm and its Clearing Firm each set different limits for a Gross Credit Risk Limit for the Entering Firm's activities on the Exchange, proposed Rule 7.19–E(c)(3)(B) would provide that the Exchange would enforce the action that was chosen by the party that set the limit that was breached. For example, if a Clearing Firm sets a lower limit and designates the ''Cancel and Block'' Automated Breach Action, if that limit is breached, the Exchange will implement that ''Cancel and Block'' action even if the Entering Firm designated a different Automated Breach Action.

Proposed Rule 7.19–E(c)(3)(C) would provide that if both the Entering Firm and Clearing Firm set the same Gross Credit Risk Limit and that limit is breached, the Exchange would enforce the most restrictive Automated Breach Action. As further proposed, for purposes of this Rule, the ''Cancel and Block'' action would be more restrictive than ''Block Only,'' which would be more restrictive than ''Notification Only.'' For example, if the Entering Firm selects the ''Block Only'' action for a Gross Credit Risk Limit and its Clearing Firm selects the ''Cancel and Block'' action for the same Gross Credit Risk Limit, if the limit is breached, the Exchange would take the ''Cancel and Block'' action for the Entering Firm's orders.

Proposed Rule 7.19–E(c)(4) would provide that if a Pre-Trade Risk Control set at the MPID level is breached, the Automated Breach Action specified at the MPID level would be applied to all sub-IDs associated with that MPID. For instance, if a Clearing Firm sets a Gross Credit Risk Limit for an MPID at $500 million and the Entering Firm sets Gross Credit Risk Limits for each of three sub-IDs associated with that MPID at $500 million each, if two of the sub-IDs reach a $250 million limit, which combined is the Gross Credit Risk Limit at the MPID level, the Automated Breach Action associated with the limit at the MPID level would be triggered and would apply also to the associated sub-IDs, even though none of the sub-IDs have breached their separate $500 million limits. This functionality ensures that an Entering Firm cannot effectively override a Pre-Trade Risk Control set at the MPID level by setting risk limits for each of the MPID's associated sub-IDs that cumulatively equal more than the MPID's total Gross Credit Risk Limit.

Proposed Rule 7.19–E(d) concerns how an Entering Firm's ability to enter orders and order instructions would be reinstated after a ''Block Only'' or ''Cancel and Block'' Automated Breach Action has been triggered. In such case, proposed Rule 7.19–E(d) provides that the Exchange would not reinstate the Entering Firm's ability to enter orders and order instructions on the Exchange (other than instructions to cancel one or more orders (including Auction-Only Orders) in full) without the consent of (1) the Entering Firm, and (2) the Clearing Firm, if the Entering Firm has designated that the Clearing Firm's consent is required. The Exchange proposes to include this functionality because the Clearing Firm bears the risk of any exposure of its correspondent Entering Firms.

Finally, proposed Rule 7.19–E(e) would set forth ''kill switch'' functionality, which would allow an Entering Firm or its designated Clearing Firm to direct the Exchange to take certain bulk Kill Switch Actions with respect to orders. In contrast to the Automated Breach Actions described above, which the Exchange would take automatically after the breach of a credit limit, the Exchange would not take any of the Kill Switch Actions without express direction from the Entering Firm or its designated Clearing Firm.

Specifically, Proposed Rule 7.19–E(e) would specify that an Entering Firm, or if authorized pursuant to proposed Rule 7.19–E(b)(2)(A), its Clearing Firm, could direct the Exchange to take one or more of the following actions with respect to orders at either an MPID, or if designated, sub-ID Level: (1) Cancel all Auction-Only Orders; (2) Cancel all unexecuted orders in the NYSE Arca Book other than Auction-Only Orders; or (3) Block the entry of any new orders and order instructions, provided that the Exchange would continue to accept instructions from Entering Firms to cancel one or more orders (including Auction-Only Orders) in full, and later, reverse that block.

The Exchange proposes that the Kill Switch functionality proposed in Rule 7.19–E(e) would supersede and replace the Exchange's previously filed proposed rule change,[9] which provided certain post-trade risk management tools to ETP Holders, but not to their Clearing Firms.

The Exchange proposes to provide these post-trade Kill Switch Actions in addition to the pre-trade Automated Breach Actions described above in order to give Entering Firms and their Clearing Firms more flexibility in setting risk controls. An Entering Firm that wants more control over when and which actions are taken with respect to its orders may choose to use these Kill Switch Actions instead of the ''Block'' or ''Cancel and Block'' Automated Breach Actions described above. For example, for an Entering Firm that selects the ''Notification Only'' Automated Breach Action, if it receives notification of a credit breach, it could choose to direct the Exchange to take a Kill Switch Action described in proposed Rule 7.19–E(e).

3. Proposed Rule Commentary

The Exchange proposes Commentary .01 to Rule 7.19–E to specify that the

[9] *See* Securities Exchange Act Release No. 71166 (December 20, 2013), 78 FR 79046 (December 27, 2013) (SR–NYSEArca–2013–142) (Notice of filing and immediate effectiveness of proposed rule change) (the ''2013 Risk Control Filing'').

Pre-Trade Risk Controls described in this Rule are meant to supplement, and not replace, the ETP Holder's own internal systems, monitoring and procedures related to risk management and are not designed for compliance with Rule 15c3–5 under the Act.[10] This proposed Commentary specifies that use of the Exchange's pre-trade risk controls would not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and SEC rules remains with the ETP Holder. The Exchange does not guarantee that these controls will be sufficiently comprehensive to meet all of an ETP Holder's needs, the controls are not designed to be the sole means of risk management, and using these controls will not necessarily meet an ETP Holder's obligations required by Exchange or federal rules (including, without limitation, the Rule 15c3–5).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, 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 mechanism 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.

Specifically, the Exchange believes that the proposed rule will remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed optional Pre-Trade Risk Controls would provide both Entering Firms, and if designated, Clearing Firms, with the ability to manage risk, while also providing an alert system that would help to ensure that such firms are aware of developing issues. In addition, the Pre-Trade Risk Controls would provide Clearing Firms, who have assumed certain risks of the Entering Firms, greater control and flexibility over setting risk tolerance and exposure on behalf of their correspondent Entering Firms. As such, the Exchange believes that the Pre-Trade Risk Controls would provide a means to address potentially market-impacting events, helping to ensure the proper functioning of the market.

In addition, the Exchange believes that the proposed rule change is designed to protect investors and the public interest because the Pre-Trade Risk Controls are a form of impact mitigation that will aid Entering Firms and Clearing Firms in minimizing their risk exposure and reduce the potential for disruptive, market-wide events. The Exchange understands that ETP Holders implement a number of different risk-based controls, including those required by Rule 15c3–5. The proposed controls will serve as an additional tool for Entering Firms and Clearing Firms to assist them in identifying any risk exposure. The Exchange believes the Pre-Trade Risk Controls will assist Entering Firms and Clearing Firms in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

Further, the Exchange believes that the proposed rule will foster cooperation and coordination with persons facilitating transactions in securities because the Exchange will provide alerts to Entering Firms and their Clearing Firms when the Entering Firm's trading reaches certain thresholds. As such, the Exchange will help Clearing Firms monitor the risk levels of their correspondent Entering Firms and provide tools for Clearing Firms, if designated, to take action.

The Exchange believes that proposed Commentary .01 to Rule 7.19 is designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade because it provides clarity in Exchange rules that the proposed Pre-Trade Risk Controls are intended to supplement, and not replace, an ETP Holder's own internal systems, monitoring, and procedures related to compliance with Rule 15c3–5.

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's ETP Holders because use of the Pre-Trade Risk Controls is optional and is not a prerequisite for participation on the Exchange. In addition, because all orders on the Exchange would pass through the risk checks, there would be no difference in the latency experienced by ETP Holders who have opted to use the Pre-Trade Risk Controls versus those who have not opted to use them.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange believes that the proposal will have a positive effect on competition because, by providing Entering Firms and their Clearing Firms additional means to monitor and control risk, the proposed rule will increase confidence in the proper functioning of the markets. The Exchange believes the proposed Pre-Trade Risk Controls will assist Entering Firms and Clearing Firms in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. As a result, the level of competition should increase as public confidence in the markets is solidified.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings

[10] *See* 17 CFR 240.15c3–5.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6).

under Section 19(b)(2)(B) [15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca-2020–43 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2020–43. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca-2020–43, and should be submitted on or before June 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–11135 Filed 5–22–20; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Wednesday, May 27, 2020.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topic:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: May 20, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–11290 Filed 5–21–20; 11:15 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88909; File No. SR–ICEEU–2020–006]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, Security-Based Swap Submission or Advance Notice Relating to Amendments to the ICE Clear Europe Auction Terms for F&O Default Auctions and F&O Default Management Policy (Formerly the F&O Default Management Framework)

May 19, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 11, 2019, ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II and III below, which Items have been prepared by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(4)(ii) thereunder,[4] such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

The principal purpose of the proposed amendments is for ICE Clear Europe to amend its Auction Terms for F&O Default Auctions (the ''Auction Terms'') and F&O Default Management Policy (the ''Policy''), formerly the F&O Default Management Framework. The revisions do not involve any changes to the ICE Clear Europe Clearing Rules (the ''Rules'') or other Procedures.[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(ii).

[5] Capitalized terms used but not defined herein have the meanings specified in the Rules.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

(a) Purpose

ICE Clear Europe is proposing to amend its Auction Terms. The proposed amendments would (1) add a new ''all or nothing'' bidding type, (2) provide for determination of minimum bid requirements based on the relative margin requirements of Clearing Members, (3) provide for the use of ICEU's default management system, in lieu of email or other manual forms of communication, for submission of bids and provision of certain notices to auction participants by the Clearing House, (4) clarify certain regulatory and compliance obligations of auction participants, and (5) generally update and clarify certain terms and provisions and correct certain typographical errors. The proposed amendments to the Policy would make corresponding changes to reference the new ''all or nothing'' bidding type, the minimum bid requirement and the default management system and to make general updates and clarifications.

I. Auction Terms

1. All or Nothing Bid Type

The amendments would allow auction participants to submit a new type of bid for an Auction Lot, an ''All or Nothing Bid.'' As provided in amendments to paragraph 3.2 of the Auction Terms, an All or Nothing Bid would constitute a bid for the entire Auction Lot which, if it is the winning bid, would provide for the bidder to receive 100% of the Auction Lot without that award being split among more competitively priced bids (as may occur with bids under the current bidding process (referred to as ''Standard Bids'')). Use of All or Nothing Bids would be optional, and auction participants could continue to use Standard Bids as under the current process. An auction participant may also submit both Standard Bids and an All or Nothing Bid. Revised paragraph 3.2 would also address the manner in which an All or Nothing Bid may satisfy the Minimum Bid Requirement for an Auction Lot and the requirement to identify an All or Nothing Bid as such.

Paragraph 3.1 would amended to provide for determining the competitiveness of an All or Nothing Bid for purposes of the ''juniorization'' provisions in that paragraph relating to the application of F&O Guaranty Fund Contributions and F&O Assessment Contributions under the Rules, based on an appropriate scale factor to calculate a deemed price per unit.

Paragraph 5.3 would be amended to provide for the determination of whether an All or Nothing Bid is a winning bid. As under the current process, the auction clearing price (proposed to be defined as the F&O Auction Clearing Price'') would be the price of the bid at which the sum of the notional amount of F&O Contracts with equal or higher bid prices equals or is greater than the notional amount of F&O Contracts being auctioned. If an All or Nothing Bid is not accepted, the Auction Lot will be allocated in full to bids at or above the F&O Auction Clearing Price, but at the F&O Auction Clearing Price. If, however, an All or Nothing Bid is included in the group of bids with equal or higher bid prices, then the All or Nothing Bid will be accepted for the entire Lot, and the F&O Auction Clearing Price will be price of the All or Nothing Bid. The examples in Paragraph 5.3 would be modified to take into account All or Nothing Bids, including to show information regarding a ''price rank'', whether it is an All or Nothing Bid, the bid size (as a percentage of auction lot), bid price (payment per 100%), size multiplied by price and the allocation percentage of the auction lot.

Paragraph 5.4 would clarify that All or Nothing Bids are given precedence over Standard Bids, in the sense that if an All or Nothing Bid is accepted, a Standard Bid will not be accepted even if it had a higher price than the F&O Auction Clearing Price. It would also provide that if multiple All or Nothing Bids are received at the F&O Auction Clearing Price, the Auction Lot will be allocated equally among those bidders.

Paragraph 5.5 would be amended to clarify that in the scenario where the Clearing House elects to determine the F&O Auction Clearing Price for less than 100% of the contracts in the lot and hold a Second F&O Auction for the remainder, any All or Nothing Bids would be disregarded. Related examples in paragraph 5.5 have been amended accordingly.

2. Minimum Bid Requirement

The amendments would revise paragraph 2.2 to provide that each F&O Clearing Member's Minimum Bid Requirement for a lot would be determined separately for each category of F&O Contract and would be determined pro rata based on the Original Margin requirement applicable to the Open Contract Positions of such F&O Clearing Member as compared to the total Original Margin requirements for all the Open Contract Positions of all F&O Clearing Members. Further, setting Minimum Bid Requirements would no longer require consultation with the F&O Default Committee. ICE Clear Europe believes that this approach (as opposed to the current minimum bid requirement, which is the same for all F&O Clearing Members) is more appropriately tied to each Clearing Member's relative risk position in the relevant contract, as demonstrated by original margin levels. A further conforming change would be made in paragraph 2.2 to reflect that a Clearing Member could have a zero Minimum Bid Requirement (in which case it would not be required to bid for the relevant lot).

Minor amendments to paragraph 2.3 would better clarify what is counted to toward the Minimum Bid Requirement. Specifically, a Clearing Member's bid for *one of* its Proprietary Accounts or Customer Accounts, including Individually Segregated Sponsored Accounts for the account of any Sponsored Principal for which it acts as Sponsor, would count towards its Minimum Bid Requirement. The precise wording of the paragraph has also been revised to improve general clarity. The amendments are also consistent with changes throughout the Auction Terms, as discussed herein, to clarify that Individually Segregated Sponsored Accounts are treated as Customer Accounts for purposes of the Auction Terms.

Paragraph 2.4 would be amended such that an F&O Clearing Member's Minimum Bid Requirement would be communicated to it through the DMS (or via such other means as specified by the Clearing House), as discussed below, as soon as practicable prior to the relevant F&O Auction instead of through the template notification set out in an annex to the Auction Terms (which would accordingly be removed). The amendments would also clarify the procedures for the Clearing House to determine that a Minimum Bid

Requirement would be inappropriate for a particular F&O Clearing Member in particular circumstances, and explicitly provides that the Clearing House must confirm that it agrees with the Clearing Member's assessment that an exception to the Minimum Bid Requirement applies. An F&O Clearing Member would be required to notify the Clearing House promptly, but in any event within one hour of the Clearing House publishing details of the F&O Contracts comprising the relevant Auction Lot (instead of 12 hours prior to the opening of the auction), in writing, if it reasonably considers that the Minimum Bid Requirement would not apply to it. ICE Clear Europe does not believe the current 12 hour period is necessarily practicable as an operational matter, as the Clearing House may need to conduct an auction with less than 12 hours' notice. The current requirement could thus either create an undesirable delay in conducting an auction or impose an unnecessary limitation on the F&O Clearing Member's ability to request an exception to the Minimum Bid Requirement. The proposed change, to allow notice within one hour after the Clearing House publishes auction details, will allow the Clearing House to move more quickly to minimize losses and preserve the F&O Clearing Member's ability to request an exception where warranted. The amendments would also clarify that F&O Clearing Members could outsource the operational processing of any of their auction obligations under Rule 102(w) (regarding outsourcing). F&O Clearing Members could also transfer their Minimum Bid Requirements to an Affiliate that is also an F&O Clearing Member, subject to notification to the Clearing House prior to an auction and execution of an agreement in an approved format.

Paragraph 2.5 would be amended to state that the Clearing House would expect to create one or more separate Auction Lots consisting of F&O Contracts for which one or more F&O Clearing Members is excused from a Minimum Bid Requirement or has a zero Minimum Bid Requirement under paragraphs 2.2 and 2.4. This change is intended to state more clearly the Clearing House's existing practice in establishing separate lots in connection with an auction. Consistent with changes discussed above relating to setting Minimum Bid Requirements, paragraph 2.5 would also be amended to remove a requirement to consult with the F&O Default Committee in establishing Auction Lots, which ICE Clear Europe believes is unnecessary in light of the standards set out in paragraph 2.5.

3. Default Management System

The amendments would provide for the use of the Clearing House's electronic default management system (''DMS'') for a number of communications between the Clearing House and auction participants, in lieu of the current manual notice process. Pursuant to amended paragraph 2.1, the Clearing House would notify F&O Clearing Members electronically through the DMS (or other means specified by the Clearing House) of an auction taking place instead of by Circular. Conforming changes would be made throughout the Auction Terms to make reference to communication through the DMS instead of through existing means. For example, as noted above, the Clearing House would notify Clearing Members of Minimum Bid Requirements through the DMS, pursuant to revised paragraph 2.4. Paragraph 2.6 would be amended to state that F&O Auction Specifications would be provided through the DMS instead of in the template format currently attached to the Auction Terms. Paragraphs 2.8 and 2.9 would be amended to state that all bids must be submitted via DMS (or other means specified by the Clearing House) instead of through the existing bid form. Certain provisions such as paragraph 2.10 have been correspondingly removed as no longer relevant with electronic submission through DMS. Paragraph 3.7 would be amended to provide that modified or amended bids may be submitted through DMS (or another format specified by the Clearing House). Pursuant to revised paragraph 5.8, winning bidders could also be notified through the DMS.

4. Clarification of Certain Regulatory and Compliance Obligations

Paragraph 7.7 would be amended to clarify and state explicitly certain obligations for auction participants in respect of information they may receive in connection with an auction, including the contents of the portfolio or the outcome or timing of an auction. Specifically, the auction participant would acknowledge that such information may constitute inside information for the purposes of the Market Abuse Regulation (Regulation (EU) No 596/2014) (''MAR'') or fall within the definition of any similar term under Applicable Law (''Market Abuse Laws'') in respect of any Contracts cleared by the Clearing House or in respect of securities of a Defaulter. Under the revisions, each such participant would be required to assess whether such information is inside information and, if so, agree to: (a) Comply with applicable Market Abuse Laws; (b) generally not disclose such information to persons outside of its organization; (c) prevent persons engaged in client trading at such organization from possessing such information; (d) prevent those in possession of such information from trading on such information until it ceases to be inside information; and (e) where such information constitutes inside information under Regulation (EU) No. 596/2014, maintain an insider list of persons with access to this information.

5. Other Clarifications and Updates

The amendments would make a number of other clarifications, drafting improvements and corrections to the Auction Terms. Certain changes to defined terms would be made throughout the Auction Terms, including the use of the term ''F&O Default Auction Terms'' instead of F&O Auction Terms, the new defined term ''Bidding Close Time'' instead of ''Closing Time'', and the defined term ''Auction Lot'' instead of the undefined ''lot''. Proposed amendments to paragraph 1.1 would clarify that references to F&O Contracts, for purposes of the Auction Terms, include (i) where automatic early termination has taken place under Part 9 of the Rules or Contract Terms, a reference to the terminated F&O Contracts or notional amounts representing such terminated F&O Contracts and (ii) where contracts have arisen from hedging transactions pursuant to Rule 903(c), a reference to any such hedging contracts executed by the Clearing House. These amendments thus clarify that such contracts may be auctioned for purposes of establishing replacement contracts with non-defaulting Clearing Members to balance the Clearing House's positions as part of the default management process, and thereby also establishing an auction price to be used in determining the Clearing House's loss with respect to the close out of the defaulter's positions for purposes of the Rules. In paragraph 1.2, the amendments would clarify that nothing in the Auction Terms would prevent the Clearing House from administering a sale or entering into offsetting transactions without holding an auction to which the Auction Terms apply. This reflects the Clearing House's existing authority under the Rules, and is intended to avoid any potential confusion as to the scope of the Auction Terms. New paragraph 1.11 would

cross-reference defined terms in the Rules, F&O Procedures, Finance Procedures or F&O Standard Terms as applicable, and in the order of priority specified in Rule 102(f).

Paragraph 2.3 would be amended to remove an unnecessary statement that F&O Clearing Members are deemed to have confirmed their intention to bid in a particular auction prior to the time window for bidding and the Auction closing time. In this regard, the Auction Terms (in paragraph 2.2) already impose a requirement on F&O Clearing Members to bid in the auction.

Paragraph 2.10 (former paragraph 2.11) would be amended to clarify that after the Bidding Close Time, the Clearing House will notify participants of the fact that the F&O Auction took place, in addition to the outcome.

Paragraph 3.1 would be amended to provide that where, in respect of a particular F&O auction, the portfolio of a Defaulter is split into multiple auction lots, the process for determining the competitiveness of bids described (which is used for determining the priority of application of Clearing Members' F&O Guaranty Fund Contribution and F&O Assessment Contributions) would be carried out separately for each Auction Lot. In such case, the weighted average price per unit for each auction lot would be scaled based on the proportion that the Original Margin requirement applicable to the Open Contract Positions comprising such Auction Lot represents in relation to the total Original Margin requirements for all the Open Contract Positions of the Defaulter in relation to auctioned F&O Contracts. Paragraph 3.1 would only apply to bids indicated or deemed related to Minimum Bid Requirements (*i.e.,* those Standard Bids, or if applicable the All or Nothing Bid, that count toward the Minimum Bid Requirement).

An additional clarification would be made in Paragraph 3.2 that the Minimum Bid Requirement could be satisfied by submitting multiple bids provided that any individual bid is *equal to* (and not merely larger than) any applicable minimum bid size.

Under revised Paragraph 3.7, following the bidding close time, upon request of an F&O Auction Participant stating that a mistake was made in the bid submission, the Clearing House could invalidate the bid and the participant would be treated as if it had not made such a bid. The Clearing House would no longer be required to permit the participant to submit a corrected bid. This reflects the operation of DMS, which does not permit submission of a bid following the bidding close time, and further reflects ICE Clear Europe's view that given the objective of ensuring a fair and orderly auction, it is not appropriate for Clearing Members to modify bids following the bidding close deadline.

The amendments to Paragraph 4.1 would remove a statement that an F&O Clearing Member may make an unlimited number of separate bids and clarify that the member may make separate bids for Customers or Sponsored Principals for whom it acts as Sponsor in the same way as it may make a bid for one of its Proprietary Accounts and subject to the same provisions of the Auction Terms. This amendment reflects that relevant systems do not permit an infinite number of separate bids, and in practice is intended to give ICE Clear Europe flexibility to set a maximum number of bids if it determines that is appropriate. Amendments to paragraph 4.2 would clarify that F&O Clearing Members are liable for the entry into of F&O Contracts resulting from bids made on behalf of a Customer or Sponsored Principal (including a Customer or Sponsored Principal that is an F&O Auction Participant) in the same manner and to the same extent as for other customer contracts. The amendments clarify the drafting to remove statements that the F&O Clearing Member becomes liable for the bid (as opposed to the contract resulting from the bid if accepted.

Amendments to Paragraph 4.3 would require that each F&O Auction Participant that is not an F&O Clearing Member enter into an F&O Auction Participation Agreement with its F&O Clearing Member prior to participation in an F&O Auction (as opposed to merely deeming the F&O Auction Participant to have agreed to be bound by the Auction Terms). ICE Clear Europe believes it is preferable to have a formal agreement with the F&O Auction Participant in this situation, as it provides a clearer and stronger basis for enforcement of the Auction Terms against the F&O Auction Participant.

Amendments to Paragraph 5.1 would clarify a reference to the Clearing House's F&O default management policies and procedures generally, as opposed to only the Default Management Policy.[6] This would ensure that the Auction Terms themselves as well as the relevant provisions of the Rules are also incorporated in these references. Amendments to Paragraph 5.2 would also permit the Clearing House to at its discretion withdraw an auction lot after (as well as prior to) the bidding close time. An additional amendment to Paragraph 5.3 would provide that in the event of invalid or void bid or no F&O Contract being established, such bid would not be accepted and the F&O Auction Participant would be treated as if it had not made such bid.

In Paragraph 5.4, an additional clarification would add that bids invalidated pursuant to certain Paragraph 3 (Bidding Process) provisions could, at Clearing House discretion, be excluded for purposes of calculating the auction clearing price or allocating sizes at that price.

Paragraph 5.7 would be amended to provide that the Winning Bidder will be the relevant F&O Clearing Member, acting for its Proprietary Accounts or Customer Account, including Individually Segregated Sponsored Accounts, as applicable. This amendment clarifies that an Individually Segregated Sponsored Account is treated as a Customer Account for this purpose and that the relevant F&O Clearing Member (and not the Sponsored Principal for which it is acting) is treated as the Winning Bidder.

Amendments to Paragraph 5.8 would state in more detail the mechanism under the Rules through which F&O Contracts are entered into as a result of an auction, by providing that each bid constitutes an offer by the F&O Clearing Member to the Clearing House to enter into F&O Contracts pursuant to a Transfer governed by Rule 904(b) (but without regard to any Customer or Customer-CM Transactions of the Defaulter) and Part 4 of the Rules. The amendment is intended as a clarification of the existing process for entering into contracts and is not a substantive change in the Auction Terms. A reference to such an offer being made by a Sponsored Principal would be removed, as the F&O Clearing Member would be offering to enter into the contract on behalf of the Sponsored Principal in such case. Other changes in this paragraph clarify that resulting F&O Contracts would arise between the Clearing House and the winning bidder (acting for one of its Proprietary Accounts or Customer Accounts, including for an Individually Segregated Sponsored Account, as applicable), in accordance with such a Transfer and Part 4 of the Rules, but without regard to any Customer or Customer-CM Transactions of the Defaulter, on economically identical terms to the F&O Contracts that are the subject of the auction lot in the relevant F&O Auction. The additional text has been added for clarification and for consistency with

[6] This change would be consistent with similar clarifications made in Paragraphs 5.5.

the amendments to Paragraph 5.7 as discussed above.

Paragraph 5.10 would be amended such that if the Clearing House accepts bids below a reserve price or above a maximum price, the F&O auction for that lot would not be treated as a failed F&O auction.

Paragraph 6.2 would be amended to clarify that Customer-CM F&O Transactions would only arise as a result of the F&O auction for Customers of the Winning Bidder. The amendment was intended to make a drafting clarification and does not reflect a substantive change in the operation of the Auction Terms.

Clarifying amendments as to the treatment of Individually Segregated Sponsored Accounts as a form of Customer Account, consistent with other amendments discussed above, are made in paragraph 7.1.

II. Default Management Policy

ICE Clear Europe is also proposing to make various amendments to its F&O Default Management Framework, which would be renamed the F&O Default Management Policy. The amendments would be consistent with the amendments to the Auction Terms discussed above and make certain other clarifications and updates. Conforming changes would also be made throughout the document to reflect the name change.

In the statement of purpose of the document, a reference to the ''Executive'' would be replaced with the ''Senior Management Team'' (to more accurately reflect relevant ICE Clear Europe governance arrangements). References to Executive elsewhere in the Policy would similarly be updated. With respect to default declarations, the Policy would be updated to clarify that the Board has delegated authority to declare an event of default to the President (instead of the President & COO or the Head of Clearing Risk). This reflects a change in the authority that has been delegated by the Board. Also, the Policy would state more clearly that legal representation as appropriate would be present at meetings of the Default Management Committee where required.

The amendments would also clarify that the Clearing House expects to liaise with the relevant regulators prior to the declaration of an Event of Default and issuance of a Default Notice, but removes a statement that it would do so in all instances. In ICE Clear Europe's view, there may be circumstances in which liaising with regulators in advance may not be feasible, such as where a default may require immediate action to protect the Clearing House. The revised Policy nonetheless retains the requirement that the Clearing House notify its regulators prior to declaration of an Event of Default.

With respect to the issuance of a circular and the posting of a website notice regarding an event of default, the amendments would remove a requirement that such actions be taken ''immediately'' following notice to the Defaulter. Similarly, the amendments would remove the requirement that the Clearing House act ''immediately'' to take certain additional actions relating to forming committees, suspending Defaulter trading access and preventing payments from the Clearing House to the Defaulter following issuance of the Default Notice. Although ICE Clear Europe expects that such actions would be implemented in a timely manner under the circumstances, it is not necessary (or necessarily feasible) to specify that it do so immediately.

Pursuant to the amendments, the statement that in the event that the President and COO are absent, the Head of Clearing Risk would have the ability to overrule any other head of department (including Head of Treasury and Head of Operations) where necessary on matters relating to default management, would be removed. The amendment is intended to be consistent with the change in the Board's delegation of authority to the President referred to above. With respect to preventing payments from the Clearing House to the Defaulter, the requirement for treasury to call and email the Clearing House's account manager to stop the auto-release of funds would be amended to remove the reference to a specific bank (as a number of financial institutions may be relevant in particular circumstances). Certain other clarifications would be made as to the means of contacting default brokers (by phone or email) and to refer to relevant liquidity groups rather than sub-markets, as discussed in further detail below.

Certain references to the ''Risk Management'' would be updated to refer to the ''Clearing Risk Department'' to better reflect the Clearing House's internal organization.

The provisions of the Policy regarding bidding mechanics would be amended to address ''All or Nothing'' bids and the ''Minimum Bid Requirement'', among other general clarifications and drafting improvements. The amendments would clarify that the positions to be auctioned will generally be divided by liquidity group. The term ''liquidity group'' replaces the less accurate term ''sub-market'', but the change is not intended to result in a substantive change in product grouping. The term liquidity group is intended to indicate product categories within the broader F&O Guaranty Fund segments. The liquidity groups, as listed in the Policy, are defined by underlying product and in some cases by margin group. The amendments would also reference the ability for Auction Participants to also submit an ''All or Nothing'' bid type and would explain this bid type. Amendments would also clarify that Clearing Member participation in the auction is mandatory provided that Clearing Members have an initial margin requirement in the liquidity group of the auctioned portfolio and that each Clearing Member is allocated a Minimum Bid Requirements based its portion of the initial margin of a liquidity group. This amendment is intended to be the same as set forth in the revised Auction Terms as discussed above (with certain differences in terminology (such as the use of the term ''initial margin'' to be consistent with the use of terms in the Policy). Clearing Members who do not participate in an auction where they have an allocated Minimum Bid Requirement would be liable to the juniorization of their own Guaranty Fund contributions related to that liquidity group. The example regarding the bidding process as well as the distinctions in the process relating to listed contracts would be removed as no longer representative of the amended bidding process. The description of the bid submission process would be updated to refer to submission of bids through the DMS. Winning bidders would also receive notice through the ICE DMS rather than through the ICE secure server. The statement that in the event that a Clearing Member would receive a partial fill at auction if its bid is over the cusp for clearing the auction would be amended to clarify that this is only true of standard (*i.e.,* non All or Nothing) bids. The statement that the Clearing House only expects to utilize mirror portfolios for the Dutch auction methodology would be removed (as it is unnecessary in the context of current F&O products).

The amendments also remove certain provisions of the Policy that would be inconsistent with or superseded by the amended Auction Terms. This includes statements with respect to requirements for participation by clients in auctions (which are now addressed in paragraph 4.3 of the Auction Terms, among other provisions). A statement as to a requirement by certain clients to post collateral to the F&O Guaranty Fund in connection with auctions has been

removed as not reflecting current practice or practice under the Auction Terms as proposed to be amended. A statement that auction procedures are executed by asset class and then sub-market has been removed as it has been superseded by paragraph 2.5 of the Auction Terms. The amendments would also clarify that trades resulting from the auction would be booked against the margin account specified in the portfolio bid submission, instead of the DTCC account ID specified. The change reflects current Clearing House practices for identification of relevant accounts, and is consistent with the operation of the new DMS system for bid submission.

The amendments to the Policy would also update arrangements for breach management, ongoing Policy reviews and exception handling. The amendments are intended to make the Policy consistent in this regard with other ICE Clear Europe policies and governance processes. Pursuant to the amendments, the document owner would be responsible for ensuring that the Policy remains up-to-date and is reviewed in accordance with ICEU's governance processes. The owner would also be responsible for reporting report material breaches or unapproved deviations from this document to the Head of Department, the Chief Risk Officer and the Head of Compliance (or their delegates) who together would determine if further escalation should be made to relevant senior executives, the Board and/or competent authorities. Exceptions to the Policy would approved in accordance with ICE Clear Europe's governance process for the approval of changes to the Policy.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments are consistent with the requirements of Section 17A of the Act [7] and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act [8] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest. ICE Clear Europe believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICE Clear Europe, in particular, to Section 17(A)(b)(3)(F),[9] because ICE Clear Europe believes that the proposed changes to the Auction Terms and the Policy enhance ICE Clear Europe's ability to manage the risk of defaults. The proposed changes introduce All or Nothing Bidding to ICE Clear Europe's existing auction methodology. This new bid type is intended to reward auction participants for bidding competitively on both size and price, rather than just price (as with a Standard Bid). If an All or Nothing Bid sets the auction clearing price, the revised Auction Terms award 100% to that bid, rather than splitting the award with participants bidding more competitively on price but with smaller size. Such changes incentivize competitive bidding by rewarding auction participants for bidding competitively on both price and size and are designed to promote effective and efficient auctions to facilitate the close-out of the defaulter's portfolio.

The amendments to the determination of the Minimum Bid Requirement are intended to enhance default management by more closely linking the bid requirement for a clearing member with the risk of the clearing member's particular positions, as evidenced through original margin requirements. The amendments are designed to allocate potential risk in the auction taking into account the ability of the clearing member to trade in the particular product and thus to manage the risk of positions that it may acquire in the auction as a result of its minimum bid requirement. The amendments would thus reduce the risk to a clearing member of being forced to bid on a type of contract that it does not typically trade and may have less capability to manage. ICE Clear Europe believes this approach is more appropriate than the current approach of assigning each clearing member the same minimum bid requirement.[10] ICE Clear Europe further believes that the revised approach, with a more tailored minimum bid requirement, will be more likely to result in competitive bidding by those clearing members consistent with their ability to manage the resulting positions.

The proposed amendments also implement the use of the automated DMS to replace certain manual communication tasks in the auction process, including announcing the auction, communicating Minimum Bid Requirements and auction specifications, submitting bids and notifying winning bidders. Such changes allow ICE Clear Europe to more efficiently and safely manage its auction process and reduce the risk of miscommunication or error. The added compliance requirements around treatment of information concerning the auction will help prevent market abuse, enhance compliance with applicable law and thus generally promote the public interest. Finally, the clarification and clean-up changes provide greater specificity with respect to the Auction Terms and the Policy such that auction participants have greater certainty and clarity regarding the auction process and the requirements for their participation. ICE Clear Europe believes that the proposed amendments augment ICE Clear Europe's procedures relating to default management and enhance ICE Clear Europe's ability to withstand defaults and continue providing clearing services, thereby promoting the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible; and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[11]

In addition, the proposed rule change is consistent with the relevant requirements of Rule 17Ad–22.[12] Rule 17Ad–22(e)(4)(ii) [13] requires ICE Clear Europe to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient financial resources at a minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the two participant families that would potentially cause the largest aggregate credit exposures in extreme but plausible market conditions. ICE Clear Europe believes that the proposed revisions enhance its Auction Terms. As described above, the optional All or Nothing Bid incentivizes competitive bidding, promoting the goal of reaching an efficient auction clearing price that permits ICE Clear Europe to close out

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] The change is also consistent with recently adopted requirements of the Commodity Futures Trading Commission applicable to derivatives clearing organizations, including ICE Clear Europe. See 17 CFR 39.16(c)(2)(iii)(C) (a DCO shall not require a clearing member to bid for a portion of the defaulting clearing member's positions that is not proportional to the size of bidding clearing member's positions in the same product class at the DCO).

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 17 CFR 240.17Ad–22.

[13] 17 CFR 240.17Ad–22(e)(4)(ii).

the defaulter's portfolio and return ICE Clear Europe to a matched book. Such new bid type rewards auction participants for bidding competitively on both size and price and may increase the willingness and ability of participants and their customers to participate in an auction and absorb the defaulter's positions through the default management process. Similarly, the changes to the Minimum Bid Requirement will incentivize bidding by clearing members that have taken on positions of the relevant type and may be better placed to manage the risks of the auctioned positions. In ICE Clear Europe's view, these enhancements represent tools that strengthen ICE Clear Europe's ability to manage its financial resources and withstand the pressures of defaults, consistent with the requirements of Rule 17Ad–22(e)(4)(ii).[14]

In addition, ICE Clear Europe believes the amendments satisfy Rule 17Ad–22(e)(13),[15] which requires a clearing agency to ensure that it ''has the authority and operational capacity to take timely action to contain losses and liquidity demands'' in the case of default. As discussed above, the proposed amendments would enhance ICE Clear Europe's default management capabilities in F&O default auctions. Specifically, ICE Clear Europe believes the proposed addition of All or Nothing Bidding, the new methodology for calculating Minimum Bid Requirements and the automated DMS enhance ICE Clear Europe's ability to withstand defaults and continue providing clearing services, including by incentivizing competitive bidding to promote effective and efficient auctions that facilitate the close-out of the defaulter's portfolio and maximizing ICE Clear Europe's ability to efficiently and safely manage its auction process in default events, to ensure that ICE Clear Europe can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default consistent with the requirements of Rule 17Ad–22(e)(13).[16]

Rule 17Ad–22(e)(1)[17] requires that clearing agencies establish policies and procedures that provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions. The amendment to Paragraph 7.7 of the Auction Terms are designed to enhance compliance by F&O auction participants with Market Abuse Laws to the extent that they receive any inside information relating to any Contracts cleared by the Clearing House or in respect of securities of a Defaulter. In ICE Clear Europe's view, the amendments are therefore consistent with the requirements of Rule 17Ad-22(e)(1).[18]

Rule 17Ad–22(e)(3)(i)[19] requires clearing agencies to maintain a sound risk management framework that identifies, measures, monitors and manages the range of risks that it faces. The amendments to the Policy are intended to ensure that the Policy is consistent with the Auction Terms and to ensure risks relating to defaults continue to be well managed. In ICE Clear Europe's view, the amendments are therefore consistent with the requirements of Rule 17Ad–22(e)(3)(i).[20]

Rule 17Ad–22(e)(2)[21] requires clearing agencies to establish reasonably designed policies and procedures to provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility. The proposed amendments to the Policy more clearly define the roles and responsibilities of the document owner, the Head of Department, the senior members of the Risk Oversight Department and the senior members of the Compliance Department, and are therefore consistent with the requirements of Rule 17Ad–22(e)(2).[22]

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The amendments are being adopted further clarify and update the Auction Terms and better calibrate how market risks are allocated among F&O Clearing Members. The addition of All or Nothing Bids would provide an additional bidding option for Clearing Members if they choose to use it. Although the amendments to the Minimum Bid Requirement determination may result in some Clearing Members having higher Minimum Bid Requirements than others, ICE Clear Europe believes that this result is appropriate as it reflects the position risk in contracts of the relevant type that the Clearing Member has taken on, as exhibited by original margin requirements. As such, in ICE Clear Europe's view, the approach more appropriately allocates the risk of mandatory participation in default auctions to those clearing members that may have better ability to manage the risk of the contracts being auctioned, as demonstrated by their existing positions. ICE Clear Europe does not expect that the proposed changes will adversely affect access to clearing or the ability of Clearing Members, their customers or other market participants to continue to clear contracts. ICE Clear Europe also does not believe the amendments would materially affect the cost of clearing or otherwise impact competition among Clearing Members or other market participants or limit market participants' choices for selecting clearing services. Accordingly, ICE Clear Europe does not believe the amendments would impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any written comments received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission and Advance Notice and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[23] and paragraph (f) of Rule 19b–4[24] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, security-based swap submission or advance notice is consistent with the Act. Comments may be submitted by any of the following methods:

[14] 17 CFR 240.17Ad–22(e)(4)(ii).
[15] 17 CFR 240.17Ad–22(e)(13).
[16] 17 CFR 240.17Ad–22(e)(13).
[17] 17 CFR 240.17Ad–22(e)(1).
[18] 17 CFR 240.17Ad–22(e)(1).
[19] 17 CFR 240.17 Ad–22(e)(3)(i).
[20] 17 CFR 240.17 Ad–22(e)(3)(i).
[21] 17 CFR 240.17 Ad–22(e)(2).
[22] 17 CFR 240.17 Ad–22(e)(2).
[23] 15 U.S.C. 78s(b)(3)(A).
[24] 17 CFR 240.19b–4(f).

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2020–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2020–006. 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, security-based swap submission or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission or advance notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2020–006 and should be submitted on or before June 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–11138 Filed 5–22–20; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88907; File No. SR–ICEEU–2020–002]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission or Advance Notice Relating to the ICE Clear Europe Investment Management Procedures and Treasury and Banking Services Policy (To Be Renamed Liquidity and Investment Management Policy)

May 19, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 13, 2020, ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II and III below, which Items have been prepared by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

ICE Clear Europe proposes to amend its Investment Management Procedures (the ''Procedures'') and its Treasury and Banking Services Policy, which would be renamed the Liquidity and Investment Management Policy (the ''Policy'', and collectively with the Procedures, the ''Documents''). The revisions would not involve any changes to the ICE Clear Europe Clearing Rules.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

(a) Purpose

ICE Clear Europe is proposing to adopt the amendments to the Documents following an annual review by Treasury to:

- Include investment limits and criteria for the investment of ICE Clear Europe's contribution to default resources (a.k.a. ''skin in the game''), in addition to the investment of clearing member contributions;
- Similarly include investment limits and criteria for the investment of ICEU's regulatory capital;
- Remove the requirement for 50% of the investable balance per currency to be invested in overnight reverse repurchase agreements (''repos''), as this requirement was potentially constraining the use of central bank deposits where available;
- Include cross currency sovereign bonds as acceptable assets (''collateral'') under reverse repos; and
- Eliminate the separate section regarding investments in 'times of insufficient market supply' (as it was unclear when this applied). Instead, the revised Documents include a single set of relevant permitted investments and collateral in the acceptable lists for all market circumstances (and the allocation to different investment and collateral within those lists can be managed across different market circumstances).

Certain other clarifications would also be made to the Procedures, including to the glossary, and conforming changes would be made to the Policy. The Policy would also be renamed the Liquidity and Investment Management Policy to reflect its coverage of investment management more broadly.

Proposed Amendments to the Procedures

The purpose section of the Procedures would be updated to note that it addresses permitted investments and concentration limits relating to ICE Clear Europe contributions to default resources and regulatory capital in addition to clearing member margin and guaranty fund contributions (which are covered by the existing Procedures).

With respect to overall investment considerations, a number of modifications would be made. The requirement that at least 50% of the investable portfolio in each currency

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules (the ''Rules'').

should be invested in overnight reverse repurchase agreements would be removed. (This change would facilitate use of central bank deposits where available to ICE Clear Europe for the relevant currency.) A requirement that no more than 5% of the investible funds can be held as unsecured cash each calendar month would be added, which requirement would be applied separately to (i) ICE Clear Europe's regulatory capital; and (ii) total Clearing Member cash and Clearing House skin in the game. Central bank deposits would be considered secured and thus outside of the 5% threshold.

The table of authorized investments and concentration limits for investments of cash provided by Clearing Members and ICE Clear Europe skin in the game would be amended as follows:

—US, UK and EU government agency bonds would be added to the list of eligible instruments (as a distinct category from sovereign obligations (renamed sovereign bonds) of those countries)

○ Qualifying government agency bonds would have a maximum maturity of 13 calendar months and minimum credit ratings of AA- from at least two nationally recognized statistical rating organizations (''NRSROs'').

○ US and UK government agency bonds would have no issuer concentration limits and their maximum portfolio limits would be 20% of the total USD or GBP, as applicable, balance in a single issue.

○ EU government agency bonds would have an issuer concentration limit of 15% of the total EUR balance in a single issuer.

—For qualifying US, UK and EU sovereign bonds, minimum credit ratings of would be deleted.

—The maximum concentration limit for reverse repurchase agreements would be amended to apply per counterparty family instead of per counterparty.

—Commercial bank obligations would be amended to refer to commercial bank deposits and related maximum counterparty concentration limits would be amended to clarify that unsecured cash limits for financial service providers are set out separately.[4]

A new table of authorized investments and concentration limits for investment of ICE Clear Europe's regulatory capital would be added. Authorized instruments would be limited to US, UK and EU sovereign bonds and US, UK and EU government agency bonds with a maximum maturity of 90 days. The US and UK sovereign and government agency bonds would have no issuer concentration limit and a portfolio concentration limit of 20% (for sovereign bond) and 25% (for government agency bonds) of the total USD or GBP balance, as applicable, in a single issue. The EU government agency bonds would have a maximum counterparty concentration limit of 25% of the EUR balance in a single issuer. EU sovereign bonds would need to be issued by the German, French, Belgian or Dutch governments. The minimum credit ratings for government agency bonds would be AA- from at least two NRSROs.

The acceptable collateral table for reverse repo transactions would be revised to include certain additional types of underlying collateral as well as to permit greater use of cross-currency collateral (*e.g.,* a EUR denominated reverse repo on US Sovereign Bonds), subject to additional haircuts. The range of accepted collateral would be extended to include Supranational obligations denominated in USD, EUR and GBP and USD government agency bonds, in addition to the existing permitted US, UK and EU Sovereign Bonds. The required credit rating for all collateral would be AA-/Aa3, consistent with current requirements. The revisions would allow greater use of cross-currency reverse repo involving US, UK and EU sovereign bond collateral, subject to a 4% haircut (as compared to 2% for repo in the same currency). The Procedures would also provide that ICE Clear Europe's preferred form of collateral would be sovereign bonds in same currency of as reverse repo and the use of non-preferred collateral would be reviewed monthly by the Head of Treasury and the Chief Risk Officer (or their delegates).

The section regarding changes to the investment criteria in times of insufficient market supply would be deleted. In ICE Clear Europe's view, under the existing procedures it is not entirely clear when this section would apply. Furthermore, the revised investment limits discussed above are, in ICE Clear Europe's view, appropriate for all market circumstances and provide sufficient flexibility to permit ICE Clear Europe to manage changes in supply of particular types of investments.

The amendments would provide that investments would be monitored against the concentration limits and investment criteria daily by Treasury and Finance and clarify that breaches of both concentration limits and the investment criteria would be escalated to the Risk Oversight and Compliance team. The amendments also note that concentration limit and investment criteria breaches could also trigger general regulatory notifications.

The glossary section of the Procedures would be amended as follows:

- The terms Central Bank Obligations and Commercial Bank Obligations would be removed as no longer necessary as the Procedures would refer to, respectively, central bank deposits and commercial bank deposits instead;
- The term EU Sovereign Obligations would be amended to the more general defined term, Government Agency Bonds, which would be defined as bonds issued by or that have their principal and interest fully guaranteed by their government;
- The term Permitted Investment Counterparties for FCM Customer Funds would be amended slightly for clarification;
- The term UK Sovereign Obligations and US Sovereign Obligations would be removed and references to these terms would be removed or amended to, respectively, UK Sovereign Bonds and US Sovereign Bonds; and
- The term Supranational Obligations would be added and would be defined as securities that: (i) Are issued by institutions that are owned or established by governments of two or more countries that are all members of the Organization for Economic Co-operation and Development (OECD) or of the European Union (EU); and (ii) are fully guaranteed as to principal and interest by those governments.

Proposed Amendments to the Policy

As noted above, the Policy is being renamed the Liquidity and Investment Management Policy. The amendments to the Policy conform to the amendments to the Procedures, including to provide that management of ICE Clear Europe's skin in the game and regulatory capital are within the scope of the Policy. Accordingly, the description of ICE Clear Europe investment management objective would be broadened to refer to safeguarding cash generally rather than Clearing Member cash specifically. The amendments also include non-substantive changes to refer to both liquidity management and investment in various places. In the purpose section of the Policy, the statement that the Policy constitutes ICE Clear Europe's liquidity risk management framework for the purposes of EMIR would be deleted. In the background section of the Policy, the statement that Treasury Banking Services operates within the

[4] Currently set out in the existing Unsecured Credit Limit Procedures.

risk appetites set by the board and in compliance with applicable regulations would be deleted as unnecessary (given that the Board-adopted risk appetites apply to all activities of the Clearing House).

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments are consistent with the requirements of Section 17A of the Act [5] and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(F) of the Act [6] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, and the protection of investors and the public interest. The proposed Documents are intended generally to enhance the Clearing House's criteria for investments. The changes would bring the investment of the Clearing House's own skin in the game and regulatory capital within the same investment framework as investment of Clearing Member contributions, which will facilitate overall risk management of investment by the Clearing House. The amendments would also update investment criteria to remove certain constraints on the use of central bank deposits (specifically, the requirement for 50% of the investable balance per currency to be invested in overnight repo), and permit greater use of cross currency repo. The amendments also remove a unnecessary distinction between normal market conditions and conditions of insufficient supply. In ICE Clear Europe's view the revised documentation would facilitate ongoing investment risk management by the Clearing House, and facilitate the Clearing House's ability to meet its short-term financial obligations in the event of clearing member defaults or other liquidity stress events. These amendments would therefore promote overall Clearing House risk management and facilitate the prompt and accurate clearing of cleared contracts and protect investors and the public interest in the sound operations of the Clearing House, consistent with the requirements of Section 17A(b)(3)(F).[7] In ICE Clear Europe's view, the amendments are also consistent with maintaining the value of, and access to, funds invested by the Clearing House, and therefore will enhance the safeguarding of securities and funds in the custody or control of the Clearing House or for which it is responsible, within the meaning of Section 17A(b)(3)(F).

The proposed amendments to the Documents are further consistent with the risk management requirements of Rule 17Ad–22(e)(3)(i) [8] through enhancing ICE Clear Europe's investment management policies. As noted above, the amendments would extend these policies to cover investment limits and criteria relating to ICE Clear Europe's skin in the game and regulatory capital. Allowing for greater investment flexibility through the removal of the requirement for 50% of the investable balance per currency be invested in overnight reverse repo would also remove a constraint to appropriate risk management that limit ICE Clear Europe's ability to use central bank deposits.

The proposed amendments to the Documents are also consistent with the requirements of Rule 17Ad–22(e)(7)(i) and (ii) and Rule 17Ad–22(a)(14) [9] which require ICE Clear Europe to maintain sufficient qualifying liquid resources. In compliance with this requirement, the proposed amendments would detail investment limits and criteria to better manage liquidity of ICE Clear Europe's skin in the game and regulatory capital. The amendments would also allow greater flexibility to maintain liquid resources in the form of central bank deposits by removing requirements relating to maintaining certain minimum balances in overnight reverse repos.

The amendments to the Documents would be similarly compliant with Rule 17Ad–22(e)(16),[10] which would require assets of the Clearing House and Clearing Members be held in a manner that minimizes risk of loss and invested in assets with minimal credit, market and liquidity risk. As noted above, the amendments would apply to both the Clearing House's own assets and Clearing Member assets. The amendments to the acceptable collateral table would set out appropriate investment, concentration, maturity, rating and other criteria for investments and reverse repo collateral that are intended to minimize credit, market and liquidity risks from these investments.

Rules 17Ad–22(e)(7)(iii) and (e)(9) [11] require clearing agencies, where

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 240.17Ad–22(e)(3)(i)–(ii). The rule states that ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable: [m]aintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which:

(i) Includes risk management policies, procedures, and systems designed to identify, measure, monitor, and manage the range of risks that arise in or are borne by the covered clearing agency, that are subject to review on a specified periodic basis and approved by the board of directors annually;''

[9] 17 CFR 240.17Ad–22(e)(7)(i)—(ii). The rule states that ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable: [e]ffectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, doing the following:

(i) Maintaining sufficient liquid resources at the minimum in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment obligation for the covered clearing agency in extreme but plausible market conditions;

(ii) Holding qualifying liquid resources sufficient to meet the minimum liquidity resource requirement under paragraph (e)(7)(i) of this section in each relevant currency for which the covered clearing agency has payment obligations owed to clearing members;

17 CFR 240.17Ad-22(a)(14) Qualifying liquid resources means, for any covered clearing agency, the following, in each relevant currency:

(i) Cash held either at the central bank of issue or at creditworthy commercial banks;

(ii) Assets that are readily available and convertible into cash through prearranged funding arrangements, such as:

(A) Committed arrangements without material adverse change provisions, including:

(1) Lines of credit;

(2) Foreign exchange swaps; and

(3) Repurchase agreements; or

(B) Other prearranged funding arrangements determined to be highly reliable even in extreme but plausible market conditions by the board of directors of the covered clearing agency following a review conducted for this purpose not less than annually; and

(iii) Other assets that are readily available and eligible for pledging to (or conducting other appropriate forms of transactions with) a relevant central bank, if the covered clearing agency has access to routine credit at such central bank in a jurisdiction that permits said pledges or other transactions by the covered clearing agency.

[10] 17 CFR 240.17Ad–22(e)(16). The rule states that ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable: [s]afeguard the covered clearing agency's own and its participants' assets, minimize the risk of loss and delay in access to these assets, and invest such assets in instruments with minimal credit, market, and liquidity risks.''

[11] 17 CFR 240.17Ad–22(e)(7)(iii). The rule states that ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable: [e]ffectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, doing the following:

Continued

possible, to access accounts and services at a central bank. The proposed removal of the requirement that 50% of the investable balance per currency be invested in overnight reverse repo would provide greater flexibility for the Clearing House to use central bank deposits, consistent with these requirements.

The amendments to the Documents would also be compliant with Rule 17Ad–22(e)(15)(ii).[12] The proposed new table of authorized investments and concentration limits for investment of ICE Clear Europe's regulatory capital relates to highly liquid government securities that constitute liquid net assets for purposes of this rule, and is consistent with existing practice. The concentration limits provided, which are consistent with those set with respect to cash from Clearing Members and skin in the game, would further enable ICE Clear Europe to continue to hold sufficient liquid net assets to meet this requirement.

(iii) Using the access to accounts and services at a Federal Reserve Bank, pursuant to Section 806(a) of the Payment, Clearing, and Settlement Supervision Act of 2010 (12 U.S.C. 5465(a)), or other relevant central bank, when available and where determined to be practical by the board of directors of the covered clearing agency, to enhance its management of liquidity risk;'' maintain and enforce written policies and procedures reasonably designed to, as applicable: [c]onduct its money settlements in central bank money, where available and determined to be practical by the board of directors of the covered clearing agency, and minimize and manage credit and liquidity risk arising from conducting its money settlements in commercial bank money if central bank money is not used by the covered clearing agency.''

[12] 17 CFR 240.17Ad–22(e)(15)(ii). The rule states that ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable: (15) Identify, monitor, and manage the covered clearing agency's general business risk and hold sufficient liquid net assets funded by equity to cover potential general business losses so that the covered clearing agency can continue operations and services as a going concern if those losses materialize, including by: (ii) Holding liquid net assets funded by equity equal to the greater of either (x) six months of the covered clearing agency's current operating expenses, or (y) the amount determined by the board of directors to be sufficient to ensure a recovery or orderly wind-down of critical operations and services of the covered clearing agency, as contemplated by the plans established under paragraph (e)(3)(ii) of this section, and which:

(A) Shall be in addition to resources held to cover participant defaults or other risks covered under the credit risk standard in paragraph (b)(3) or paragraphs (e)(4)(i) through (iii) of this section, as applicable, and the liquidity risk standard in paragraphs (e)(7)(i) and (ii) of this section; and

(B) Shall be of high quality and sufficiently liquid to allow the covered clearing agency to meet its current and projected operating expenses under a range of scenarios, including in adverse market conditions;''

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. The amendments would apply uniformly to all investments made by the Clearing House, are being adopted to strengthen and clarify the Clearing House's investment management policies and procedures and should not affect the rights or obligations of Clearing Members. The amendments are also intended to treat investment of ICE Clear Europe's own assets (as skin in the game or regulatory capital) in the same manner as Clearing Member assets. As a result, ICE Clear Europe does not believe the amendments would affect the cost of clearing for Clearing Members or other market participants, the market for cleared services generally or access to clearing by Clearing Members or other market participants, or otherwise affect competition among Clearing Members or market participants in a manner not necessary or appropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any written comments received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission and Advance Notice and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, security-based swap submission or advance notice is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ICEEU–2020–002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2020–002. 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, security-based swap submission or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission or advance notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2020–002 and should be submitted on or before June 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–11137 Filed 5–22–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33868; File No. 812–15076]

Sutter Rock Capital Corp.

May 19, 2020.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 23(a), 23(b) and 63 of the Act; under sections 57(a)(4) and 57(i) of the Act and rule 17d–1 under the Act permitting certain joint transactions otherwise prohibited by section 57(a)(4) of the Act; and under section 23(c)(3) of the Act for an exemption from section 23(c) of the Act.

Summary of the Application: Sutter Rock Capital Corp. (''Applicant'' or ''Company'') requests an order that would permit Applicant to (i) issue restricted shares of its common stock (''Restricted Shares'') as part of the compensation package for certain of its employees, officers and all directors, including non-employee directors (the ''Non-Employee Directors'',[1]) through its Amended and Restated 2019 Equity Incentive Plan (the ''Amended Equity Incentive Plan'' or the ''Amended Plan''), (ii) withhold shares of the Applicant's common stock or purchase shares of Applicant's common stock from Participants to satisfy tax withholding obligations relating to the vesting of Restricted Shares or the exercise of options to purchase shares of Applicant's common stock (''Options'') that were granted pursuant to the Initial Equity Incentive Plan (defined below) or will be granted pursuant to the Amended Equity Incentive Plan,[2] and (iii) permit Participants to pay the exercise price of Options that were granted pursuant to the Initial Equity Incentive Plan or will be granted to them pursuant to the Amended Equity Incentive Plan with shares of Applicant's common stock.

Applicant: Sutter Rock Capital Corp.

Filing Dates: The application was filed on October 25, 2019, and amended on February 27, 2020, May 1, 2020, and May 18, 2020.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 15, 2020, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicant: One Sansome Street, Suite 730, San Francisco, CA 94104.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, at (202) 551–6819, or Daniele Marchesani, Assistant Chief Counsel, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for the applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicant's Representations

1. The Company is an internally managed closed-end investment company that has elected to be regulated as a business development company (''BDC'') under the Act. The Company's investment objective is to maximize its portfolio's total return, principally by seeking capital gains on its equity and equity-related investments. It invests primarily in the equity securities of what it believes to be rapidly growing venture-capital-backed emerging companies, and may on an opportunistic basis also invest in the debt securities of such companies. Applicant was organized under Maryland General Corporation Law in March 2011. Applicant's common stock is listed on the Nasdaq Capital Market under the symbol ''SSSS.'' The Company has 16,577,587 shares of common stock outstanding as of April 15, 2020. As of April 15, 2020, the Company had 6 employees.

2. Applicant currently has a five-member board of directors (the ''Board'') of whom four are not ''interested persons'' of Applicant within the meaning of section 2(a)(19) (''Non-Interested Directors'').

3. Applicant believes that, because the market for superior investment professionals is highly competitive, Applicant's successful performance depends on its ability to offer fair compensation packages to its professionals that are competitive with those offered by other investment management businesses. Applicant states that the ability to offer equity-based compensation to its employees, officers, and directors, which both aligns employee, officer, and Board behavior with stockholder interests and provides a retention tool, is vital to Applicant's future growth and success.

4. The Applicant's initial equity incentive plan, which became effective in 2019, is limited only to the types of equity-based compensation that BDCs are permitted to grant under the Act without the receipt of exemptive relief (the ''Initial Equity Incentive Plan''). On July 31, 2019, the Board, including a majority of the Non-Interested Directors, approved the Amended Equity Incentive Plan. The Amended Equity Incentive Plan will be submitted for approval to the Company's stockholders, and will become effective upon such approval, subject to and following receipt of the order. The Amended Equity Incentive Plan is intended to expand the Company's ability to issue equity-based compensation to employees, officers, and directors, including Non-Employee Directors, and provides for grants of incentive stock options (as defined in Section 422 of the Internal Revenue Code of 1986), nonqualified stock options, and Restricted Shares.[3] Each issuance of Plan Awards under the Amended Equity Incentive Plan will be approved by the required majority, as defined in Section 57(o) of the Act,[4] of

[13] 17 CFR 200.30–3(a)(12).

[1] Employees, officers, and all directors, including Non-Employee Directors, are collectively the ''Participants.''

[2] Options will not be granted to Non-Employee Directors, and therefore, no relief is sought in the application for the grant of Options.

[3] Incentive stock options, nonqualified stock options, and Restricted Shares granted under the Amended Plan are collectively referred to as ''Plan Awards.''

[4] Section 57(o) of the Act provides that the term ''required majority,'' when used with respect to the approval of a proposed transaction, plan, or arrangement, means both a majority of a BDC's directors or general partners who have no financial

Continued

the Company's directors (''Required Majority''). Applicant believes that the issuance of Restricted Shares as a form of equity-based compensation is in the best interest of the Company's stockholders, employees, and business. The Board has delegated its authority to administer the Amended Equity Incentive Plan to the compensation committee of the Board.

5. Applicant states that Non-Employee Directors will be granted $50,000 of Restricted Shares at each annual meeting of the Company's stockholders, with the first grant to be issued immediately upon the approval of the Company's stockholders after receipt of the requested order by the Commission. Such Restricted Shares will vest if the Non-Employee Director is in continuous service through the anniversary of such grant (or, if earlier, the annual meeting of the Company's stockholders that is closest to the anniversary of such grant). The awards of Restricted Shares to the Non-Employee Directors will be made on an annual basis for so long as such Non-Employee Director remains on the Board; provided, however, that no Non-Employee Director will be granted Restricted Shares to the extent that such grant would cause he or she to receive more than 2.5% of the total outstanding shares of common stock in any calendar year, or if such grant would cause the Company to exceed the maximum number of shares authorized for issuance under the Amended Equity Incentive Plan. No additional awards of Restricted Shares or Options will be made, and the amounts proposed to be issued to Non-Employee Directors as set forth in the application cannot be changed without Commission approval. All awards of Restricted Shares that have not vested at the time a Non-Employee Director ceases to be a member of the Board will be forfeited. Notwithstanding the limitations set forth in the Amended Plan, the Board has determined that the maximum number of shares of common stock for which any Non-Employee Director may be granted Plan Awards in any calendar year is 25,000 shares.

6. The Board has determined that the total number of Plan Awards to be available under the Amended Plan will be 10 percent of the outstanding shares of common stock as of the effective date of the Amended Plan. Additionally, notwithstanding the limitations set forth in the Amended Plan, the Board has determined that the maximum number of shares of common stock for which any employee, officer or employee-director may be granted Plan Awards in any calendar year is 400,000 shares.

7. Unless the Board expressly provides otherwise, immediately upon the cessation of a Participant's continuous service, that portion, if any, (i) of any Plan Award (other than an Option) held by the Participant or the Participant's permitted transferee that is not then vested will terminate, and, in the case of Restricted Shares, the unvested shares will be returned to the Company and will be available to be issued as Plan Awards and (ii) of any Option held by a Participant or such Participant's permitted transferee that is not yet exercisable will terminate and the balance will remain exercisable for the lesser of (x) a period of three months or (y) the period ending on the latest date on which such Option could have been exercised, and will thereupon terminate subject to certain provisions. Plan Awards will not be transferable except for disposition by will or the laws of descent and distribution or by gift to a permitted transferee.

Applicant's Legal Analysis

Sections 23(a) and (b), Section 63

1. Under section 63 of the Act, the provisions of section 23(a) of the Act generally prohibiting a registered closed-end investment company from issuing securities for services or for property other than cash or securities are made applicable to BDCs. This provision would prohibit the issuance of Restricted Shares as a part of the Amended Plan.

2. Section 23(b) of the Act generally prohibits a registered closed-end investment company from selling any common stock of which it is the issuer at a price below its current net asset value. Section 63(2) of the Act makes section 23(b) applicable to BDCs unless certain conditions are met. Because Restricted Shares that would be granted under the Amended Plan would not meet the terms of section 63(2), sections 23(b) and 63 would prevent the issuance of Restricted Shares.

3. Section 6(c) provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes thereof, from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicant requests an order pursuant to section 6(c) of the Act granting an exemption from the provisions of sections 23(a), 23(b), and 63 of the Act. Applicant states that the Amended Plan would not raise the concerns underlying these sections, which include: (a) Preferential treatment of investment company insiders and the use of options and other rights by insiders to obtain control of the investment company; (b) complication of the investment company's structure that made it difficult to determine the value of the company's shares; and (c) dilution of shareholders' equity in the investment company. Applicant asserts that the Restricted Shares element of the Amended Plan does not raise concerns about preferential treatment of Applicant's insiders because this element is a bona fide compensation plan of the type that is common among corporations generally. In addition, section 61(a)(4)(B) of the Act permits a BDC to issue to its directors, officers, employees, and general partners warrants, options, and rights to purchase the BDC's voting securities pursuant to an executive compensation plan, subject to certain conditions. Applicant states that section 61 and its legislative history do not address the issuance by a BDC of restricted stock as incentive compensation. Applicant believes, however, that the issuance of Restricted Shares is substantially similar, for purposes of investor protection under the Act, to the issuance of warrants, options, and rights as contemplated by section 61. Applicant also asserts that the issuance of Restricted Shares would not become a means for insiders to obtain control of Applicant because the maximum amount of Restricted Shares that may be issued under the Amended Plan at any one time will be ten percent of the outstanding shares of common stock of Applicant.

5. Applicant further states that the Restricted Shares feature will not unduly complicate Applicant's capital structure because equity-based incentive compensation arrangements are widely used among corporations and commonly known to investors. Applicant notes that the Amended Plan will be submitted for approval to the Applicant's stockholders. Applicant represents that the proxy materials submitted to Applicant's stockholders will contain a concise ''plain English'' description of the Amended Plan and its potential dilutive effect. Applicant also states that it will comply with the proxy disclosure requirements in Item 10 of Schedule 14A under the Securities

interest in such transaction, plan, or arrangement and a majority of such directors or general partners who are not interested persons of such company.

Exchange Act of 1934. Applicant further notes that the Amended Plan will be disclosed to investors in accordance with the requirements of the Form N–2 registration statement for closed-end investment companies and pursuant to the standards and guidelines adopted by the Financial Accounting Standards Board for operating companies. Applicant also will comply with the disclosure requirements for executive compensation plans applicable to BDCs.[5] Applicant thus concludes that the Amended Plan will be adequately disclosed to investors and appropriately reflected in the market value of Applicant's shares.

6. Applicant acknowledges that awards granted under the Amended Plan may have a dilutive effect on the stockholders' equity per share in Applicant, but believes that effect would be outweighed by the anticipated benefits of the Amended Equity Incentive Plan to Applicant and its stockholders. Moreover, based on the manner in which the issuance of Restricted Shares pursuant to the Amended Plan will be administered, the Restricted Shares will be no more dilutive than if Applicant were to issue only Options to Participants who are employees, as is permitted by Section 61(a)(4) of the Act. Applicant asserts that it needs the flexibility to provide the requested equity-based compensation in order to be able to compete effectively with commercial banks, investment banks, and other publicly traded companies that also are not investment companies registered under the Act for talented professionals. These professionals, Applicant suggests, in turn are likely to increase Applicant's performance and stockholder value. Applicant also asserts that equity-based compensation would more closely align the interests of Applicant's employees and Non-Employee Directors with those of its stockholders. In addition, Applicant states that its stockholders will be further protected by the conditions to the requested order that assure continuing oversight of the operation of the Amended Plan by the Board.

Section 57(a)(4), Rule 17d–1

7. Section 57(a) proscribes certain transactions between a BDC and persons related to the BDC in the manner described in section 57(b) (''57(b) persons''), absent a Commission order. Section 57(a)(4) generally prohibits a 57(b) person from effecting a transaction in which the BDC is a joint participant absent such an order. Rule l7d–1, made applicable to BDCs by section 57(i), proscribes participation in a ''joint enterprise or other joint arrangement or profit-sharing plan,'' which includes a stock option or purchase plan. Employees and directors of a BDC are 57(b) persons. Thus, the issuance of Restricted Shares could be deemed to involve a joint transaction involving a BDC and a 57(b) person in contravention of section 57(a)(4). Rule 17d–1(b) provides that, in considering relief pursuant to the rule, the Commission will consider (a) whether the participation of the BDC in a joint enterprise is consistent with the policies and purposes of the Act and (b) the extent to which such participation is on a basis different from or less advantageous than that of other participants.

8. Applicant requests an order pursuant to sections 57(a)(4) and 57(i) of the Act and rule 17d–1 under the Act to permit Applicant to issue Restricted Shares under the Amended Plan. Applicant acknowledges that its role is necessarily different from the other participants because the other participants are its directors, officers, and employees. It notes, however, that the Amended Plan is in the interest of the Applicant's stockholders, because the Amended Plan will help align the interests of Applicant's employees with those of its stockholders, which will encourage conduct on the part of those employees designed to produce a better return for Applicant's stockholders. Additionally, section 57(j)(1) of the Act expressly permits any director, officer or employee of a BDC to acquire warrants, options and rights to purchase voting securities of such BDC, and the securities issued upon the exercise or conversion thereof, pursuant to an executive compensation plan which meets the requirements of section 61(a)(4)(B) of the Act. Applicant submits that the issuance of Restricted Shares pursuant to the Amended Plan poses no greater risk to stockholders than the issuances permitted by section 57(j)(1) of the Act.

Section 23(c)

9. Section 23(c) of the Act, which is made applicable to BDCs by section 63 of the Act, generally prohibits a BDC from purchasing any securities of which it is the issuer except in the open market pursuant to tenders, or under other circumstances as the Commission may permit to ensure that the purchases are made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased. Applicant states that the withholding or purchase of Restricted Shares and common stock in payment of applicable withholding tax obligations or of common stock in payment for the exercise price of a stock option might be deemed to be purchases by the Company of its own securities within the meaning of section 23(c) and therefore prohibited by the Act.

10. Section 23(c)(3) of the Act permits a BDC to purchase securities of which it is the issuer in circumstances in which the repurchase is made in a manner or on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased. Applicant believes that the requested relief meets the standards of section 23(c)(3).

11. Applicant submits that these purchases will be made in a manner that does not unfairly discriminate against Applicant's stockholders because all purchases of Applicant's stock will be at the closing price of the common stock on the Nasdaq Capital Market (or any primary exchange on which its shares of common stock may be traded in the future) on the relevant date. Applicant submits that because all transactions with respect the Amended Plan will take place at the public market price for the Applicant's common stock, these transactions will not be significantly different than could be achieved by any stockholder selling in a market transaction. Applicant represents that no transactions will be conducted pursuant to the requested order on days where there are no reported market transactions involving Applicant's shares.

12. Applicant represents that the withholding provisions in the Amended Plan do not raise concerns about preferential treatment of Applicant's insiders because the Amended Plan is a bona fide compensation plan of the type that is common among corporations generally. Furthermore, the vesting schedule is determined at the time of the initial grant of the Restricted Shares and the option exercise price is determined at the time of the initial grant of the Options. Applicant represents that all purchases may be made only as permitted by the Amended Plan, which will be approved by the Applicant's stockholders prior to any application of the relief. Applicant believes that granting the requested relief would be consistent with the policies underlying the provisions of the

[5] See Executive Compensation and Related Party Disclosure, Securities Act Release No. 8655 (Jan. 27, 2006) (proposed rule); Executive Compensation and Related Party Disclosure, Securities Act Release No. 8732A (Aug. 29, 2006) (final rule and proposed rule), as amended by Executive Compensation Disclosure, Securities Act Release No. 8756 (Dec. 22, 2006) (adopted as interim final rules with request for comments).

Act permitting the use of equity compensation as well as prior exemptive relief granted by the Commission under section 23(c) of the Act.

Applicant's Conditions

Applicant agrees that the order granting the requested relief will be subject to the following conditions:

1. The Amended Plan will be authorized by Applicant's stockholders.

2. Each issuance of Restricted Shares to a Participant will be approved by the Required Majority of Applicant's directors on the basis that such grant is in the best interest of Applicant and its stockholders.

3. The amount of voting securities that would result from the exercise of all of Applicant's outstanding warrants, options and rights, together with any Restricted Shares issued under the Amended Plan, at the time of issuance shall not exceed 25 percent of the outstanding voting securities of Applicant, except that if the amount of voting securities that would result from the exercise of all of Applicant's outstanding warrants, options and rights issued to Applicant's directors, officers and employees, together with any Restricted Shares issued pursuant to the Amended Plan, would exceed 15 percent of the outstanding voting securities of Applicant, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options and rights, together with any Restricted Shares issued pursuant to the Amended Plan, at the time of issuance shall not exceed 20 percent of the outstanding voting securities of Applicant.

4. The amount of Restricted Shares issued and outstanding will not at the time of issuance of any Restricted Shares exceed ten percent of Applicant's outstanding voting securities.

5. The Board will review the Amended Plan at least annually. In addition, the Board will review periodically the potential impact that the issuance of Restricted Shares under the Amended Plan could have on Applicant's earnings and net asset value per share, such review to take place prior to any decisions to grant Restricted Shares under the Amended Plan, but in no event less frequently than annually. Adequate procedures and records will be maintained to permit such review. The Board will be authorized to take appropriate steps to ensure that the issuance of Restricted Shares under the Amended Plan will be in the best interests of Applicant's stockholders. This authority will include the authority to prevent or limit the granting of additional Restricted Shares under the Amended Plan. All records maintained pursuant to this condition will be subject to examination by the Commission and its staff.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–11139 Filed 5–22–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88903; File No. SR–NYSECHX–2020–14]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Rules To Add New Rule 7.19

May 19, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 8, 2020, the NYSE Chicago, Inc. (''NYSE Chicago'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to add new Rule 7.19 (Pre-Trade Risk Controls). 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

In order to assist Participants' efforts to manage their risk, the Exchange proposes to amend its rules to add new Rule 7.19 (Pre-Trade Risk Controls) to establish a set of pre-trade risk controls by which Entering Firms and their designated Clearing Firms (as defined below) may set credit limits and other pre-trade risk controls for an Entering Firm's trading on the Exchange and authorize the Exchange to take action if those credit limits or other pre-trade risk controls are exceeded.

For purposes of this proposed rule change, the Exchange proposes to define the term ''Entering Firm'' to mean a Participant that either has a correspondent relationship with a Clearing Firm whereby it executes trades and the clearing function is the responsibility of the Clearing Firm or clears for its own account [3] and to define the term ''Clearing Firm'' to mean a Participant that acts as principal for clearing and settling a trade, whether for its own account or for an Entering Firm.[4]

1. Overview

In order to help firms manage their risk, the Exchange proposes to offer optional pre-trade risk controls that would authorize the Exchange to take automated actions if a designated credit limit or other pre-trade risk control for a firm is breached. Because Clearing Firms bear the risk on behalf of their correspondent Entering Firms, the Exchange proposes to make the proposed pre-trade risk controls available not only to Entering Firms, but also to their Clearing Firms, if so authorized by the Entering Firm. These pre-trade risk controls would provide Entering Firms and their Clearing Firms with enhanced abilities to manage their risk with respect to orders on the Exchange.

As proposed, these optional controls would allow Entering Firms and their Clearing Firms (if designated by the Entering Firm) to each define different pre-set risk thresholds and to choose the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* proposed Rule 7.19(a)(1).

[4] *See* proposed Rule 7.19(a)(2). As required by Article 21, Rule 1, a Participant is required to give up the name of the clearing firm through which each transaction on the Exchange will be cleared.

automated action the Exchange would take if those thresholds are breached, which would range from notifying the Entering Firm and Clearing Firm that a limit has been breached, blocking new orders, or canceling orders until the Entering Firm has been reinstated to trade on the Exchange.

Although use of the proposed Exchange-provided pre-trade risk controls are optional, all orders on the Exchange will pass through risk checks. As such, an Entering Firm that does not choose to set limits or permit its Clearing Firm to set limits on its behalf will not achieve any latency advantage with respect to its trading activity on the Exchange. In addition, the Exchange expects that any latency added by the pre-trade risk controls will be *de minimis.*

The proposed pre-trade risk controls described are meant to supplement, and not replace, the Participants' own internal systems, monitoring and procedures related to risk management. The Exchange does not guarantee that these controls will be sufficiently comprehensive to meet all of a Participant's needs, the controls are not designed to be the sole means of risk management, and using these controls will not necessarily meet a Participant's obligations required by Exchange or federal rules (including, without limitation, the Rule 15c3–5 under the Act[5] (''Rule 15c3–5'')). Use of the Exchange's pre-trade risk controls will not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and Commission rules remains with the Participant.[6]

2. Proposed Rule Change

Proposed Rule 7.19(a) would set forth the definitions that would be used for purposes of the Rule. In addition to the defined terms of ''Entering Firm'' and ''Clearing Firm,'' as described above, the Exchange proposes the following definitions:

• The term ''Single Order Maximum Notional Value Risk Limit'' would mean a pre-established maximum dollar amount for a single order before it can be traded.

• The term ''Single Order Maximum Quantity Risk Limit'' would mean a pre-established maximum number of shares that may be included in a single order before it can be traded.

• The term ''Gross Credit Risk Limit'' would mean a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both buy and sell orders are counted as positive values. For purposes of calculating the Gross Credit Risk Limit, unexecuted orders in the Exchange Book,[7] orders routed on arrival pursuant to Rule 7.37(a)(1), and executed orders are included.

Proposed Rule 7.19(b) would set forth the Pre-Trade Risk Controls that would be available to Entering Firms and Clearing Firms. Under proposed Rule 7.19(b)(1), an Entering Firm may select one or more of the following optional pre-trade risk controls with respect to its trading activity on the Exchange: (i) Gross Credit Risk Limits; (ii) Single Order Maximum Notional Value Risk Limits; and (iii) Single Order Maximum Quantity Risk Limits, which would collectively be referred to as the ''Pre-Trade Risk Controls.''

In addition, under proposed Rule 7.19(b)(2)(A), an Entering Firm that does not self-clear may designate its Clearing Firm to (i) view any Pre-Trade Risk Controls set by the Entering Firm, or (ii) set one or more Pre-Trade Risk Controls on the Entering Firm's behalf, or both. Proposed Rule 7.19(b)(2)(B) provides that an Entering Firm would be able to view any Pre-Trade Risk Controls that its Clearing Firm sets with respect to the Entering Firm's trading activity on the Exchange. Because both an Entering Firm and Clearing Firm (if so designated by the Entering Firm) would be able to access information about Pre-Trade Risk Controls, this mechanism would foster transparency between an Entering Firm and its Clearing Firm regarding which Pre-Trade Risk Control limits may have been set. For example, if an Entering Firm designates its Clearing Firm to view the Pre-Trade Risk Controls set by that Entering Firm, its Clearing Firm may determine that it does not need to separately set Pre-Trade Risk Controls on behalf of such Entering Firm.

Because the Entering Firm is the Participant that is entering orders on the Exchange, the Exchange will not take action based on a Clearing Firm's instructions about the Entering Firm's trading activities on the Exchange without first receiving consent from the Entering Firm. Accordingly, proposed Rule 7.19(b)(2)(C) would provide that if an Entering Firm designates a Clearing Firm to set Pre-Trade Risk Controls for the Entering Firm, the Entering Firm would be consenting to the Exchange taking certain prescribed actions (discussed further below) with respect to the Entering Firm's trading activity as provided for in proposed Rules 7.19(c) and (d), described below. The Exchange would consider an Entering Firm to provide such consent by authorizing a Clearing Firm to enter Pre-Trade Risk Controls via the risk management tool that will be provided to Entering Firms in connection with this proposed rule change. Once such authorization is provided by the Entering Firm, the Clearing Firm would have access to the Pre-Trade Risk Controls that the Entering Firm designates. The proposed Rule makes clear that by designating a Clearing Firm to set limits on its trading activities, the Entering Firm will have authorized the Exchange to act pursuant to the Clearing Firm's instructions if the limits set by the Clearing Firm are breached.

Proposed Rule 7.19(b)(3) would set forth how the Pre-Trade Risk Controls could be set or adjusted. Proposed Rule 7.19(b)(3)(A) would provide that Pre-Trade Risk Controls may be set before the beginning of a trading day and may be adjusted during the trading day. Proposed Rule 7.19(b)(3)(B) would provide that Entering Firms or Clearing Firms may set Pre-Trade Risk Controls at the MPID level or at one or more sub-IDs associated with that MPID.[8] The Exchange believes that supporting Pre-Trade Risk Controls at both an MPID and sub-ID level would provide both Entering Firms, and if designated, their Clearing Firms, more granular control over how such risk controls are determined and monitored.

Proposed Rule 7.19(b)(4) would provide that with respect to Gross Credit Risk Limits, an Entering Firm and, if so designated, its Clearing Firm, will receive notifications when the Entering Firm is approaching or has breached a limit set by itself or by the Clearing Firm. The Exchange believes that by providing such notifications, the Entering Firm, and if designated, its Clearing Firm, would have advance notice that the Entering Firm is approaching a designated limit and could take steps to mitigate the potential that an automated breach action would be triggered.

Proposed Rule 7.19(c) would set forth the actions the Exchange would be authorized to take when a Pre-Trade Risk Control set by an Entering Firm or a Clearing Firm is breached, which

[5] *See* 17 CFR 240.15c3–5.

[6] The Exchange proposes Commentary .01 to Rule 7.19 to provide that ''[t]he pre-trade risk controls described in this Rule are meant to supplement, and not replace, the Participant's own internal systems, monitoring and procedures related to risk management and are not designed for compliance with Rule 15c3–5 under the Exchange Act. Responsibility for compliance with all Exchange and SEC rules remains with the Participant.''

[7] The term ''Exchange Book'' is defined in Rule 1.1(j) to refer to the Exchange's electronic file of orders, which contains all orders entered on the Exchange.

[8] Entering Firms may request that the Exchange create sub-IDs associated with their MPIDs.

would be referred to as ''Automated Breach Actions.'' These proposed actions would be automated; if a Pre-Trade Risk Control is breached, the Exchange would automatically take the designated action and would not need further direction from either the Entering Firm or Clearing Firm to take such action.

At the outset, proposed Rule 7.19(c)(1) would provide that if both an Entering Firm and its Clearing Firm set the same type of Pre-Trade Risk Control for the Entering Firm but have set different limits, the Exchange would enforce the more restrictive limit. For example, if an Entering Firm sets a Single Order Maximum Notional Value Risk Limit of $20 million and its Clearing Firm sets the same risk limit at $15 million, the Exchange will take action when the more restrictive limit is breached—*i.e.,* $15 million.

Proposed Rule 7.19(c)(2) would set forth the Automated Breach Action the Exchange would take if an order would breach the designated limit of either a Single Order Maximum Notional Value Risk Limit or Single Order Maximum Quantity Risk Limit. As proposed, the Exchange would reject the incoming order that would have breached the applicable limit.

Proposed Rule 7.19(c)(3)(A) would set forth the Automated Breach Actions the Exchange would take if a designated Gross Credit Risk Limit is breached. The Exchange proposes to provide options of which Automated Breach Action the Exchange would be authorized to take if a Gross Credit Risk Limit is breached. Such Automated Breach Actions would be taken at the MPID or sub-ID level that is associated with the designated Gross Credit Risk Limit. As proposed, when setting Gross Credit Risk Limits, the Entering Firm or Clearing Firm setting the limit would be required to indicate one of the following actions that the Exchange would take if such limit is breached:

- ''Notification Only.'' As set forth in proposed Rule 7.19(c)(3)(A)(i), if this option is selected, the Exchange would continue to accept new orders and order instructions and would not cancel any unexecuted orders in the Exchange Book. Proposed Rule 7.19(b)(4), described above, sets forth the notifications that would be provided to an Entering Firm, and if designated, a Clearing Firm regarding the Pre-Trade Risk Controls that have been set. With the ''Notification Only'' action, the Exchange would provide such notifications, but would not take any other automated actions with respect to new or unexecuted orders.
- ''Block Only.'' As set forth in proposed Rule 7.19(c)(3)(A)(ii), if this option is selected, the Exchange would reject new orders and order instructions but would not cancel any unexecuted orders in the Exchange Book. The Exchange would continue to accept instructions from the Entering Firm to cancel one or more orders in full (including Auction-Only Orders) or any instructions specified in proposed Rule 7.19(e) (described below), but would not take any automated action to cancel orders.
- ''Cancel and Block.'' As set forth in proposed Rule 7.19(c)(3)(A)(iii), if this option is selected, in addition to the Block actions described above, the Exchange would also cancel all unexecuted orders in the Exchange Book other than Auction-Only Orders.

If an Entering Firm and its Clearing Firm each set different limits for a Gross Credit Risk Limit for the Entering Firm's activities on the Exchange, proposed Rule 7.19(c)(3)(B) would provide that the Exchange would enforce the action that was chosen by the party that set the limit that was breached. For example, if a Clearing Firm sets a lower limit and designates the ''Cancel and Block'' Automated Breach Action, if that limit is breached, the Exchange will implement that ''Cancel and Block'' action even if the Entering Firm designated a different Automated Breach Action.

Proposed Rule 7.19(c)(3)(C) would provide that if both the Entering Firm and Clearing Firm set the same Gross Credit Risk Limit and that limit is breached, the Exchange would enforce the most restrictive Automated Breach Action. As further proposed, for purposes of this Rule, the ''Cancel and Block'' action would be more restrictive than ''Block Only,'' which would be more restrictive than ''Notification Only.'' For example, if the Entering Firm selects the ''Block Only'' action for a Gross Credit Risk Limit and its Clearing Firm selects the ''Cancel and Block'' action for the same Gross Credit Risk Limit, if the limit is breached, the Exchange would take the ''Cancel and Block'' action for the Entering Firm's orders.

Proposed Rule 7.19(c)(4) would provide that if a Pre-Trade Risk Control set at the MPID level is breached, the Automated Breach Action specified at the MPID level would be applied to all sub-IDs associated with that MPID. For instance, if a Clearing Firm sets a Gross Credit Risk Limit for an MPID at $500 million and the Entering Firm sets Gross Credit Risk Limits for each of three sub-IDs associated with that MPID at $500 million each, if two of the sub-IDs reach a $250 million limit, which combined is the Gross Credit Risk Limit at the MPID level, the Automated Breach Action associated with the limit at the MPID level would be triggered and would apply also to the associated sub-IDs, even though none of the sub-IDs have breached their separate $500 million limits. This functionality ensures that an Entering Firm cannot effectively override a Pre-Trade Risk Control set at the MPID level by setting risk limits for each of the MPID's associated sub-IDs that cumulatively equal more than the MPID's total Gross Credit Risk Limit.

Proposed Rule 7.19(d) concerns how an Entering Firm's ability to enter orders and order instructions would be reinstated after a ''Block Only'' or ''Cancel and Block'' Automated Breach Action has been triggered. In such case, proposed Rule 7.19(d) provides that the Exchange would not reinstate the Entering Firm's ability to enter orders and order instructions on the Exchange (other than instructions to cancel one or more orders (including Auction-Only Orders) in full) without the consent of (1) the Entering Firm, and (2) the Clearing Firm, if the Entering Firm has designated that the Clearing Firm's consent is required. The Exchange proposes to include this functionality because the Clearing Firm bears the risk of any exposure of its correspondent Entering Firms.

Finally, proposed Rule 7.19(e) would set forth ''kill switch'' functionality, which would allow an Entering Firm or its designated Clearing Firm to direct the Exchange to take certain bulk Kill Switch Actions with respect to orders. In contrast to the Automated Breach Actions described above, which the Exchange would take automatically after the breach of a credit limit, the Exchange would not take any of the Kill Switch Actions without express direction from the Entering Firm or its designated Clearing Firm.

Specifically, Proposed Rule 7.19(e) would specify that an Entering Firm, or if authorized pursuant to proposed Rule 7.19(b)(2)(A), its Clearing Firm, could direct the Exchange to take one or more of the following actions with respect to orders at either an MPID, or if designated, sub-ID Level: (1) Cancel all Auction-Only Orders; (2) Cancel all unexecuted orders in the Exchange Book other than Auction-Only Orders; or (3) Block the entry of any new orders and order instructions, provided that the Exchange would continue to accept instructions from Entering Firms to cancel one or more orders (including Auction-Only Orders) in full, and later, reverse that block.

The Exchange proposes that the Kill Switch functionality proposed in Rule 7.19(e) would supersede and replace the Exchange's previously filed proposed rule change,[9] which provided certain post-trade risk management tools to Participants, but not to their Clearing Firms.

The Exchange proposes to provide these post-trade Kill Switch Actions in addition to the pre-trade Automated Breach Actions described above in order to give Entering Firms and their Clearing Firms more flexibility in setting risk controls. An Entering Firm that wants more control over when and which actions are taken with respect to its orders may choose to use these Kill Switch Actions instead of the ''Block'' or ''Cancel and Block'' Automated Breach Actions described above. For example, for an Entering Firm that selects the ''Notification Only'' Automated Breach Action, if it receives notification of a credit breach, it could choose to direct the Exchange to take a Kill Switch Action described in proposed Rule 7.19(e).

3. Proposed Rule Commentary

The Exchange proposes Commentary .01 to Rule 7.19 to specify that the Pre-Trade Risk Controls described in this Rule are meant to supplement, and not replace, the Participant's own internal systems, monitoring and procedures related to risk management and are not designed for compliance with Rule 15c3–5 under the Act.[10] This proposed Commentary specifies that use of the Exchange's pre-trade risk controls would not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and SEC rules remains with the Participant. The Exchange does not guarantee that these controls will be sufficiently comprehensive to meet all of a Participant's needs, the controls are not designed to be the sole means of risk management, and using these controls will not necessarily meet a Participant's obligations required by Exchange or federal rules (including, without limitation, the Rule 15c3–5).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, 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 mechanism 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.

Specifically, the Exchange believes that the proposed rule will remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed optional Pre-Trade Risk Controls would provide both Entering Firms, and if designated, Clearing Firms, with the ability to manage risk, while also providing an alert system that would help to ensure that such firms are aware of developing issues. In addition, the Pre-Trade Risk Controls would provide Clearing Firms, who have assumed certain risks of the Entering Firms, greater control and flexibility over setting risk tolerance and exposure on behalf of their correspondent Entering Firms. As such, the Exchange believes that the Pre-Trade Risk Controls would provide a means to address potentially market-impacting events, helping to ensure the proper functioning of the market.

In addition, the Exchange believes that the proposed rule change is designed to protect investors and the public interest because the Pre-Trade Risk Controls are a form of impact mitigation that will aid Entering Firms and Clearing Firms in minimizing their risk exposure and reduce the potential for disruptive, market-wide events. The Exchange understands that Participants implement a number of different risk-based controls, including those required by Rule 15c3–5. The proposed controls will serve as an additional tool for Entering Firms and Clearing Firms to assist them in identifying any risk exposure. The Exchange believes the Pre-Trade Risk Controls will assist Entering Firms and Clearing Firms in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

Further, the Exchange believes that the proposed rule will foster cooperation and coordination with persons facilitating transactions in securities because the Exchange will provide alerts to Entering Firms and their Clearing Firms when the Entering Firm's trading reaches certain thresholds. As such, the Exchange will help Clearing Firms monitor the risk levels of their correspondent Entering Firms and provide tools for Clearing Firms, if designated, to take action.

The Exchange believes that proposed Commentary .01 to Rule 7.19 is designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade because it provides clarity in Exchange rules that the proposed Pre-Trade Risk Controls are intended to supplement, and not replace, a Participant's own internal systems, monitoring, and procedures related to compliance with Rule 15c3–5.

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's Participants because use of the Pre-Trade Risk Controls is optional and is not a prerequisite for participation on the Exchange. In addition, because all orders on the Exchange would pass through the risk checks, there would be no difference in the latency experienced by Participants who have opted to use the Pre-Trade Risk Controls versus those who have not opted to use them.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange believes that the proposal will have a positive effect on competition because, by providing Entering Firms and their Clearing Firms additional means to monitor and control risk, the proposed rule will increase confidence in the proper functioning of the markets. The Exchange believes the proposed Pre-Trade Risk Controls will assist Entering Firms and Clearing Firms in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. As a result, the level of competition should increase as public confidence in the markets is solidified.

[9] *See* Securities Exchange Act Release No. 74000 (January 27, 2014), 79 FR 5502 (January 31, 2014) (SR–CHX–2014–02) (Notice of filing and immediate effectiveness of proposed rule change) (the ''2013 Risk Control Filing'').

[10] *See* 17 CFR 240.15c3–5.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSECHX–2020–14 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSECHX–2020–14. 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–NYSECHX–2020–14, and should be submitted on or before June 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–11134 Filed 5–22–20; 8:45 am]

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[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88905; File No. SR–NYSENAT–2020–17]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Rules To Add New Rule 7.19

May 19, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on May 8, 2020, NYSE National, Inc. (''NYSE National'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to add new Rule 7.19 (Pre-Trade Risk Controls). 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

In order to assist ETP Holders' efforts to manage their risk, the Exchange proposes to amend its rules to add new Rule 7.19 (Pre-Trade Risk Controls) to establish a set of pre-trade risk controls by which Entering Firms and their designated Clearing Firms (as defined below) may set credit limits and other pre-trade risk controls for an Entering Firm's trading on the Exchange and authorize the Exchange to take action if those credit limits or other pre-trade risk controls are exceeded.

For purposes of this proposed rule change, the Exchange proposes to define the term ''Entering Firm'' to mean an ETP Holder that either has a correspondent relationship with a Clearing Firm whereby it executes

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

trades and the clearing function is the responsibility of the Clearing Firm or clears for its own account [3] and to define the term ''Clearing Firm'' to mean an ETP Holder that acts as principal for clearing and settling a trade, whether for its own account or for an Entering Firm.[4]

1. Overview

In order to help firms manage their risk, the Exchange proposes to offer optional pre-trade risk controls that would authorize the Exchange to take automated actions if a designated credit limit or other pre-trade risk control for a firm is breached. Because Clearing Firms bear the risk on behalf of their correspondent Entering Firms, the Exchange proposes to make the proposed pre-trade risk controls available not only to Entering Firms, but also to their Clearing Firms, if so authorized by the Entering Firm. These pre-trade risk controls would provide Entering Firms and their Clearing Firms with enhanced abilities to manage their risk with respect to orders on the Exchange.

As proposed, these optional controls would allow Entering Firms and their Clearing Firms (if designated by the Entering Firm) to each define different pre-set risk thresholds and to choose the automated action the Exchange would take if those thresholds are breached, which would range from notifying the Entering Firm and Clearing Firm that a limit has been breached, blocking new orders, or canceling orders until the Entering Firm has been reinstated to trade on the Exchange.

Although use of the proposed Exchange-provided pre-trade risk controls are optional, all orders on the Exchange will pass through risk checks. As such, an Entering Firm that does not choose to set limits or permit its Clearing Firm to set limits on its behalf will not achieve any latency advantage with respect to its trading activity on the Exchange. In addition, the Exchange expects that any latency added by the pre-trade risk controls will be *de minimis.*

The proposed pre-trade risk controls described are meant to supplement, and not replace, the ETP Holders' own internal systems, monitoring and procedures related to risk management. The Exchange does not guarantee that these controls will be sufficiently comprehensive to meet all of an ETP Holder's needs, the controls are not designed to be the sole means of risk management, and using these controls will not necessarily meet an ETP Holder's obligations required by Exchange or federal rules (including, without limitation, the Rule 15c3–5 under the Act [5] (''Rule 15c3–5'')). Use of the Exchange's pre-trade risk controls will not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and Commission rules remains with the ETP Holder.[6]

2. Proposed Rule Change

Proposed Rule 7.19(a) would set forth the definitions that would be used for purposes of the Rule. In addition to the defined terms of ''Entering Firm'' and ''Clearing Firm,'' as described above, the Exchange proposes the following definitions:

- The term ''Single Order Maximum Notional Value Risk Limit'' would mean a pre-established maximum dollar amount for a single order before it can be traded.
- The term ''Single Order Maximum Quantity Risk Limit'' would mean a pre-established maximum number of shares that may be included in a single order before it can be traded.
- The term ''Gross Credit Risk Limit'' would mean a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both buy and sell orders are counted as positive values. For purposes of calculating the Gross Credit Risk Limit, unexecuted orders in the Exchange Book,[7] orders routed on arrival pursuant to Rule 7.37(a)(1), and executed orders are included.

Proposed Rule 7.19(b) would set forth the Pre-Trade Risk Controls that would be available to Entering Firms and Clearing Firms. Under proposed Rule 7.19(b)(1), an Entering Firm may select one or more of the following optional pre-trade risk controls with respect to its trading activity on the Exchange: (i) Gross Credit Risk Limits; (ii) Single Order Maximum Notional Value Risk Limits; and (iii) Single Order Maximum Quantity Risk Limits, which would collectively be referred to as the ''Pre-Trade Risk Controls.''

In addition, under proposed Rule 7.19(b)(2)(A), an Entering Firm that does not self-clear may designate its Clearing Firm to (i) view any Pre-Trade Risk Controls set by the Entering Firm, or (ii) set one or more Pre-Trade Risk Controls on the Entering Firm's behalf, or both. Proposed Rule 7.19(b)(2)(B) provides that an Entering Firm would be able to view any Pre-Trade Risk Controls that its Clearing Firm sets with respect to the Entering Firm's trading activity on the Exchange. Because both an Entering Firm and Clearing Firm (if so designated by the Entering Firm) would be able to access information about Pre-Trade Risk Controls, this mechanism would foster transparency between an Entering Firm and its Clearing Firm regarding which Pre-Trade Risk Control limits may have been set. For example, if an Entering Firm designates its Clearing Firm to view the Pre-Trade Risk Controls set by that Entering Firm, its Clearing Firm may determine that it does not need to separately set Pre-Trade Risk Controls on behalf of such Entering Firm.

Because the Entering Firm is the ETP Holder that is entering orders on the Exchange, the Exchange will not take action based on a Clearing Firm's instructions about the Entering Firm's trading activities on the Exchange without first receiving consent from the Entering Firm. Accordingly, proposed Rule 7.19(b)(2)(C) would provide that if an Entering Firm designates a Clearing Firm to set Pre-Trade Risk Controls for the Entering Firm, the Entering Firm would be consenting to the Exchange taking certain prescribed actions (discussed further below) with respect to the Entering Firm's trading activity as provided for in proposed Rules 7.19(c) and (d), described below. The Exchange would consider an Entering Firm to provide such consent by authorizing a Clearing Firm to enter Pre-Trade Risk Controls via the risk management tool that will be provided to Entering Firms in connection with this proposed rule change. Once such authorization is provided by the Entering Firm, the Clearing Firm would have access to the Pre-Trade Risk Controls that the Entering Firm designates. The proposed Rule makes clear that by designating a Clearing Firm to set limits on its trading activities, the Entering Firm will have authorized the Exchange to act pursuant to the Clearing Firm's instructions if the limits set by the Clearing Firm are breached.

Proposed Rule 7.19(b)(3) would set forth how the Pre-Trade Risk Controls could be set or adjusted. Proposed Rule 7.19(b)(3)(A) would provide that Pre-Trade Risk Controls may be set before the beginning of a trading day and may

[3] *See* proposed Rule 7.19(a)(1).

[4] *See* proposed Rule 7.19(a)(2). As required by Rule 7.14, an ETP Holder is required to give up the name of the clearing firm through which each transaction on the Exchange will be cleared.

[5] *See* 17 CFR 240.15c3–5.

[6] The Exchange proposes Commentary .01 to Rule 7.19 to provide that ''[t]he pre-trade risk controls described in this Rule are meant to supplement, and not replace, the ETP Holder's own internal systems, monitoring and procedures related to risk management and are not designed for compliance with Rule 15c3–5 under the Exchange Act. Responsibility for compliance with all Exchange and SEC rules remains with the ETP Holder.''

[7] The term ''Exchange Book'' is defined in Rule 1.1(l) to refer to the Exchange's electronic file of orders, which contains all orders entered on the Exchange.

be adjusted during the trading day. Proposed Rule 7.19(b)(3)(B) would provide that Entering Firms or Clearing Firms may set Pre-Trade Risk Controls at the MPID level or at one or more sub-IDs associated with that MPID.[8] The Exchange believes that supporting Pre-Trade Risk Controls at both an MPID and sub-ID level would provide both Entering Firms, and if designated, their Clearing Firms, more granular control over how such risk controls are determined and monitored.

Proposed Rule 7.19(b)(4) would provide that with respect to Gross Credit Risk Limits, an Entering Firm and, if so designated, its Clearing Firm, will receive notifications when the Entering Firm is approaching or has breached a limit set by itself or by the Clearing Firm. The Exchange believes that by providing such notifications, the Entering Firm, and if designated, its Clearing Firm, would have advance notice that the Entering Firm is approaching a designated limit and could take steps to mitigate the potential that an automated breach action would be triggered.

Proposed Rule 7.19(c) would set forth the actions the Exchange would be authorized to take when a Pre-Trade Risk Control set by an Entering Firm or a Clearing Firm is breached, which would be referred to as ''Automated Breach Actions.'' These proposed actions would be automated; if a Pre-Trade Risk Control is breached, the Exchange would automatically take the designated action and would not need further direction from either the Entering Firm or Clearing Firm to take such action.

At the outset, proposed Rule 7.19(c)(1) would provide that if both an Entering Firm and its Clearing Firm set the same type of Pre-Trade Risk Control for the Entering Firm but have set different limits, the Exchange would enforce the more restrictive limit. For example, if an Entering Firm sets a Single Order Maximum Notional Value Risk Limit of $20 million and its Clearing Firm sets the same risk limit at $15 million, the Exchange will take action when the more restrictive limit is breached—*i.e.,* $15 million.

Proposed Rule 7.19(c)(2) would set forth the Automated Breach Action the Exchange would take if an order would breach the designated limit of either a Single Order Maximum Notional Value Risk Limit or Single Order Maximum Quantity Risk Limit. As proposed, the Exchange would reject the incoming order that would have breached the applicable limit.

Proposed Rule 7.19(c)(3)(A) would set forth the Automated Breach Actions the Exchange would take if a designated Gross Credit Risk Limit is breached. The Exchange proposes to provide options of which Automated Breach Action the Exchange would be authorized to take if a Gross Credit Risk Limit is breached. Such Automated Breach Actions would be taken at the MPID or sub-ID level that is associated with the designated Gross Credit Risk Limit. As proposed, when setting Gross Credit Risk Limits, the Entering Firm or Clearing Firm setting the limit would be required to indicate one of the following actions that the Exchange would take if such limit is breached:

- ''Notification Only.'' As set forth in proposed Rule 7.19(c)(3)(A)(i), if this option is selected, the Exchange would continue to accept new orders and order instructions and would not cancel any unexecuted orders in the Exchange Book. Proposed Rule 7.19(b)(4), described above, sets forth the notifications that would be provided to an Entering Firm, and if designated, a Clearing Firm regarding the Pre-Trade Risk Controls that have been set. With the ''Notification Only'' action, the Exchange would provide such notifications, but would not take any other automated actions with respect to new or unexecuted orders.
- ''Block Only.'' As set forth in proposed Rule 7.19(c)(3)(A)(ii), if this option is selected, the Exchange would reject new orders and order instructions but would not cancel any unexecuted orders in the Exchange Book. The Exchange would continue to accept instructions from the Entering Firm to cancel one or more orders in full (including Auction-Only Orders) or any instructions specified in proposed Rule 7.19(e) (described below), but would not take any automated action to cancel orders.
- ''Cancel and Block.'' As set forth in proposed Rule 7.19(c)(3)(A)(iii), if this option is selected, in addition to the Block actions described above, the Exchange would also cancel all unexecuted orders in the Exchange Book other than Auction-Only Orders.

If an Entering Firm and its Clearing Firm each set different limits for a Gross Credit Risk Limit for the Entering Firm's activities on the Exchange, proposed Rule 7.19(c)(3)(B) would provide that the Exchange would enforce the action that was chosen by the party that set the limit that was breached. For example, if a Clearing Firm sets a lower limit and designates the ''Cancel and Block'' Automated Breach Action, if that limit is breached, the Exchange will implement that ''Cancel and Block'' action even if the Entering Firm designated a different Automated Breach Action.

Proposed Rule 7.19(c)(3)(C) would provide that if both the Entering Firm and Clearing Firm set the same Gross Credit Risk Limit and that limit is breached, the Exchange would enforce the most restrictive Automated Breach Action. As further proposed, for purposes of this Rule, the ''Cancel and Block'' action would be more restrictive than ''Block Only,'' which would be more restrictive than ''Notification Only.'' For example, if the Entering Firm selects the ''Block Only'' action for a Gross Credit Risk Limit and its Clearing Firm selects the ''Cancel and Block'' action for the same Gross Credit Risk Limit, if the limit is breached, the Exchange would take the ''Cancel and Block'' action for the Entering Firm's orders.

Proposed Rule 7.19(c)(4) would provide that if a Pre-Trade Risk Control set at the MPID level is breached, the Automated Breach Action specified at the MPID level would be applied to all sub-IDs associated with that MPID. For instance, if a Clearing Firm sets a Gross Credit Risk Limit for an MPID at $500 million and the Entering Firm sets Gross Credit Risk Limits for each of three sub-IDs associated with that MPID at $500 million each, if two of the sub-IDs reach a $250 million limit, which combined is the Gross Credit Risk Limit at the MPID level, the Automated Breach Action associated with the limit at the MPID level would be triggered and would apply also to the associated sub-IDs, even though none of the sub-IDs have breached their separate $500 million limits. This functionality ensures that an Entering Firm cannot effectively override a Pre-Trade Risk Control set at the MPID level by setting risk limits for each of the MPID's associated sub-IDs that cumulatively equal more than the MPID's total Gross Credit Risk Limit.

Proposed Rule 7.19(d) concerns how an Entering Firm's ability to enter orders and order instructions would be reinstated after a ''Block Only'' or ''Cancel and Block'' Automated Breach Action has been triggered. In such case, proposed Rule 7.19(d) provides that the Exchange would not reinstate the Entering Firm's ability to enter orders and order instructions on the Exchange (other than instructions to cancel one or more orders (including Auction-Only Orders) in full) without the consent of (1) the Entering Firm, and (2) the Clearing Firm, if the Entering Firm has designated that the Clearing Firm's consent is required. The Exchange

[8] Entering Firms may request that the Exchange create sub-IDs associated with their MPIDs.

proposes to include this functionality because the Clearing Firm bears the risk of any exposure of its correspondent Entering Firms.

Finally, proposed Rule 7.19(e) would set forth ''kill switch'' functionality, which would allow an Entering Firm or its designated Clearing Firm to direct the Exchange to take certain bulk Kill Switch Actions with respect to orders. In contrast to the Automated Breach Actions described above, which the Exchange would take automatically after the breach of a credit limit, the Exchange would not take any of the Kill Switch Actions without express direction from the Entering Firm or its designated Clearing Firm.

Specifically, Proposed Rule 7.19(e) would specify that an Entering Firm, or if authorized pursuant to proposed Rule 7.19(b)(2)(A), its Clearing Firm, could direct the Exchange to take one or more of the following actions with respect to orders at either an MPID, or if designated, sub-ID Level: (1) Cancel all Auction-Only Orders; (2) Cancel all unexecuted orders in the Exchange Book other than Auction-Only Orders; or (3) Block the entry of any new orders and order instructions, provided that the Exchange would continue to accept instructions from Entering Firms to cancel one or more orders (including Auction-Only Orders) in full, and later, reverse that block.

The Exchange proposes to provide these post-trade Kill Switch Actions in addition to the pre-trade Automated Breach Actions described above in order to give Entering Firms and their Clearing Firms more flexibility in setting risk controls. An Entering Firm that wants more control over when and which actions are taken with respect to its orders may choose to use these Kill Switch Actions instead of the ''Block'' or ''Cancel and Block'' Automated Breach Actions described above. For example, for an Entering Firm that selects the ''Notification Only'' Automated Breach Action, if it receives notification of a credit breach, it could choose to direct the Exchange to take a Kill Switch Action described in proposed Rule 7.19(e).

3. Proposed Rule Commentary

The Exchange proposes Commentary .01 to Rule 7.19 to specify that the Pre-Trade Risk Controls described in this Rule are meant to supplement, and not replace, the ETP Holder's own internal systems, monitoring and procedures related to risk management and are not designed for compliance with Rule 15c3–5 under the Act.[9] This proposed Commentary specifies that use of the Exchange's pre-trade risk controls would not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and SEC rules remains with the ETP Holder. The Exchange does not guarantee that these controls will be sufficiently comprehensive to meet all of an ETP Holder's needs, the controls are not designed to be the sole means of risk management, and using these controls will not necessarily meet an ETP Holder's obligations required by Exchange or federal rules (including, without limitation, the Rule 15c3–5).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] 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 mechanism 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.

Specifically, the Exchange believes that the proposed rule will remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed optional Pre-Trade Risk Controls would provide both Entering Firms, and if designated, Clearing Firms, with the ability to manage risk, while also providing an alert system that would help to ensure that such firms are aware of developing issues. In addition, the Pre-Trade Risk Controls would provide Clearing Firms, who have assumed certain risks of the Entering Firms, greater control and flexibility over setting risk tolerance and exposure on behalf of their correspondent Entering Firms. As such, the Exchange believes that the Pre-Trade Risk Controls would provide a means to address potentially market-impacting events, helping to ensure the proper functioning of the market.

In addition, the Exchange believes that the proposed rule change is designed to protect investors and the public interest because the Pre-Trade Risk Controls are a form of impact mitigation that will aid Entering Firms and Clearing Firms in minimizing their risk exposure and reduce the potential for disruptive, market-wide events. The Exchange understands that ETP Holders implement a number of different risk-based controls, including those required by Rule 15c3–5. The proposed controls will serve as an additional tool for Entering Firms and Clearing Firms to assist them in identifying any risk exposure. The Exchange believes the Pre-Trade Risk Controls will assist Entering Firms and Clearing Firms in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system.

Further, the Exchange believes that the proposed rule will foster cooperation and coordination with persons facilitating transactions in securities because the Exchange will provide alerts to Entering Firms and their Clearing Firms when the Entering Firm's trading reaches certain thresholds. As such, the Exchange will help Clearing Firms monitor the risk levels of their correspondent Entering Firms and provide tools for Clearing Firms, if designated, to take action.

The Exchange believes that proposed Commentary .01 to Rule 7.19 is designed to prevent fraudulent and manipulative acts and practices and promote just and equitable principles of trade because it provides clarity in Exchange rules that the proposed Pre-Trade Risk Controls are intended to supplement, and not replace, an ETP Holder's own internal systems, monitoring, and procedures related to compliance with Rule 15c3–5.

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's ETP Holders because use of the Pre-Trade Risk Controls is optional and is not a prerequisite for participation on the Exchange. In addition, because all orders on the Exchange would pass through the risk checks, there would be no difference in the latency experienced by ETP Holders who have opted to use the Pre-Trade Risk Controls versus those who have not opted to use them.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, the

[9] *See* 17 CFR 240.15c3–5.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

Exchange believes that the proposal will have a positive effect on competition because, by providing Entering Firms and their Clearing Firms additional means to monitor and control risk, the proposed rule will increase confidence in the proper functioning of the markets. The Exchange believes the proposed Pre-Trade Risk Controls will assist Entering Firms and Clearing Firms in managing their financial exposure which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. As a result, the level of competition should increase as public confidence in the markets is solidified.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2020–17 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–NYSENAT–2020–17. 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–NYSENAT–2020–17, and should be submitted on or before June 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–11136 Filed 5–22–20; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6).

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 11123]

U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy (ACPD) will hold a virtual public meeting from 12:00 p.m. until 1:30 p.m., Tuesday, June 23, 2020. The focus of the meeting will be Data Driven Public Diplomacy Six Years Later, based on a review of the 2014 report, ''Data-driven Public Diplomacy: Progress Towards Measuring the Impact of Public Diplomacy and International Broadcasting Activities'' (*https://www.state.gov/data-driven-public-diplomacy-progress-towards-measuring-the-impact-of-public-diplomacy-and-international-broadcasting-activities/*). The meeting will feature a panel of public diplomacy experts from the Department of State and the U.S. Agency for Global Media who will provide updates on the practice of using data to formulate public diplomacy programming.

This meeting is open to the public, including the media and members and staff of governmental and non-governmental organizations. To obtain the web conference link and password, please email ACPD Program Assistant Kristy Zamary at *ZamaryKK@state.gov.* Attendees should plan to enter the web conference waiting room by 11:50 a.m. to allow for a prompt start.

Since 1948, the ACPD has been charged with appraising activities intended to understand, inform, and influence foreign publics and to increase the understanding of, and support for, these same activities. The ACPD conducts research that provides honest assessments of public diplomacy efforts, and disseminates findings through white papers, reports, and other publications. It also holds public symposiums that generate informed discussions on public diplomacy issues and events. The Commission reports to the President, Secretary of State, and Congress. Currently, the Office of the Under Secretary of State for Public Diplomacy and Public Affairs supports it.

For more information on the U.S. Advisory Commission on Public Diplomacy, please contact the Commission's Executive Director, Vivian S. Walker, at *WalkerVS@state.gov* or Senior Advisor, Shawn Baxter, at *BaxterGS@state.gov* or please visit *https://www.state.gov/bureaus-offices/under-secretary-for-public-diplomacy-and-public-affairs/united-states-advisory-commission-on-public-diplomacy/.*

Kristina K. Zamary,

Department of State.

[FR Doc. 2020–11211 Filed 5–22–20; 8:45 am]

BILLING CODE 4710–45–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2020–0038]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on April 27, 2020, the City of San Clemente, California, (the City), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 222, Use of Locomotive Horns at Public Highway-Rail Grade Crossings. FRA assigned the petition Docket Number FRA–2020–0038.

Specifically, the City seeks relief from the requirements of 49 CFR 222.59(a)(1), to allow use of a Pedestrian Audible Warning System (PAWS), which is similar to a wayside horn, when approaching seven highway-rail grade crossings, instead of a locomotive horn. The City also requests a waiver of certain provisions found in appendix E to 49 CFR part 222, Paragraphs 4 and 6, to allow a minimum sound level of 80 dB(A) and direction of the PAWS. The seven crossings that are the subject of this waiver are:

- Dije Court—US DOT Number 922847D—MP 203.95—pedestrian—3 PAWS
- El Portal—US DOT Number 922848K—MP 204.04—pedestrian—2 PAWS
- Corto Lane—US DOT Number 026977D—MP 204.56—pedestrian—3 PAWS
- Pier Service Road—US DOT Number 026997P—MP 204.73—private—4 PAWS
- T Street—US DOT Number 922849S—MP 205.16—pedestrian—3 PAWS
- Lost Winds—US DOT Number 922850L—MP 205.56—pedestrian—2 PAWS
- Calafia—US DOT Number 026637S—MP 206.00—pedestrian—2 PAWS

On April 14, 2015, FRA granted the City regulatory relief from the requirements of § 222.59(a)(1), and part 222, appendix E, as described above. *See* Docket Number FRA–2014–0081. The current petition seeks a five-year extension of relief from these requirements, stating that during the initial waiver period, the PAWS have performed as intended to provide a localized audible warning to pedestrians, and there have been no accidents at any of the seven crossings.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by July 10, 2020 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2020–11142 Filed 5–22–20; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Competitive Research Funding Opportunity: FTA's Public Transportation Innovation Program

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Funding Opportunity (NOFO) And Solicitation of Project Proposals for Real-Time Transit Infrastructure and Rolling Stock Condition Assessment Demonstration Program.

SUMMARY: The Federal Transit Administration (FTA) announces the availability of $1.25 million in Fiscal Year (FY) 2016 Public Transportation Innovation Program funds to demonstrate and evaluate innovative technologies and designs to improve the state of good repair for transit agencies. Public transit is an essential and integral part of America's transportation infrastructure. When transit assets are not in a state of good repair, the consequences include increased safety risks, decreased system reliability, higher maintenance costs, and lower system performance. The Real-Time Transit Infrastructure and Rolling Stock Condition Assessment Demonstration Program supports the U.S. Department of Transportation's (DOT) Infrastructure strategic goal, and the strategic objective of life cycle and preventive maintenance to field asset management planning and innovative maintenance strategies to keep public transit assets in a state of good repair. This demonstration program will fund innovative

approaches to eliminate or mitigate known infrastructure deficiencies in public transportation via innovative technologies and designs.

FTA is seeking applications for demonstration projects that deploy cutting edge technologies to provide real-time condition assessment of transit infrastructure and rolling stock conditions. An eligible lead applicant under this notice must be an existing FTA grant recipient and eligible project partners and sub-recipients under this program may include, but are not limited to, providers of public transportation; State and local governmental entities; departments, agencies, and instrumentalities of the Government, including Federal laboratories; private or non-profit organizations; institutions of higher education; and technical and community colleges. This notice solicits competitive proposals addressing priorities established by FTA for these research areas, provides instructions for submitting proposals, and describes criteria FTA will use to identify meritorious proposals for funding, and the process to apply for funding. This announcement is also available on the FTA website at: *https://www.transit.dot.gov/grants.* A synopsis of this funding opportunity will be posted in the FIND module of the government-wide electronic grants website at *http://www.grants.gov.* The funding Opportunity ID is FTA–2020–013–TRI–TIR and the Catalog of Federal Domestic Assistance (CFDA) number FTA's Public Transportation Innovation Program, (49 U.S.C. 5312) is 20.530.

DATES: Complete proposals are due by 11:59 p.m. EDT on July 17, 2020. All proposals must be submitted electronically through the *Grants.gov* ''APPLY'' function. Prospective applicants should initiate the process by registering on the *Grants.gov* website promptly to ensure completion of the application process before the submission deadline. Instructions for applying can be found on FTA's website at *https://www.transit.dot.gov/grants* and in the ''FIND'' module of *Grants.gov.* Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: Please send any questions on this notice to *samuel.yimer@dot.gov* or contact Sam Yimer, Office of Research, Demonstration, and Innovation (TRI), (202) 366–1321. A TDD is available for individuals who are deaf or hard of hearing at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Table of Contents

A. Program Description

FTA's Public Transportation Innovation Program (49 U.S.C. 5312), authorizes FTA to fund research, development, demonstrations, and deployment projects to improve public transportation. The Real-Time Transit Infrastructure and Rolling Stock Condition Assessment Demonstration Program is a competitive demonstration opportunity under FTA's research emphasis area of infrastructure. This priority area supports the U.S. Department of Transportation's Infrastructure strategic goal, and the strategic objective of life cycle and preventive maintenance to field asset management planning and innovative maintenance strategies to keep public transit assets in a state of good repair. This demonstration program will fund innovative approaches to eliminate or mitigate known infrastructure deficiencies in public transportation via innovative technologies and designs.

Effective monitoring of transit infrastructure (elevated track, bridges, tunnels, transit right-of-way, etc.) and rolling stock is essential for efficient public transit operations and safety. Transit infrastructure inspection using state-of-the-art technologies, such as ''smart sensors,'' unmanned aerial vehicles, big data analytics and other technologies can automatically measure, record, and report in real-time detailed information regarding the condition of the infrastructures. These approaches benefit transit agencies' asset management activities by earlier identification of detects; tracking and monitoring deficiencies before they negatively impact transit operations; and optimizing resource allocation for preventative vs. critical maintenance.

The primary goal of this program is to enhance asset management of infrastructure and safety through innovative technologies. The specific objectives for the program are to:

- Explore advanced cutting-edge technologies that can provide real-time condition assessment of transit capital and facilities.
- Allow a more effective way for transit agencies to assess, detect, monitor and track deficiencies and defects related to infrastructure and rolling stock.
- Evaluate the cost-effectiveness and the practicality of proposed state-of-the art solutions.

All proposed demonstration projects must address the needs of transit agencies. To ensure this requirement is met, all applications should show how the project lead will partner with at least one transit agency. FTA will assess the strength of these partnerships in its evaluation of applications.

B. Federal Award Information

FTA's Public Transportation Program (49 U.S.C. 5312) authorizes FTA to make grants, or enter into contracts, cooperative agreements and other agreements for research, development, demonstration and deployment projects, and evaluation of research and technology of national significance to public transportation that the Secretary of Transportation determines will improve public transportation.

A total of $1.25 million in FY 2016 funds is available for award for demonstration projects under this notice. Successful proposals will be awarded as Cooperative Agreements. FTA intends to fund as many meritorious projects as possible. FTA recognizes that the funding available under this notice may be insufficient to fund all meritorious projects. So, FTA may, at its discretion, select an application for award of less than the originally-proposed amount if doing so is expected to result in a more advantageous portfolio of projects. Consequently, proposals should provide a detailed budget proposal for the fully-realized project as well as a reduced scope, and budget if the project can be scaled down and still achieve useful results. Applicants should specify and justify the minimum award amount

needed to achieve effective project results.

Only proposals from eligible recipients (see C.1) for eligible activities will be considered for funding. Funds made available under this program may be used to fund operating expenses and preventive maintenance directly associated with the demonstration of the proposed project, but may not be used to fund such expenses for equipment not essential to the project.

FTA may, at its discretion, provide additional funds for selections made under this announcement or for additional meritorious proposals, if additional funding is made available. FTA will announce final selections on its website (*www.transit.dot.gov*) and may also announce selections in the **Federal Register**.

FTA seeks projects that can be implemented/started within six months of project award, and contains a minimum of six months of data collection and evaluation effort. The maximum period of performance allowed for the work covered by the award should not exceed thirty-six (36) months from the date of award.

C. Eligibility Information

1. Eligible Applicants

To be eligible for funding under this notice, applicants must demonstrate that the proposed project is supported by a lead applicant in partnership with at least one transit agency, and one or more strategic partner(s) with a substantial interest and involvement in the project. Eligible lead applicants under this notice must be existing FTA grant recipients. An application must clearly identify the eligible lead applicant and all project partners on the team.

Eligible project partners and sub-recipients under this program may include, but are not limited to:

A. Public Transportation Systems;

B. Private for profit and not for profit organizations, including technology system suppliers and bus manufacturers;

C. Operators of transportation, such as employee shuttle services or airport connector services or university transportation systems;

D. State or local government entities; and,

E. Other organizations that may contribute to the success of the project team including consultants, research consortia or not-for-profit industry organizations, and institutions of higher education.

The lead applicant must have the ability to carry out the proposed agreement and procurements with team members in compliance with its respective State and local laws. FTA may determine that any named strategic partner in the proposal is a key party and make any award conditional upon the participation of that key party. A key party is essential to the project as approved by FTA and is therefore eligible for a noncompetitive award by the lead entity to provide the goods or services described in the application. A key party's participation on a selected project may not later be substituted without FTA's approval. For-profit companies may participate on teams; however, recipients and subrecipients of funding under this program may not charge a fee or profit from the FTA research program.

In instances where a provider(s) of public transportation is a partner and not the lead applicant, a detailed statement regarding the role of the provider(s) in the conduct of the project is required. Also required is a signed letter from the public transportation service provider's General Manager of his/her commitment to the project and the understanding of the agency's roles/responsibilities in the project.

2. Eligible Projects

Applicants may submit one proposal for each project but not one proposal containing multiple projects. Applicants can submit multiple proposals, but each eligible project proposal should focus on advanced cutting-edge technologies that can provide real-time condition assessment of transit infrastructures to effectively detect, monitor, and track deficiencies and defects of infrastructure and rolling stock.

Project proposals must include a research and/or synthesis phase, development phase and a demonstration phase. All phases are critical to project selection. Revenue-service, full-scale demonstrations are preferred where practicable. However, in cases where a full-scale demonstration would be impractical, detailed plans for non-revenue service or limited demonstration of the innovative technology or designs will be considered. Basic research or studies that do not result in any demonstration of the potential for commercialization or broad deployment within the scope of the project will not be considered for funding.

3. Cost Sharing or Matching

The federal share of project costs under this program is limited to eighty percent (80%). Applicants may seek a lower Federal contribution. The applicant must provide the local share of the net project cost in cash, or in-kind, and must document in its application the source of the local match. Regardless of minimum share requirements, cost sharing is an evaluation criterion and proposals with higher cost share than the minimum twenty percent (20%) share requirement will be considered more favorably. Cash and other high-quality match will be considered more favorably than in-kind cost matching, though all are acceptable. Eligible sources of local match are detailed in FTA Research Circular 6100.1E. (available at *https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/final-circulars*).

4. Other Requirements

a. Evaluation and Data Requirements

Projects funded under this announcement will be required to gather and share all relevant and required data with the FTA or its designated independent evaluator within appropriate and agreed-upon timelines, to support project evaluation. The Department may make available a secure data system to store data for evaluation or projects may suggest an appropriate third-party system where Departmental analysts can conduct their work, with FTA approval. Applicants should budget for the costs of data storage and sharing as appropriate.

In response to the White House Office of Science and Technology Policy memorandum dated February 22, 2013, entitled Increasing Access to the Results of Federally Funded Scientific Research, the Department is incorporating Public Access requirements into all funding awards (grants and cooperative agreements) for scientific research. All work conducted under the Real-Time Transit Infrastructure and Rolling Stock Condition Assessment Demonstration program must follow the Department data policies outlined in the DOT Public Access Plan at: *https://ntl.bts.gov/public-access/how-comply.* Recipients are required to include these obligations in any sub-awards or other related funding agreements.

The FTA expects Recipients to remove confidential business information (CBI) and Personally Identifiable Information (PII) before providing public access to project data. Recipients must ensure the appropriate data are accessible to the FTA and/or the public for a minimum of five years after the award period of performance expires.

Additionally, information submitted as part of or in support of this demonstration program-funded project shall make every attempt to use publicly

available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. FTA recognizes that certain partnerships may pose a challenge to data sharing and will work with each recipient to develop an appropriate Data Management Plan (DMP).

Recipients must make available to the Department copies of all work developed in performance of a project funded under this announcement, including but not limited to software and data. Data rights shall be in accordance with 2 CFR 200.315, Intangible property.

If the submission includes information the applicant considers to be trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI)''; (2) mark each affected page ''CBI''; and (3) highlight or otherwise denote the CBI portions. FTA protects such information from disclosure to the extent allowed under applicable law.

Project teams may be asked to participate in information exchange meetings, webinars, or outreach events to support FTA's goal of advancing the state of the practice. Project teams will be required to work with FTA to support knowledge transfer by participating in a relevant community of practice or similar activity. Applicants should allocate a portion of their budgets to support such work, which may include travel or presentations at key industry gatherings, such as conferences of the American Public Transportation Association (APTA), Transportation Research Board (TRB), and the Department, among others.

If FTA receives a Freedom of Information Act (FOIA) request for the information, FTA will follow the procedures described in the U.S. DOT FOIA regulations (49 CFR 7). Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA. Should FTA receive an order from a court of competent jurisdiction ordering the release of the information, FTA will provide applicant timely notice of such order to allow the applicant the opportunity to challenge such an order. FTA will not challenge a court order on behalf of applicant.

b. Participation in Information Exchange

The selected project teams may be asked to participate in state of good repair related information exchange meetings, conferences, webinars, or outreach events where project teams share information with the transit industry and stakeholders on the progress and results of their project activities.

D. Application and Submission Information

1. Address and Form of Application Submission

Project proposals must be submitted electronically through *Grants.gov* (*www.grants.gov*) by July 17, 2020. Mail and fax submissions will not be accepted. A complete proposal submission will consist of at least two files: (1) The SF 424 Mandatory form (downloaded from *Grants.gov*) and (2) the Applicant and Proposal Profile supplemental form for the ''Real-Time Transit Infrastructure and Rolling Stock Condition Assessment Demonstration Program'' (supplemental form) found on the FTA website at *https://www.transit.dot.gov/research-innovation.* The supplemental profile provides guidance and a consistent format for applicants to respond to the criteria outlined in this NOFO. Once completed, the supplemental profile must be placed in the attachments section of the SF 424 Mandatory form. Applicants must use the supplemental profile designated for the ''Real-Time Transit Infrastructure and Rolling Stock Condition Assessment Demonstration Program'' and attach it to their submission in *Grants.gov* to successfully complete the application process. A proposal submission may contain additional supporting documentation as attachments. Supporting documentation could include but is not limited to support letters, pictures, digitized drawings, and spreadsheets.

Within 48 hours after submitting an electronic application, the applicant should receive 3 email messages from *Grants.gov:* (1) Confirmation of successful transmission to *Grants.gov,* (2) confirmation of successful validation by *Grants.gov,* and (3) confirmation of successful validation by FTA. If confirmations of successful validation are not received and a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission. Complete instructions on the application process can be found at *https://www.transit.dot.gov/grants.* FTA strongly encourages applicants to submit their applications at least 72 hours prior to the due date to allow time to receive the validation messages and to correct any problems that may have caused a rejection notification. FTA will not accept submissions after the stated submission deadline for any reason. *Grants.gov* scheduled maintenance and outage times are announced on *Grants.gov.* Deadlines will not be extended due to scheduled maintenance or outages.

Applicants are encouraged to begin the process of registration at *Grants.gov* well in advance of the submission deadline. Instructions on the *Grants.gov* registration process are available at *Grants.gov.* Registration is a multi-step process, which may take 3 to 5 days, but could take as much as several weeks to complete before an application can be submitted if the applicant needs to obtain certain identifying numbers external to *Grants.gov* (for example, applying for an Employer Identification Number). Registered applicants may still be required to take steps to keep their registration up to date before submissions can be made successfully: (1) Registration in the System for Award Management (SAM) is renewed annually and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *Grants.gov* by the AOR to make submissions.

Applicants may submit one proposal for each project but not one proposal containing multiple projects. Information such as applicant name, Federal amount requested, local match amount, description of areas served, etc. may be requested in varying degrees of detail on both the SF 424 Form and Supplemental Form. Applicants must fill in all fields unless stated otherwise on the forms. Applicants should use both the ''CHECK PACKAGE FOR ERRORS'' and the ''VALIDATE FORM'' validation buttons on both forms to check all required fields on the forms, and ensure that the federal and local amounts specified are consistent. The information described in Sections ''E'' through ''H'' below MUST be included and/or addressed on the SF 424 Form and other supplemental forms for all requests for the ''Real-Time Transit Infrastructure and Rolling Stock Condition Assessment Demonstration Program'' funding.

2. Content and Form of Application Submission

At a minimum, every proposal must include an SF–424 form, with the

Applicant and a Proposal Profile supplemental form attached. The Applicant and Proposal Profile supplemental form for this Program can be found on the FTA website at *https://www.transit.dot.gov/research-innovation.*

Consistent with the Department's R.O.U.T.E.S. Initiative (*https://www.transportation.gov/rural*), the Department encourages applicants to describe how activities proposed in their application would address the unique challenges facing rural transportation networks, regardless of the geographic location of those activities.

All applicants are required to provide detailed information on the Applicant and Proposal Profile supplemental form, including:

(a) State the project title, the overall goals of the project, and describe the project scope, including anticipated deliverables.

(b) Discuss the current state of asset management practice, challenges and how the proposed project will address those needs.

(c) Details on whether the proposed demonstration is a new effort or a continuation of a prior research and the degree of expected improvement from the project over current asset management technologies and practices.

(d) Address each evaluation criterion separately, demonstrating how the project responds to each criterion as described in Section E.

(e) Provide a line-item budget for the total project with enough detail to indicate the various key components of the project. FTA may elect to fund only part of some project proposals; the budget should provide for the minimum amount necessary to fund specific project components of independent utility. If the project can be scaled, provide a scaling plan describing the minimum funding necessary for a feasible project and the impacts of a reduced funding level.

(f) Provide the Federal amount requested and document the matching funds, including amount and source of the match (may include local or private sector financial participation in the project). Provide support documentation, including financial statements, bond-ratings, and documents supporting the commitment of non-federal funding to the project, or a timeframe upon which those commitments would be made.

(g) A project time-line outlining steps from project implementation through completion, including significant milestones and the roles of the responsible team members.

(h) The proposed location(s) of the research and demonstration, the type of public transportation service where the technology or design modifications will be demonstrated.

(i) The technology(ies) and design modification to be used in this demonstration and explanation of the principle of operation for the public transportation service, type of transit vehicle (example: Bus, articulated bus, over-the-road bus, heavy rail, light rail, etc.), vehicle manufacturer and model. Including, the number of transit vehicles involved in the demonstration, if necessary. And, how the proposed technology and design modification will address the primary goal of this program to enhance asset management of infrastructure and safety through innovative technologies, and how it will meet the specific objectives for the program:

- Explore advanced cutting-edge technologies that can provide real-time condition assessment of transit capital and facilities;
- Allow a more effective way for transit agencies to assess, detect, monitor and track deficiencies and defects related to infrastructure and rolling stock.
- Evaluate the cost-effectiveness and the practicality of proposed state-of-the art solutions.

(j) A description of any exceptions or waivers to FTA requirements or policies necessary to successfully implement the proposed project. FTA is not inclined to grant deviations from its requirements, but may consider deviations if the applicant can show a compelling benefit. Example: Buy America requirement, Deferred Local Share, Letter of No prejudice, etc.

(k) Potential issues (technical or other) that may impact the success of the project.

(l) Address whether other Federal funds have been sought for the project.

(m) Provide Congressional district information for the project's place of performance.

3. Unique Entity Identifier and System for Award Management (SAM) Registration in Brief

Each applicant is required to: (i) Be registered in SAM before submitting its application; (ii) provide a valid unique entity identifier in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency. FTA may not make a Federal award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements and, if an applicant has not fully complied with the requirements by the time FTA is ready to make an award, FTA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making an award to another applicant.

Registration can take as little as 3–5 business days, but since there could be unexpected steps or delays (for example, if you need to obtain an EIN), FTA recommends allowing ample time for completion of all steps.

STEP 1: Obtain DUNS Number: Same day. If requested by phone (1–866–705–5711) DUNS is provided immediately. If your organization does not have one, you will need to go to the Dun & Bradstreet website at *http://fedgov.dnb.com/webform* to obtain the number.

STEP 2: Register with SAM: Three to five business days or up to two weeks. If you already have a TIN, your SAM registration will take 3–5 business days to process. If you are applying for an EIN please allow up to 2 weeks. Ensure that your organization is registered with the System for Award Management (SAM) at System for Award Management (SAM). If your organization is not, an authorizing official of your organization must register.

STEP 3: Username & Password: Same day. Complete your AOR (Authorized Organization Representative) profile on *Grants.gov* and create your username and password. You will need to use your organization's DUNS Number to complete this step. *https://apply07.grants.gov/apply/OrcRegister.*

STEP 4: AOR Authorization: Same day (depending on responsiveness of your E-Biz POC). The E-Business Point of Contact (E-Biz POC) at your organization must login to *Grants.gov* to confirm you as an Authorized Organization Representative (AOR). Please note that there can be more than one AOR for your organization. In some cases the E-Biz POC is also the AOR for an organization.

STEP 5: TRACK AOR STATUS: At any time, you can track your AOR status by logging in with your username and password. Login as an Applicant (enter your username & password you obtained in Step 3) under applicant profile.

4. Submission Dates and Times

Project proposals must be submitted electronically through *http://www.GRANTS.GOV* by 11:59 p.m. EDT on July 17, 2020.

5. Funding Restrictions

Funds under this NOFO cannot be used to reimburse projects for otherwise eligible expenses incurred prior to FTA award of a Grant Agreement or Cooperative Agreement unless FTA has issued a ''Letter of No Prejudice'' for the project before the expenses are incurred.

This program is a research and development effort and as such FTA Circular 6100.1E rules will apply in administering the program (available at *https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/final-circulars*).

E. Application Review Information

1. Evaluation Criteria

Projects will be evaluated by FTA according to the following six evaluation criteria described in this section. Each applicant is encouraged to demonstrate the responsiveness of a project to all the criteria shown below with the most relevant information that the applicant can provide.

Consistent with the Department's R.O.U.T.E.S. Initiative *https://www.transportation.gov/rural*), the Department recognizes that rural transportation networks face unique challenges. To the extent that those challenges are reflected in the merit criteria listed in this section, the Department will consider how the activities proposed in the application will address those challenges, regardless of the geographic location of those activities. FTA will assess the extent to which a proposal addresses the following criteria:

(A) Project Innovation and Impact

(i) Effectiveness of the project in achieving and demonstrating the specific objectives of this program.

(ii) Demonstration of benefits in addressing the needs of the transit agency and industry and impacts to infrastructure and rolling stock investments.

(iii) Degree of technological improvement over current and existing technologies applicable to the state of good repair in the transit industry.

(B) Project Approach

(i) Quality of the project approach, including interface design, existing partnerships and collaboration strategies in meeting the objectives of the program.

(ii) Proposal is realistic in its approach to fulfill the milestones/deliverables, schedule and goals.

(iii) Proposal clearly establishes a research phase, a development phase and a demonstration phase.

(C) National Applicability

(i) Degree to which the project could be replicated by other transit agencies regionally or nationally.

(ii) Ability to evaluate technologies and designs in a wide variety of conditions and locales.

(iii) Degree to which the technology, designs and/or practices can be replicated by other rail modes and/or transportation modes.

(D) Commercialization and/or Knowledge Transfer Plan

(i) Demonstrates an effective, timely, and realistic plan for moving the results of the project into the transit marketplace through conferences, webinars, publications, site visits, tec.

(ii) How the project team plans to work with the industry on improving best practices, guidance and/or standards, if applicable.

(iii) Demonstrate a clear understanding and robust approach to data collection and management.

(E) Return on Investment

(i) Cost-effectiveness of the proposed project.

(ii) Anticipated measurable safety benefits and/or potential impact on industry guidance and standards.

(iii) The anticipated intangible benefits, such as making public transportation service more appealing to potential passengers, providing educational opportunities, or reducing negative externalities such as traffic congestion or others.

(F) Team Capacity and Commitment

(i) The level of local match (minimum of 20%) and the quality of cost share by project partners (in-kind or cash).

(ii) Availability of existing resources (physical facilities, human resources, partnerships) to carry out the project.

(iii) Demonstrated capacity and experience of the partners to carry out the demonstration project of similar size and/or scope.

2. Review and Selection Process

A technical evaluation panel comprised of FTA staff and possibly other DOT staff will review project proposals against the evaluation criteria listed above. Members of the technical evaluation panel reserve the right to evaluate proposals they receive and seek clarification from any applicant about any ambiguous statement in the proposal. FTA may also request additional documentation or information to be considered during the evaluation process. After thorough evaluation of all valid proposals, the technical evaluation panel will provide project recommendations to the FTA Administrator. The FTA Administrator will determine the final list of project selections, and the amount of funding for each project. Geographic diversity, diversity of project type, and the applicant's receipt of other Federal funding may be considered in FTA's award decisions.

Prior to making an award, FTA is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently FAPIIS) (see 41 U.S.C. 2313). An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM. FTA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in § 200.205 Federal awarding agency review of risk posed by applicants.

F. Federal Award Administration Information

FTA intends to fund multiple meritorious projects to support executing eligible project activities. To enhance the value of the portfolio of research and demonstration projects to be implemented, FTA reserves the right to request an adjustment of the project scope and budget of any proposal selected for funding. Such adjustments shall not constitute a material alteration of any aspect of the proposal that influenced the proposal evaluation or decision to fund the project. FTA also reserves the right to terminate and re-compete a project(s) awarded under this notice when a project sponsor(s) fail to meet the requirements set forth under this notice.

1. Federal Award Notice

Subsequent to announcement by FTA of the final project selections, FTA may publish a list of the selected projects, including Federal dollar amounts and recipients, on its public website.

2. Administrative and National Policy Requirements

a. Pre-Award Authority

FTA will issue specific guidance to recipients regarding pre-award authority at the time of selection. FTA does not provide pre-award authority for competitive funds until projects are selected and even then, Federal requirements must be met before costs are incurred. Preparation of proposals is not an eligible pre-award expense.

b. Grant Requirements

Successful proposals will be awarded through FTA's Transit Award Management System (TrAMS) as Cooperative Agreements.

c. Planning

The FTA encourages applicants to engage the appropriate State Departments of Transportation, Regional Transportation Planning Organizations, or Metropolitan Planning Organizations in areas likely to be served by the project funds made available under this program.

d. Standard Assurances

The applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA grant. The applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant if it does not have current certifications on file.

e. Buy America

FTA requires that all capital procurements meet FTA's Buy America requirements per 49 U.S.C. 5323(j), which require that all iron, steel, or manufactured products be produced in the United States. Federal public transportation law provides for a phased increase in the domestic content for rolling stock between FY 2016 and FY 2020. For FY 2020 and beyond, the cost of components and subcomponents produced in the United States must be more than 70 percent of the cost of all components. There is no change to the requirement that final assembly of rolling stock must occur in the United States. FTA issued guidance on the implementation of the phased increase in domestic content on September 1, 2016 (81 FR 60278). Applicants should read the policy guidance carefully to determine the applicable domestic content requirement for their project. Any proposal that will require a waiver must identify in the application the items for which a waiver will be sought. Applicants should not proceed with the expectation that waivers will be granted. Consistent with Executive Order 13858 Strengthening Buy-American Preferences for Infrastructure Projects, signed by President Trump on January 31, 2019, applicants should maximize the use of goods, products, and materials produced in the United States, in Federal procurements and through the terms and conditions of Federal financial assistance awards. Additional information on Buy America requirements can be found at *https://www.transit.dot.gov/buyamerica.*

f. Reporting

Post-award reporting requirements include submission of Federal Financial Reports and Milestone Reports in FTA's electronic grants management system on a quarterly basis for all projects.

G. Federal Awarding Agency Contacts

For further information concerning this notice please contact the FTA Real-Time Transit Infrastructure and Rolling Stock Condition Assessment Demonstration Program Manager Sam Yimer at *samuel.yimer@dot.gov* or 202–366–1321. A TDD is available for individuals who are deaf or hard of hearing at 1–800–877–8339.

Issued in Washington, DC.

K. Jane Williams,

Acting Administrator.

[FR Doc. 2020–11129 Filed 5–22–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FY 2020 Competitive Funding Opportunity: Public Transportation on Indian Reservations Program; Tribal Transit Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Funding Opportunity (NOFO).

SUMMARY: The Federal Transit Administration (FTA) announces the availability of approximately $5 million in funding, for the Public Transportation on Indian Reservations Program (Tribal Transit Program). This notice is a national solicitation for project proposals and includes the selection criteria and program eligibility information for Fiscal Year (FY) 2020 projects. FTA may fund the program for more or less than the full year appropriation, and may include other funding if available from prior fiscal years toward project proposals received in response to this Notice of Funding Opportunity (NOFO). This announcement is available on the FTA website at: *http://www.transit.dot.gov.* Additionally, a synopsis of the funding opportunity, FTA–2020–007–TR, will be posted in the FIND module of *GRANTS.GOV* at *http://www.grants.gov.* The program is located in the Catalog of Federal Domestic Assistance under 20.509.

DATES: Complete proposals for the Tribal Transit Program announced in this Notice must be submitted by 11:59 p.m. Eastern time on August 24, 2020. All proposals must be submitted electronically through the *GRANTS.GOV* APPLY function. Any applicant intending to apply should initiate the process of registering on the *GRANTS.GOV* site immediately to ensure completion of registration before the submission deadline. Instructions for applying can be found on FTA's website at *http://www.transit.dot.gov* and in the FIND module of *GRANTS.GOV*. Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: Contact the appropriate FTA Regional Office at *http://www.transit.dot.gov* for proposal-specific information and issues. For general program information, contact Amy Fong, Office of Program Management, (202) 366–0876, email: *amy.fong@dot.gov* A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION:

Table of Contents

A. Program Description

The Tribal Transit Program is authorized by Federal public transit law at 49 U.S.C. 5311(c)(1)(A). The program authorizes grants ''under such terms and

conditions as may be established by the Secretary'' to Indian tribes for any purpose eligible under FTA's Formula Grants for Rural Areas Program, 49 U.S.C. 5311. Tribes may apply for this funding directly.

The primary purpose of these competitively selected grants is to support planning, capital, and, in limited circumstances, operating assistance for tribal public transit services. Funds distributed to Indian tribes under the Tribal Transit Program do not replace or reduce funds that Indian tribes receive from States through FTA's Formula Grants for Rural Areas Program. Specific project eligibility under this competitive allocation is described in Section C of this notice.

B. Federal Award Information

Five million dollars is authorized for the Tribal Transit Program competitive allocation in FY 2020 to projects selected pursuant to the process described in the following sections. Federal awards under this competitive program will be in the form of grants. Additionally, there is a $25,000 cap on planning grant awards, and FTA has the discretion to cap capital and operating awards.

C. Eligibility Information

1. Eligible Applicants

Eligible applicants include federally recognized Indian tribes or Alaska Native villages, groups, or communities as identified by the U.S. Department of the Interior (DOI) Bureau of Indian Affairs (BIA). As evidence of Federal recognition, an Indian tribe may submit a copy of the most up-to-date **Federal Register** notice published by BIA: Entities Recognized and Eligible to Receive Service from the United States Bureau of Indian Affairs. To be an eligible recipient, an Indian tribe must have the requisite legal, financial, and technical capabilities to receive and administer Federal funds under this program. Additionally, applicants must be located and provide service in a rural area with a population of 50,000 or less. A service area can include some portions of urban areas, as long as the tribal transit service begins in and serves rural areas. An applicant must be registered in the System for Award Management (SAM) database and maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by FTA.

2. Cost Sharing or Matching

There is a 90 percent Federal share for projects selected under the Tribal Transit Program competitive program, unless the Indian tribe can demonstrate a financial hardship in its application. FTA is interested in the Indian tribe's financial commitment to the proposed project; thus, the proposal should include a description of the Indian tribe's financial commitment. Tribes may use any eligible local match under Chapter 53.

3. Eligible Projects

Eligible projects include public transportation planning and capital expenses. Operating projects are eligible in limited circumstances. In FY 2020, FTA will only consider operating assistance requests from tribes without existing transit service, or those tribes who received a Tribal Transit Program formula allocation of less than $20,000 in FY 2019.

Public transportation includes regular, continuing shared-ride surface transportation services open to the public or open to a segment of the public defined by age, disability, or low income. FTA will award grants to eligible Indian tribes located in rural areas. Applicants must submit one proposal for each project. Specific types of projects include: Capital projects for start-ups, replacement, or expansion needs; operating assistance for start-ups; and planning projects up to $25,000. Indian tribes applying for capital replacement or expansion needs must demonstrate a sustainable source of operating funds for existing or expanded services.

D. Application and Submission Information

1. Address To Request Application Package

A complete proposal submission will consist of at least two files: (1) The SF–424 Mandatory form (downloaded from *GRANTS.GOV*); and (2) the Tribal Transit supplemental form found on the FTA website at *http://www.transit.dot.gov.* The Tribal Transit supplemental form provides guidance and a consistent format for applicants to respond to the criteria outlined in this NOFO.

2. Content and Form of Application Submission

A strong transportation network is critical to the functioning and growth of the American economy. The nation's industry depends on the transportation network to move the goods that it produces, and facilitate the movements of the workers who are responsible for that production. When the nation's highways, railways, and ports function well, that infrastructure connects people to jobs, increases the efficiency of delivering goods and thereby cuts the costs of doing business, reduces the burden of commuting, and improves overall well-being.

Rural transportation networks play a vital role in supporting our national economic vitality. Addressing the deteriorating conditions and disproportionately high fatality rates on our rural transportation infrastructure is of critical interest to the Department, as rural transportation networks face unique challenges in safety, infrastructure condition, and passenger and freight usage. Consistent with the R.O.U.T.E.S. Initiative, the Department encourages applicants to consider how the project will address the challenges faced by rural areas.

(i) Proposal Submission

The supplemental form and any supporting documents must be attached to the ''Attachments'' section of the SF–424. The application must include responses to all sections of the SF–424 Application for Federal Assistance and the supplemental form, unless indicated as optional. The information on the supplemental form will be used to determine applicant and project eligibility for the program, and to evaluate the proposal against the selection criteria described in part E of this notice.

FTA will only accept one supplemental form per SF–424 submission. Applicants may attach additional supporting information to the SF–424 submission, including but not limited to letters of support, project budgets, fleet status reports, or excerpts from relevant planning documents. Supporting documentation must be described and referenced by file name in the appropriate response section of the supplemental form, or it may not be reviewed.

Information such as applicant name, Federal amount requested, local match amount, description of areas served, etc. may be requested in varying degrees of detail on both the SF–424 and Supplemental Form. Applicants must fill in all fields unless stated otherwise on the forms. Applicants should not place N/A or ''refer to attachment'' in lieu of typing in responses in the field sections. If information is copied into the supplemental form from another source, applicants should verify that pasted text is fully captured on the supplemental form and has not been truncated by the character limits built

into the form. Applicants should use both the ''Check Package for Errors'' and the ''Validate Form'' validation buttons on both forms to check all required fields on the forms, and ensure that the Federal and local amounts specified are consistent.

Complete instructions on the application process can be found at *http://www.transit.dot.gov.* Important: FTA urges applicants to submit their project proposals at least 72 hours prior to the due date to allow time to receive the validation message and to correct any problems that may have caused a rejection notification. FTA will not accept submissions after the stated submission deadline. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* website at *http://www.GRANTS.GOV.* The deadline will not be extended due to scheduled maintenance or outages.

Applicants are encouraged to begin the process of registration on the *GRANTS.GOV* site well in advance of the submission deadline. Registration is a multi-step process which may take several weeks to complete before an application can be submitted. Registered applicants may still be required to take steps to keep their registration up to date before submissions can be made successfully: (1) Registration in the SAM is renewed annually; and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submissions. Applicants must submit one proposal for each project.

Information such as applicant name, Federal amount requested, description of areas served, and other information may be requested in varying degrees of detail on both the SF 424 form and supplemental form. Applicants must fill in all fields unless stated otherwise on the forms. Applicants should use both the ''Check Package for Errors'' and the ''Validate Form'' validation buttons on both forms to check all required fields on the forms, and ensure that the Federal and local amounts specified are consistent.

(ii) Application Content

The SF–424 Mandatory Form and the Supplemental Form will prompt applicants for the required information, including:

a. Name of federally recognized tribe and, if appropriate, the specific tribal agency submitting the application.

b. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number if available.

c. Contact information including: Contact name, title, address, phone number, and email address.

d. Description of public transportation services, including areas currently served by the tribe, if any.

e. Name of person(s) authorized to apply on applicant's behalf must accompany the proposal (attach a signed transmittal letter).

f. *Complete Project Description:* Indicate the category for which funding is requested (*i.e.,* project type: capital, operating, or planning), and then indicate the project purpose (*i.e.,* start-up, expansion, or replacement). Describe the proposed project and what it will accomplish (*e.g.,* number and type of vehicles, routes, service area, schedules, type of services, fixed route or demand responsive, safety aspects), route miles (if fixed route), ridership numbers expected (actual if an existing system, estimated if a new system), major origins and destinations, population served, and whether the tribe provides the service directly or contracts for services, and note vehicle maintenance plans.

g. *Project Timeline:* Include significant milestones such as date of contract for purchase of vehicles, actual or expected delivery date of vehicles; facility project phases (*e.g.,* environmental reviews, design, construction); or dates for completion of planning studies. If applying for operational funding for new services, indicate the period of time that funds would be used to operate the system (*e.g.,* one year). This section should also include any needed timelines for tribal council project approvals, if applicable.

h. *Budget:* Provide a detailed budget for each proposed purpose, noting the Federal amount requested and any additional funds that will be used. An Indian tribe may use up to fifteen percent of a grant award for capital projects for specific project-related planning and administration, and the indirect cost rate may not exceed ten percent (if necessary, add as an attachment) of the total amount requested/awarded. Indian tribes must also provide their annual operating budget as an attachment or under the *Financial Commitment and Operating Capacity* section of the supplemental form.

i. *Technical, Legal, Financial Capacity:* Applicants must be able to demonstrate adequate technical, legal, and financial capacity to be considered for funding. Every proposal MUST describe this capacity to implement the proposed project.

1. *Technical Capacity:* Provide examples of management of other Federal projects, including previously funded FTA projects and/or similar types of projects for which funding is being requested. Describe the resources available to implement the proposed transit project.

2. *Legal Capacity:* Provide documentation or other evidence to demonstrate status as a federally recognized Indian tribe. Further, demonstrate evidence of an authorized representative with authority to bind the applicant and execute legal agreements with FTA. If applying for capital or operating funds, identify whether appropriate Federal or State operating authority exists.

3. *Financial Capacity:* Provide documentation or other evidence demonstrating current adequate financial systems to receive and manage a Federal grant. Fully describe: (1) All financial systems and controls; (2) other sources of funds currently managed; and (3) the long-term financial capacity to maintain the proposed or existing transit services.

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant is required to: (1) Be registered in SAM before submitting an application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by FTA. These requirements do not apply if the applicant: (1) Is an individual; (2) is excepted from the requirements under 2 CFR 25.110(b) or (c); or (3) has an exception approved by FTA under 2 CFR 25.110(d). FTA may not make an award until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time FTA is ready to make an award, FTA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making a Federal award to another applicant. SAM registration takes approximately 3–5 business days, but FTA recommends allowing ample time, up to several weeks, for completion of all steps. For additional information on obtaining a unique entity identifier, please visit *www.sam.gov.*

4. Submission Dates and Times

Project proposals must be submitted electronically through *GRANTS.GOV* by 11:59 p.m. Eastern time on August 24, 2020. Mail and fax submissions will not be accepted. Proposals submitted after

the deadline will not be considered under any circumstance. Applications are time and date stamped by *GRANTS.GOV* upon successful submission.

5. Funding Restrictions

Funds must be used only for the specific purposes requested in the application. Funds under this NOFO cannot be used to reimburse projects for otherwise eligible expenses incurred prior to an FTA award under this program. At the time the project selections are announced, FTA will extend pre-award authority for the selected projects. There is no blanket pre-award authority for these projects before announcement. FTA does not provide pre-award authority for competitive funds until projects are selected and even then, there are Federal requirements that must be met before costs are incurred. For more information about FTA's policy on pre-award authority, please see the FY 2019 Apportionment Notice published on July 3, 2019. *https://www.govinfo.gov/content/pkg/FR-2019-07-03/pdf/2019-14248.pdf.*

E. Application Review Information

1. Selection Criteria

FTA will use the following primary selection criteria when evaluating competing capital and operating assistance projects eligible under this program. Applications will be evaluated based on the quality and extent to which the following evaluation criteria are addressed. Consistent with the Department's R.O.U.T.E.S. Initiative (*https://www.transportation.gov/rural*), the Department recognizes that rural transportation networks face unique challenges. To the extent that those challenges are reflected in the merit criteria listed in the section above, the Department will consider how the activities proposed in the application will address those challenges, regardless of the geographic location of those activities.

(i.) Planning and Local/Regional Prioritization

Applications will be evaluated based on the degree to which the applicant: (1) Describes how the proposed project was developed; (2) demonstrates that a sound basis for the project exists; and (3) demonstrates that the applicant is ready to implement the project if funded. Information may vary depending upon how the planning process for the project was conducted and what is being requested. Planning and local/regional prioritization should:

a. Describe the planning document and/or the planning process conducted to identify the proposed project;

b. Provide a detailed project description, including the proposed service, vehicle and facility needs, and other pertinent characteristics of the proposed or existing service implementation;

c. Identify existing transportation services in and near the proposed service area, and document in detail whether the proposed project will provide opportunities to coordinate service with existing transit services, including human service agencies, intercity bus services, or other public transit providers;

d. Discuss the level of support by the community and/or tribal government for the proposed project;

e. Describe how the mobility and client-access needs of tribal human services agencies were considered in the planning process;

f. Describe what opportunities for public participation were provided in the planning process and how the proposed transit service or existing service has been coordinated with transportation provided for the clients of human services agencies, with intercity bus transportation in the area, or with any other rural public transit providers;

g. Describe how the proposed service complements rather than duplicates any currently available services;

h. Describe the implementation schedule for the proposed project, including time period, staffing, and procurement; and

i. Describe any other planning or coordination efforts not mentioned above.

(ii.) Project Readiness

Applications will be evaluated on the degree to which the applicant describes readiness to implement the project. The project readiness factor involves assessing whether:

a. The project is a Categorical Exclusion or the required environmental work has been initiated or completed, for construction projects requiring an Environmental Assessment or Environmental Impact Statement under, among others, the National Environmental Policy Act of 1969, as Amended;

b. Project implementation plans are complete, including initial design of facilities projects;

c. Project funds can be obligated and the project can be implemented quickly, if selected; and

d. The applicant demonstrates the ability to carry out the proposed project successfully.

(iii.) Demonstration of Need

Applications will be evaluated based on the degree to which the applicant identifies the need for transit resources. In addition to project-specific criteria, FTA will consider the project's impact on service delivery and whether the project represents a one-time or periodic need that cannot reasonably be funded from FTA program formula allocations or State and/or local resources. FTA will evaluate how the proposal demonstrates the transit needs of the Indian tribe as well as how the proposed transit improvements or the new service will address identified transit needs. Proposals should include information such as destinations and services not currently accessible by transit; needs for access to jobs or health care; safety enhancements; special needs of elders or individuals with disabilities; behavioral health care needs of youth; income-based community needs; or other mobility needs. If an applicant received a planning grant in previous fiscal years, the proposal should indicate the status of the planning study and how the proposed project relates to that study.

Applicants applying for capital expansion or replacement projects should also address the following factors in their proposal. If the proposal is for capital funding associated with an expansion or expanded service, the applicant should describe how current or growing demand for the service necessitates the expansion (and therefore, more capital) and/or the degree to how the project is addressing a current capacity constraint. Capital replacement projects should include information about the age, condition, and performance of the asset to be replaced by the proposed project and/or how the replacement may be necessary to maintain the transit system in a state of good repair.

(iv.) Demonstration of Benefits

Applications will be evaluated based on the degree to which the applicant identifies expected or, in the case of existing service, achieved project benefits. FTA is particularly interested in how these investments will improve the quality of life for the tribe and surrounding communities in which it is located. Applicants should describe how the transportation service or capital investment will provide greater access to employment opportunities, educational centers, healthcare, or other needs that impact the quality of life for

the community, as described in the program purpose above. Possible examples include: Increased or sustained ridership and daily trips; improved service; elimination of gaps in service; improved operations and coordination; increased reliability; and health care, education, and economic benefits to the community. Benefits can be demonstrated by identifying the population of tribal members and non-tribal members in the proposed project service area and estimating the number of daily one-way trips the proposed transit service will provide or the actual number of individual riders served. Applicants are encouraged to consider qualitative and quantitative benefits to the Indian tribe and to the surrounding communities that are meaningful to them.

Using the information provided under this criterion, FTA will rate proposals based on the quality and extent to which they discuss the following four factors:

a. The project's ability to improve transit efficiency or increase ridership;

b. Whether the project will improve or maintain mobility, or eliminate gaps in service for the Indian tribe;

c. Whether the project will improve or maintain access to important destinations and services;

d. Any other qualitative benefits, such as greater access to jobs, education, and health care services.

(v.) Financial Commitment and Operating Capacity

Applications must identify the source of local match (a minimum of 10 percent is required for all operating and capital projects), and any other funding sources used by the Indian tribe to support proposed transit services, including human service transportation funding, the Federal Highway Administration's Tribal Transportation Program funding, or other FTA programs. If requesting that FTA waive the local match based on financial hardship, the applicant must submit budgets and sources of other revenue to demonstrate hardship. FTA will review this information and notify a tribe at the time of award if the waiver is approved. If applicable, the applicant also should describe how prior year Tribal Transit Program funds were spent to date to support the service. Additionally, Indian tribes applying to operate new services should provide a sustainable funding plan that demonstrates how it intends to maintain operations.

In evaluating proposals, FTA will consider any other resources the Indian tribe will contribute to the project, including in-kind contributions, commitments of support from local businesses, donations of land or equipment, and human resources. The proposal should describe to what extent the new project or funding for existing service leverages other funding. Based upon the information provided, the proposals will be rated on the extent to which the proposal demonstrates that:

a. Tribal Transit Program funding does not replace existing funding;

b. The Indian tribe will provide non-financial support to the project;

c. The Indian tribe is able to demonstrate a sustainable funding plan; and

d. Project funds are used in coordination with other services for efficient utilization of funds.

(vi.) Evaluation Criteria for Planning Proposals

For planning grants, the proposal must describe the need for and a general scope of the proposed study. Applications will be evaluated based on the degree to which the applicant addresses the following:

a. The tribe's long-term commitment to transit; and

b. The method used to implement the proposed study and/or further tribal transit.

2. Review and Selection Process

An FTA technical evaluation committee will review proposals under the project evaluation criteria. Members of the technical evaluation committee and other involved FTA staff reserve the right to screen the applications, and seek clarification about any statement in an application. After consideration of the findings of the technical evaluation committee, the FTA Administrator will determine the final selection and amount of funding for each project. Geographic diversity, the amount of local share, and the applicant's receipt and management of other Federal transit funds may be considered in FTA's award decisions.

After applying the above preferences, the FTA Administrator will consider the following key Departmental objectives:

(A) Supporting economic vitality at the national and regional level;

(B) Utilizing alternative funding sources and innovative financing models to attract non-Federal sources of infrastructure investment;

(C) Accounting for the life-cycle costs of the project to promote the state of good repair;

(D) Using innovative approaches to improve safety and expedite project delivery; and

(E) Holding grant recipients accountable for their performance and achieving specific, measurable outcomes identified by grant applicants.

Prior to making an award, FTA is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information Systems accessible through SAM. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered.

F. Federal Award Administration Information

1. Federal Award Notice

FTA will publish a list of the selected projects, including Federal dollar amounts and award recipients, on FTA's website. Project recipients should contact their FTA Regional Offices and tribal liaison for information about setting up grants in FTA's Transit Award Management System (TrAMS).

2. Award Administration

Successful proposals will be awarded through FTA's TrAMS as grant agreements. The appropriate FTA Regional Office and tribal liaison will manage project agreements.

3. Administrative and National Policy Requirements

Except as otherwise provided in this NOFO, Tribal Transit Program grants are subject to the requirements of 49 U.S.C. 5311(c)(1) as described in the latest FTA Circular 9040 for the Formula Grants for Rural Areas Program.

4. Reporting

The post-award reporting requirements include submission of the Federal Financial Report (FFR) and Milestone Progress Report in TrAMS, and FTA's National Transit Database (NTD) reporting as appropriate (see FTA Circular 9040). Reports to TrAMS and NTD are due annually.

G. Federal Awarding Agency Contacts

For further information concerning this notice, please contact Amy Fong, Office of Program Management, (202) 366–0876, email: *amy.fong@dot.gov.* A TDD is available at 1–800–877–8339 (TDD/FIRS).

H. Other Information

This program is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' FTA will consider applications for funding only from eligible recipients for eligible projects listed in Section C of this Notice. Due to funding limitations, applicants that are selected for funding may receive less than the amount requested.

Additionally, to assist tribes with understanding requirements under the Tribal Transit Program, FTA has conducted Tribal Transit Technical Assistance Workshops and will continue those efforts in FY 2020. FTA has expanded its technical assistance to tribes receiving funds under this program. Through the Tribal Transit Technical Assistance Assessments Initiative, FTA collaborates with Tribal Transit Leaders to review processes and identify areas in need of improvement, and then assists to offer solutions to address these needs—all in a supportive and mutually beneficial manner that results in technical assistance. FTA has completed over fifty assessments to date and expects to conduct sixteen assessments in FY 2020. These assessments include discussions of compliance areas pursuant to the Master Agreement, a site visit, promising practices reviews, and technical assistance from FTA and its contractors. These workshops and assessments have received excellent feedback from Tribal Transit Leaders and provided FTA with invaluable opportunities to learn more about Tribal Transit Leaders' perspectives and better honor the sovereignty of tribal nations.

FTA will post information about upcoming workshops to its website and will disseminate information about the assessments through its regional offices. Contact information for FTA's regional offices can be found on FTA's website at *www.transit.dot.gov.*

Applicants may also receive technical assistance by contacting their FTA regional Tribal Liaison. A list of Tribal Liaisons is available on FTA's website at *www.transit.dot.gov.*

K. Jane Williams,

Acting Administrator.

[FR Doc. 2020–11128 Filed 5–22–20; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Bank Secrecy Act Reports by Financial Institutions of Suspicious Transactions at 31 CFR 1020.320, 1021.320, 1022.320, 1023.320, 1024.320, 1025.320, 1026.320, and 1029.320, and FinCEN Report 111—Suspicious Activity Report

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comments on the proposed renewal, without change, of currently approved information collections relating to reports of suspicious transactions. Under the Bank Secrecy Act regulations, financial institutions are required to report suspicious transactions using FinCEN Report 111 (the suspicious activity report, or SAR). Although no changes are proposed to the information collections themselves, this request for comments covers a proposed updated burden estimate for the information collections. This request for comments is made pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments are welcome, and must be received on or before July 27, 2020.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal E-rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Refer to Docket Number FINCEN–2020–0004 and the specific Office of Management and Budget (OMB) control numbers 1506–0001, 1506–0006, 1506–0015, 1506–0019, 1506–0029, 1506–0061, and 1506–0065.
- *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN–2020–0004 and OMB control numbers 1506–0001, 1506–0006, 1506–0015, 1506–0019, 1506–0029, 1506–0061, and 1506–0065.

Please submit comments by one method only. Comments will also be incorporated into FinCEN's review of existing regulations, as provided by Treasury's 2011 Plan for Retrospective Analysis of Existing Rules. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: The FinCEN Regulatory Support Section at 1–800–767–2825 or electronically at *frc@fincen.gov.*

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Provisions

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Financial Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) (Pub. L. 107–56) and other legislation. The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5332, and notes thereto, with implementing regulations at 31 CFR Chapter X.

The BSA authorizes the Secretary of the Treasury, *inter alia,* to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.[1] Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.[2]

Under 31 U.S.C. 5318(g), the Secretary of the Treasury is authorized to require financial institutions to report any suspicious transaction relevant to a possible violation of law or regulation. Regulations implementing 31 U.S.C. 5318(g) are found at 31 CFR 1020.320, 1021.320, 1022.320, 1023.320, 1024.320, 1025.320, 1026.320, 1029.320, and 1030.320. The information collected under these requirements are made available to appropriate agencies and organizations as disclosed in FinCEN's Privacy Act System of Records Notice relating to BSA Reports.[3]

II. Paperwork Reduction Act (PRA)[4]

Title: Reports by Financial Institutions of Suspicious Transactions (31 CFR 1020.320, 1021.320, 1022.320, 1023.320, 1024.320, 1025.320, 1026.320, and 1029.320).

OMB Control Numbers: 1506–0001, 1506–0006, 1506–0015, 1506–0019, 1506–0029, 1506–0061, and 1506–0065.[5]

[1] Section 358 of the USA PATRIOT Act added language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism.

[2] Treasury Order 180–01 (re-affirmed January 14, 2020).

[3] FinCEN's System of Records Notice for the BSA Reports System was most recently published at 79 FR 20969 (April 14, 2014).

[4] Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

[5] The SAR regulatory reporting requirements are currently covered under the following OMB control numbers: 1506–0001 (31 CFR 1020.320—Reports by banks of suspicious transactions); 1506–0006 (31 CFR 1021.320—Reports by casinos of suspicious transactions); 1506–0015 (31 CFR 1022.320—Reports by money services businesses of suspicious transactions); 1506–0019 (31 CFR 1023.320—Reports by brokers or dealers in securities of suspicious transactions, 31 CFR 1024.320—Reports

Report Number: FinCEN Report 111—Suspicious Activity Report (SAR).

Abstract: FinCEN is issuing this notice to renew the OMB control numbers for the SAR regulations and the SAR report.

Type of Review: Renewal without change of currently approved information collections.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

SAR Regulations

Estimated Burden: An administrative burden of one hour is assigned to each of the SAR regulation OMB control numbers in order to maintain the requirements in force.[6] The reporting and recordkeeping burden is reflected in FinCEN Report 111—SAR, under OMB control number 1506–0065. The rationale for assigning one burden hour to each of the SAR regulation OMB control numbers is that the annual burden hours would be double counted if FinCEN estimated burden in the industry SAR regulation OMB control numbers and in the FinCEN Report 111—SAR OMB control number.

FinCEN Report 111—SAR

Type of Review:

- Propose for review and comment a re-calculation of the portion of the PRA burden that has been subject to notice and comment in the past (the ''traditional annual PRA burden'').
- Propose for review and comment a method to estimate the portion of the PRA burden that FinCEN previously had not included (the ''supplemental annual PRA burden'').

Frequency: As required.

Estimated Number of Respondents: 12,148 financial institutions.[7]

Estimated Reporting and Recordkeeping Burden:

In this notice, FinCEN introduces two substantial modifications to the scope and the methodology we previously used to estimate the annual PRA burden associated with the SAR. First, with respect to the scope of the estimate, FinCEN's traditional annual PRA burden estimate associated with the SAR included only the filer's annual operational burden and cost associated with (a) producing and filing the report, and (b) storing a copy of the filed report. Starting with this notice, FinCEN intends to add a supplemental annual PRA burden estimate that reflects the annual costs involved in (a) determining whether alerts that were elevated for further review merit filing a SAR, and (b) documenting the decision not to file a SAR when a case does not merit it.[8] Second, with respect to the methodology underlying the PRA burden and cost estimates, rather than continuing to allocate a single PRA burden and cost to the completion, submission, and storage of any type of SAR, FinCEN proposes to estimate the individual PRA burden and cost of different categories of SARs, grouped by the SARs' estimated degree of complexity. Because there is no direct way to measure the complexity and related effort and cost of producing each SAR, FinCEN uses key features of SARs filed in 2019 to categorize them based on similar combinations of those key features, under the assumption that such combinations of key features reflect similar levels of effort and cost necessary to produce the SARs.

Part 1 below sets out the breakdown of the SARs filed during 2019 according to the key features that are used to group SARs into categories subject to similar PRA burden and cost. Part 1 also contains the analysis of how some combinations of key features worked or failed to work as proxies for a SAR's complexity and, therefore, burden and cost.

Part 2 uses the results of the analysis in Part 1 to estimate the individual and total annual PRA burden and cost of each category of SARs. The methodology described in Part 2 covers both the traditional and the supplemental annual PRA burden estimate.

Part 1. Breakdown of the 2019 SAR Filings

In 2019, 12,148 financial institutions (the ''filing population'') submitted 2,751,694 SARs (the 2019 SAR submissions).[9] The distribution of the 2019 SAR submissions, by type of filing (original or continuing),[10] type of financial institution,[11] number of reports per filer per year, and method of filing (batch or discrete),[12] is presented in Table 1 below:

by mutual funds of suspicious transactions, and 31 CFR 1026.320—Reports by futures commission merchants and introducing brokers in commodities of suspicious transactions); 1506–0029 (31 CFR 1025.320—Reports by insurance companies of suspicious transactions); and 1506–0061 (31 CFR 1029.320—Reports by loan or finance companies of suspicious transactions). The PRA does not apply to reports by one government entity to another government entity. For that reason, there is no OMB control number associated with 31 CFR 1030.320—Reports of suspicious transactions by housing government sponsored enterprises. OMB control number 1506–0065 applies to FinCEN Report 111—SAR.

[6] One hour of burden is estimated under each of the following OMB control numbers: 1506–0001, 1506–0006, 1506–0015, 1506–0019, 1506–0029, and 1506–0061.

[7] See Table 1 below for a breakdown of the types of financial institutions that filed SARs in 2019. Note that all banks, casinos and card clubs, money services businesses, brokers or dealers in securities, mutual funds, providers of covered insurance products, futures commission merchants and introducing brokers in commodities, loan or finance companies, and housing government sponsored enterprises are required to comply with the SAR regulatory requirements; however, not all financial institutions identify suspicious activity that would warrant a SAR filing. See 31 CFR 1020.320 (banks), 31 CFR 1021.320 (casinos and card clubs), 31 CFR 1022.320 (money services businesses), 31 CFR 1023.320 (brokers or dealers in securities), 31 CFR 1024.320 (mutual funds), 31 CFR 1025.320 (insurance companies), 31 CFR 1026.320 (futures commission merchants and introducing brokers in commodities), 31 CFR 1029.320 (loan or finance companies), and 31 CFR 1030.320 (housing government sponsored enterprises).

[8] Despite the expanded scope, FinCEN has not presented in this notice an estimate of the entire burden that is associated with SAR filings because, as described further in Part 2, FinCEN lacks the granular data to estimate the costs of certain steps in that process.

[9] Numbers are based on actual 2019 filings as reported to the BSA E-Filing System, as of 12/31/2019. Assumptions and estimates are also based on actual 2019 SAR filings.

[10] An original (or initial) report is the first SAR filed on suspicious activity no later than 30 days after the date of initial detection by the filer. (See *e.g.,* 31 CFR 1020.320(a)(3)). A continuing SAR must be filed on suspicious activity that continues after an initial SAR is filed. Continuing reports must be filed on successive 90-day review periods until the suspicious activity ceases, but may be filed more frequently if circumstances warrant. For more information on continuing reports, see page 142 of the FinCEN Suspicious Activity Report (FinCEN SAR) Electronic Filing Requirements—XML Schema 2.0. *https://bsaefiling.fincen.treas.gov/docs/XMLUserGuide_FinCENSAR.pdf.*

[11] In Table 1, the category ''Securities/Futures'' includes brokers or dealers in securities, mutual funds, futures commission merchants, and introducing brokers in commodities. The category ''Undetermined'' includes filers with missing, incomplete, or contradictory information about the type of financial institution to which they belong.

[12] In batch filing, a filer submits a single electronic file containing several reports. In discrete filing, the filer fills in an electronic report individually, using a data entry screen that FinCEN provides. While exceptions apply, batch filing is generally used by large-volume filers that have automated the filing process, while discrete filing is generally employed by filers that submit fewer reports per year and rely more on manual data entry methods.

Table 1 - Total 2019 SAR submissions, by type of financial institution, type of filing, and method of filing

Type of filer	Number of filers	Number of reports filed				Grand Total	PCT Total
		Original		Continuing			
		Batch-filed	Discrete-filed	Batch-filed	Discrete-filed		
Banks	4,936	1,055,416	147,941	257,519	36,097	**1,496,973**	54.4%
Credit Unions	3,235	120,096	16,834	56,944	7,982	**201,856**	7.3%
Casinos/Card Clubs	667	35,100	20,670	4,222	2,487	**62,479**	2.3%
Housing GSEs	12	2,142	1,214	8	5	**3,369**	0.1%
Insurance Companies	129	896	1,837	341	699	**3,773**	0.1%
Loan and Finance Companies	344	23,975	8,396	776	272	**33,419**	1.2%
Money Services Businesses (MSBs)	2,069	703,839	155,576	37,019	8,183	**904,617**	32.9%
Undetermined	169	6,011	883	831	122	**7,847**	0.3%
Securities/Futures	587	14,203	20,530	1,075	1,553	**37,361**	1.4%
Grand Total	**12,148**	**1,961,677**	**373,882**	**358,736**	**57,399**	**2,751,694**	**100.0%**

Table 1 shows that banks submitted slightly over half of the total number of SARs filed in 2019. Money services businesses (MSBs) and credit unions contributed 32.9% and 7.3% of the total, respectively. Approximately 85% of the filings from all financial institutions consisted of original reports. In addition, approximately 85% of the reports were batch filed.

To determine the concentration of 2019 SAR submissions among the filing population, FinCEN grouped filers in tranches according to the number of SARs filed during the year. Table 2 sets out the number of reports per tranche,[13] and Table 3 sets out (i) each tranche as a percentage of the total filer population, and (ii) each tranche's reports as a percentage of the 2019 SAR submissions.[14]

Table 2 - Total 2019 SAR submissions, by number of reports, by tranche and type of financial institution

Fin_inst_type	BANK		C_UNION		CASINO		LOAN_CO		MSB		OTHER	
Annual forms by tranche	Filers	Reports	Filers	Reports	Filers	Reports	Filers	Reports	Filers	Reports	Filers	Reports
00_LARGEST_FILERS	6	706,963							4	640,763		
01_10001_TO_35000	11	217,686	1	19,586			1	18,617	5	94,423		
02_5001_TO_10000	18	141,163							5	28,711	1	6,523
03_1001_TO_5000	98	207,985	28	45,039	6	9,316	4	6,820	27	62,585	10	23,559
04_501_TO_1000	90	63,333	43	29,722	24	16,765	2	1,418	36	24,274	7	4,603
05_101_TO_500	432	87,880	296	65,444	126	26,965	12	3,106	147	33,645	44	10,484
06_51_TO_100	381	26,760	237	17,142	52	3,725	18	1,279	107	7,697	30	2,087
07_21_TO_50	768	24,667	377	12,300	109	3,475	34	1,097	169	5,573	63	2,121
08_11_TO_20	695	10,353	396	5,854	76	1,124	25	370	201	2,995	83	1,195
09_6_TO_10	753	5,854	425	3,308	80	631	38	290	210	1,610	97	738
10_5_OR_FEWER	1,684	4,329	1,432	3,461	194	478	210	422	1,158	2,341	562	1,040
Grand Total	**4,936**	**1,496,973**	**3,235**	**201,856**	**667**	**62,479**	**344**	**33,419**	**2,069**	**904,617**	**897**	**52,350**

[13] The category ''Other'' in Table 2 includes securities and futures, housing government sponsored enterprises, providers of covered insurance products, and filers for which the type of financial institution was still being determined at the moment of publication of this notice, as defined above. We adopt the same criteria for the rest of the tables contained in the notice, such as in Tables 4A, 4B, and 5 below.

[14] The percentage of filers contained in each tranche, and the percentage of reports submitted by those filers, are contained in the fields ''pct_filers'' and ''pct_forms'', respectively. The cumulative percentage of filers contained in all tranches up to and including the current one, and the cumulative percentage of reports submitted by such filers, are shown in the fields ''cumm_pct_filers'' and ''cumm_pct_forms'', respectively.

Table 3 - Total 2019 SAR submissions, in percentage contribution by tranche

Annual forms by tranche	Total Filers	Total Forms	pct_filers	pct_forms	cumm_pct_filers	cumm_pct_forms
00_LARGEST_FILERS	10	1,347,726	0.08%	49.0%	0.1%	49.0%
01_10001_TO_35000	18	350,312	0.15%	12.7%	0.2%	61.7%
02_5001_TO_10000	24	176,397	0.20%	6.4%	0.4%	68.1%
03_1001_TO_5000	173	355,304	1.42%	12.9%	1.9%	81.0%
04_501_TO_1000	202	140,115	1.66%	5.1%	3.5%	86.1%
05_101_TO_500	1,057	227,524	8.70%	8.3%	12.2%	94.4%
06_51_TO_100	825	58,690	6.79%	2.1%	19.0%	96.5%
07_21_TO_50	1,520	49,233	12.51%	1.8%	31.5%	98.3%
08_11_TO_20	1,476	21,891	12.15%	0.8%	43.7%	99.1%
09_6_TO_10	1,603	12,431	13.20%	0.5%	56.9%	99.6%
10_5_OR_FEWER	5,240	12,071	43.13%	0.4%	100.0%	100.0%
Grand Total	**12,148**	**2,751,694**	**100.00%**	**100.0%**		

Ten filers (six banks and four MSBs) made up the first tranche (00_LARGEST FILERS). As set out in Table 3, these ten filers accounted for nearly half of the 2019 SAR submissions. Slightly less than 2% of the filing population (Tranches 00 to 03) submitted 81% of all the reports. Additionally, out of the filing population, 81% contributed slightly less than 4% of the filings, while 56% submitted fewer than 10 reports per year.

Unlike currency transaction reports, for example, which are more easily categorized because they are filed based on objective criteria (*i.e.,* transaction type and threshold), each SAR may require a widely disparate level of effort depending largely on the amount of research and subjective analysis required to determine: (a) Whether to file a report; (b) how to attribute the suspicious behavior to money laundering, financing of terrorism, or fraud typologies; (c) who the main persons involved in the activity are; and (d) how to explain in concise terms the rationale that led the filer to decide to file a SAR. As FinCEN has no direct way to gauge the amount of work involved in the production of each SAR, FinCEN broke down the 2019 SAR submissions by additional key features, so that, individually or in combination, these additional key features could serve as a proxy to group SARs with similar levels of estimated complexity, and therefore, with similar estimated PRA burden.

The additional key features in the SARs that FinCEN has concentrated its analysis on are: (a) The number of persons identified as subjects; (b) the number of distinct suspicious activities selected; [15] (c) the length of the narrative section; and (d) whether or not the report contains an attachment.[16] Once FinCEN identifies the combination of key features that are common to the largest number of reports submitted by a given type of filer (the ''standard content'' for that type of filer), FinCEN may take such combination as a proxy for the content and estimated complexity of a ''standard'' SAR for that filer type. Reports submitted by filers of the same type that contain different features (more subjects, more suspicious activities, a longer narrative) may represent SARs with ''extended content'' that are more complex, and therefore carry a larger PRA burden and cost for that filer type. Based on the data available, FinCEN is considering only two levels of SAR complexity.

Table 4A shows a breakdown of the 2019 SAR submissions by type of financial institution and narrative length. Table 4B shows the percentage of reports with and without attachments, by type of financial institution, and narrative length.

[15] FinCEN Report 111—SAR contains checkboxes that allow filers to identify a variety of suspicious activities, such as structuring, terrorist financing, fraud, money laundering, and a cyber-event. FinCEN Report 111—SAR has 18 categories of suspicious activities.

[16] Some filers attach a supplemental file to the report that in general contains a list of individual transactions that raised the alert about a potential suspicious transaction. The length of the narrative is sometimes impacted by whether the filer submits an attachment to the report listing these transactions, or uses the narrative section of the report to include such a list.

Table 4A - Total 2019 SAR submissions, by narrative length and type of financial institution

Narrative Length	Financial Institution Type						Grand Total
	BANK	C_UNION	CASINO	LOAN_CO	MSB	OTHER	
Up to half a page	31.5%	61.8%	81.1%	83.9%	56.0%	38.6%	**43.7%**
Up to one page	46.0%	28.3%	14.8%	14.1%	32.0%	42.1%	**38.9%**
Over one page	22.5%	9.9%	4.1%	2.0%	12.0%	19.4%	**17.4%**
Grand Total	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Table 4B - Total 2019 SAR submissions, by narrative length, attachments, and type of financial institution

Narrative Length	Financial Institution Type					
	BANK	C_UNION	CASINO	LOAN_CO	MSB	OTHER
Up to half a page						
*W/O Attachm	27.1%	42.4%	80.1%	80.2%	50.1%	30.1%
*With Attachm	4.4%	19.4%	1.0%	3.7%	6.0%	8.4%
Up to one page						
*W/O Attachm	35.8%	17.6%	14.5%	12.4%	28.0%	37.9%
*With Attachm	10.2%	10.7%	0.3%	1.7%	4.0%	8.4%
Over one page						
W/O Attachm	17.5%	7.1%	4.0%	1.8%	11.1%	15.3%
With Attachm	5.1%	2.8%	0.1%	0.2%	0.8%	4.0%
Grand Total	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Table 5 breaks down the 2019 SAR submissions by type of financial institution and number of suspicious activities identified in each report.[17]

Table 5 - Total 2019 SAR submissions, by number of suspicious activities per report, and type of financial institution

Suspicious Activities	Financial Institution Type					
	BANK	C_UNION	CASINO	LOAN_CO	MSB	OTHER
Up to Two	51.5%	52.3%	77.6%	82.8%	71.2%	59.2%
Three to Five	44.5%	44.5%	21.8%	16.6%	27.8%	37.9%
Over Five	4.1%	3.3%	0.6%	0.7%	1.1%	3.0%
Grand Total	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Approximately 44% of the SARs submitted by all filers have narratives not exceeding 2,000 characters (half a page), and another 39% have narratives above half a page but not exceeding one page. Most SARs (60%) identify up to two suspicious activities, while another 38% list between three and five.

[17] The number of suspicious activities identified in each report represents the number of check boxes selected by the filer.

FinCEN analyzed key features of the 2019 SAR submissions described in Tables 1 through 5 to generate a tractable segmentation of the SAR universe into different levels of burden. FinCEN based this segmentation on the following observations:

- FinCEN was not able to limit the criteria for selecting categories of SAR burden to the type of financial institution or the tranche of a filer alone because of large variations in the combination of features within each type of financial institution or tranche. It was possible, however, to arrive at a small number of complexity categories by combining key features that highlight significant differences between depository institution filers (banks and credit unions), MSBs, and other types of financial institution filers (non-depository institutions).
- Based on the analyzed complexity features as well as FinCEN's extensive use of SARs in its work, *in general and on average*,[18] the content of SARs shows the following general features:

(a) There appears to be a positive correlation between the number and complexity of a financial institution's main business lines, and the value registered by some of the key features selected: The higher the number and complexity of the filer's business lines, the higher the number of suspicious transactions identified and the longer the narrative.

(b) In general, non-depository institutions with a single primary business line (*i.e.,* loan and finance companies or casinos) file reports that (a) list up to two suspicious transactions involving one subject and a single transaction or a small number of transactions over a short period of time, and (b) use relatively short narratives of up to half a page to explain the basis for their suspicion.

(c) Some SARs filed by non-depository institutions have features indicating complexity, particularly longer narratives, despite the SARs not being complex. A sample of the SARs filed by two of the largest non-depository institutions showed that in 94% of the SARs with longer narratives, the increased length was due to listing transactions the filer appeared to have tracked automatically. Six percent of those SARs appeared to have required greater analytical effort. To estimate the number of SARs with extended content filed by non-depository institutions in 2019, FinCEN therefore applied the six percent threshold to the total number of SARs with narratives over one page filed by non-depository institutions.

(d) Nearly three quarters of original SARs filed by depository institutions report only up to two subjects involved in up to five suspicious activities, described in a narrative that does not exceed one page, and on their face do not appear complex. Many SARs filed by depository institutions, however, have features indicating complexity. This may reflect any combination of the factors laid out in the tables above—number of subjects per SAR, number of suspicious transactions listed per SAR, length of the narrative, and presence of an attachment. However, some SARs that appear complex based on these features often are not in reality. Depository institutions, which in general tend to offer many business lines mostly to established customers, sometimes include in SARs a comparison of other information they maintain. This can increase the apparent complexity of SARs analyzed against the complexity factors FinCEN identified without necessarily being indicative of a SAR requiring extensive research. FinCEN controlled for this by removing from the complex category SARs that had a high ratio of digits to non-digit text in the SAR narrative, because a high ratio of digits often indicates the algorithmic inclusion of transaction data in the SAR narrative.

- For all financial institutions, FinCEN estimates that the review of cases documenting the need to file continuing SARs, and the filing of the continuing SARs themselves, will require substantially less effort than the review of cases leading to the filing of original SARs, and the actual filing of such original SARs.
- Lastly, FinCEN assumes that financial institutions that batch file SARs have a degree of automation they can employ to the partial filling of the report. Batch filers will also store electronic files that may contain several reports per file. Based on these assumptions, FinCEN allocates a lower PRA burden per report to these filers. This burden consists of the actual time of submission per report (which may be close to instantaneous), and the administrative and supervisory tasks involved in this stage.

As noted, reflecting the observations above, FinCEN identified five categories of SARs to generate a tractable segmentation of complexity for analyzing estimated PRA burden: (a) Continuing SARs; (b) original SARs with standard content filed by non-depository institutions; (c) original SARs with extended content filed by non-depository institutions; (d) original SARs with standard content filed by depository institutions; and (e) original SARs with extended content filed by depository institutions.

Part 2. PRA Burden and Cost Estimates

Based on industry input, including input obtained over the past year in a project assessing how to improve the effectiveness of BSA data and measure its value for each stakeholder group, FinCEN understands that the SAR filing process comes at the end of a larger process that varies in complexity depending on the type and size of the financial institution: [19]

Stage 1—Maintaining a Monitoring System: Commensurate with the size of the filer and the complexity of its operations, each filer will run, update, and upgrade a monitoring system that reflects its assessment of risk. This monitoring system will vary in complexity from a manual review process to a fully automated one.[20]

Stage 2—Reviewing Alerts: When the monitoring system issues an alert, the filer will have to determine whether the alert reveals a true potential risk event, or is a false positive.

Stage 3—Transforming Alerts into Cases: If, based on the filer's analysis, the alert points to a true potential risk event, the filer will gather additional information to present the case to the reviewing level that will eventually

[18] By ''in general, '' FinCEN is speaking without regard to outliers (*e.g.,* reports exhibiting features that are uncommonly higher or lower than those of the population at large), or that apply to a very narrow type of filer or type of transaction. By ''on average,'' FinCEN means the mean of the distribution of each subset of the population (althoughFinCEN uses median labor cost data to calculate weighted hourly worker compensation allocated to each PRA burden hour in Table 6 below).

[19] FinCEN acknowledges that the description of the SAR production process in this notice seems to imply that the process is always linear, with each stage following the previous one. While this situation may reflect a large proportion of the cases reviewed and SARs filed, certain situations will require the filer to return to an earlier stage (such as requiring additional information from the case managers, or drafting several versions of a narrative). The breakdown of the SAR production process in a discrete number of linear stages is intended as a conceptual framework to guide FinCEN's estimates of the different levels of PRA burden. Such framework does not involve or imply any modification to, or new interpretation of the actual rule text of BSA regulations. The details provided in each stage of the framework serve only as a list of the features FinCEN did or did not consider when estimating the PRA burden of such stage. While FinCEN believes the tasks described in the framework represent the work generally required to produce a SAR, there is no obligation for a financial institution to adopt either formally or informally a process such as the one presented by the framework.

[20] FinCEN recognizes that filers may use the monitoring system to comply with additional BSA and non-BSA regulatory requirements, as well as for other business purposes such as protecting against reputational risks of money laundering and fraud against the filer or the filer's customers.

decide whether the event merits the filing of a SAR.

Stage 4—Case Review: The appropriate level will review the case to determine whether or not the event constitutes a suspicious activity that must be reported.

Stage 5—Documentation of Determination: This notice takes into account that filers document decisions they make as part of Stage 4 that lead them to conclude that an event does not warrant the filing of a SAR.

Stage 6—SAR Filing Process: If an event warrants the filing of a SAR, the filer will follow its SAR filing process, including: (a) Selecting supporting documentation; (b) completing the report, including drafting the narrative; (c) filing the report through batch or discrete filing; and (d) storing the filed report and supporting documentation in physical or electronic form.

Each stage requires the filer's use of human and technological resources, which combination will vary according to the sophistication of the filer. Previously, FinCEN limited its annual SAR PRA burden estimate to Stage 6 mentioned above, the SAR filing process (the ''traditional annual PRA burden''). In this notice, FinCEN expands its PRA burden estimate to include Stages 4 and 5 listed above (the ''supplemental annual PRA burden'').

FinCEN is not addressing the burden associated with Stages 1 to 3 above due to the lack of the necessary granular information. Notably, FinCEN would need information regarding: (i) The levels of burden and cost attributed to differing monitoring systems; (ii) varying levels of complexity in determining whether alerts represent true alerts; and (iii) the amount of research involved in assembling cases to determine whether true alerts warrant the filing of a SAR. Furthermore, FinCEN would need additional information to identify the proportion of these costs that are strictly connected to the filing of a SAR relative to the same costs associated with a filer's other regulatory or business requirements. FinCEN intends to address the information required for the estimate of the burden and cost of Stages 1 to 3 in a future notice. FinCEN acknowledges that each stage of the SAR production contributes to the next (including those stages of the process not included in this notice). FinCEN assesses, however, that the information provided by this notice, though not a complete estimate of the SAR PRA burden, improves the estimate and creates a foundation for a future estimate of the costs of all six stages.

FinCEN recognizes that SAR cases that are more complex may take a longer time to review at multiple stages, such as the case investigation point in Stage 4 and the SAR filing point in Stage 6. However, for ease of presentation, FinCEN calculated the extra burden of handling complex cases in our burden estimate for Stage 6, and attributed a burden that represents our estimate of the standard administrative work connected to continuing and original SARs to Stages 4 and 5. Therefore, the total estimate proposed in this notice will be the aggregate of the following estimates of the PRA burden related to:

- Evaluating cases for potential SAR filing (Stage 4). This will be part of the supplemental annual PRA burden calculation.
- Recordkeeping of cases not converted into SARs (Stage 5). This will be part of the supplemental annual PRA burden calculation.
- The SAR filing process (Stage 6). This will be part of the traditional annual PRA burden calculation and will include the PRA burden associated with the filing of (i) continuing SARs, (ii) original SARs filed by non-depository financial institutions, and (iii) original SARs filed by depository financial institutions.

FinCEN identified four staff positions and corresponding roles involved in the SAR process in order to estimate the hourly costs associated with the burden hour estimates calculated in this part. Those are: (i) General supervision (providing process oversight); (ii) direct supervision (reviewing operational-level work and cross-checking all or a sample of the filings against their supporting documentation); (iii) clerical work (engaging in case evaluation to support the determination of whether a SAR must be filed); and (iv) clerical work (engaging in producing, filing, and storing SARs and supporting documentation).

FinCEN calculated the fully loaded hourly wage for each of these four roles by taking the median wage as estimated by the U.S. Bureau of Labor Statistics (BLS), and computing an additional benefits cost as follows: [21]

Table 6. Total hourly remuneration (fully-loaded hourly wage) per role and BLS job position

Role	BLS-Code	BLS-Name	Median hourly wage	Benefit factor	Fully-loaded hourly wage
Indirect Supervision	11-3031	Financial Manager	$62.45	1.502	$93.80
Direct Supervision	13-1041	Compliance Officer	$33.20	1.502	$49.87
Clerical Work (Case review)	43-3099	Financial Clerk	$20.40	1.502	$30.64
Clerical Work (Recordkeeping)	43-3071	Teller	$15.02	1.502	$22.56

[21] See U.S. Bureau of Labor Statistics, Occupational Employment Statistics-National, May 2019, available at *https://www.bls.gov/oes/tables.htm.* The most recent data from the BLS corresponds to May 2019. For the benefits component of total compensation, see U.S. Bureau of Labor Statistics, Employer's Cost per Employee Compensation as of December 2019, available at *https://www.bls.gov/news.release/ecec.nr0.htm.* The ratio between benefits and wages for financial activities, credit intermediation and related activities is $15.80 (hourly benefits)/$31.45 (hourly wages) = 0.502. The benefit factor is 1 plus the benefit/wages ratio, or 1.502. Multiplying each hourly wage by the benefit factor produces the fully-loaded hourly wage per position.

FinCEN estimates that, *in general and on average,* each role would spend different amounts of time on each stage of the process covered by this notice, as described in the specific estimates below.

1. Estimate of the Burden and Cost of Evaluating Cases for Potential SAR Filing

To estimate the PRA burden involved in evaluating each case generated by one or more alerts, FinCEN starts with the number of cases that, after review, resulted in the filing of 2,751,694 SARs in 2019. As set out in Table 1 above, of that total number of filings, 2,335,559 reports were original SARs, and 416,135 were continuing SARs.

In the case of continuing SARs, FinCEN assumes that the filer will be monitoring the specific transactions of the previously identified subject, and filing a continuing SAR every ninety days (if the subject did not discontinue the activity), and noting the cumulative monetary amount involved in the suspicious activity. FinCEN therefore assesses that the number of continuing suspicious activity cases will equal the number of continuing SARs.

In the case of original SARs, however, a filer may need to review a large number of cases to determine which cases justify the filing of a report. A paper issued by the Bank Policy Institute in 2018 (the ''BPI Paper'') [22] contains the estimates of 13 large, midsize, and small banks (with assets under management of more than $500 billion, between $200 to $500 billion, and between $50 and $200 billion, respectively) about their average conversion rate [23] of cases to SARs. The BPI Paper states that, on average, banks filed SARs on 42% of alerts turned into cases (*i.e.,* alerts that are not considered false positives).[24] In the absence of similar data for other types of financial institutions, FinCEN adopts the bank average conversion rate from cases to SARs set out in the BPI Paper (42%) to approximate the number of cases that could have generated the number of original SARs filed in 2019. If 42% of cases result in the filing of a SAR, the total filing population would have had to review approximately 5,560,854 cases [25] to report the 2,335,559 original SARs submitted in 2019.[26]

FinCEN estimates that the average burden involved in considering whether a case merits filing an original SAR, for all types of financial institutions and for any type of suspicious transactions, would be 20 minutes per case. FinCEN estimates that the average burden involved in reviewing cases involving continuing SARs will be much lower, at 3 minutes per case.

FinCEN assumes that the review of cases will involve the participation of three of the roles described above, as follows:[27]

Table 7 - Weighted average hourly cost of evaluating cases to determine whether a SAR is merited

Component	Indirect Supervision		Direct Supervision		Clerical Work (Case review)		Weighted average hourly cost
	%time	Hourly Cost	%time	Hourly Cost	%time	Hourly Cost	
Evaluation of Cases	10%	$9.38	60%	$29.92	30%	$9.19	$49.00

$48.49 rounded up to $49.00

The total annual PRA burden of this stage involving cases related to both continuing and original SARs would be 1,874,424 hours, at a total cost of $91,846,776, as described in Tables 8A and 8B below.

[22] 'Getting to Effectiveness—Report on U.S. Financial Institution Resources Devoted to BSA/AML and Sanctions Compliance', Bank Policy Institute, October 29, 2018, available at *https://bpi.com/wp-content/uploads/2018/10/BPI_AML_Sanctions_Study_vF.pdf.* See pages 5–7.

[23] The average conversion rate represents the percentage of the total number of cases that, after receiving further review and consideration, warranted the filing of a SAR.

[24] Ibid. The BPI Paper identifies several provisos regarding the correlation among the different metrics (such as the number of alerts related to AML issues only, while the number of SARs filed included both fraud and AML-related transactions). FinCEN considers that these qualifications do not affect the rationale of applying the bank conversion rate of cases into SARs to the full filer population.

[25] The number of original SARs submitted in 2019 (2,335,559) divided by the 42% conversion rate.

[26] FinCEN acknowledges that this estimate simplifies the conversion, stipulating that one case will generate or fail to generate one SAR, when in practice several cases may be reported in a single SAR. It is also possible, while not very probable, that a single case may require the filing of more than one simultaneous SAR.

[27] FinCEN's assumption is that the clerical work involved in the case review stage would include general administrative and coordination responsibilities, such as the maintaining of agendas, documentation of minutes, assembly of files to be presented to the appropriate authority (for example, a filer's SAR Committee), and the summarization of the reasons not to file.

Table 8A - Total annual PRA burden and cost of case evaluation - original SARs

Evaluation of cases to determine filing of original SARs					
Nr. of Cases	Minutes per case	Total Minutes	Total Hours	Weighted average hourly cost	Total Cost
5,560,854	20	111,217,080	1,853,618	$49.00	$90,827,282

Weighted Average Hourly Cost from Table 7

Table 8B - Total annual PRA burden and cost of case evaluation - continuing SARs

Evaluation of cases to determine filing of continuing SARs					
Nr. of Cases	Minutes per case	Total Minutes	Total Hours	Weighted average hourly cost	Total Cost
416,135	3	1,248,405	20,806	$49.00	$1,019,494

2. Estimate of the Burden and Cost of Documenting Cases Not Converted Into SARs

With 2,335,559 cases resulting in SAR filings and an estimated conversion rate of 42%, out of the estimated 5,560,854 cases, 3,225,295 would be cases involving a decision not to file. FinCEN estimates that the average burden hours of documenting the rationale as to why a case does not merit filing a SAR, for all types of financial institutions and in the context of any type of suspicious transactions, would be 25 minutes per report.

FinCEN assumes that documenting the rationale for not filing a SAR and the storage of the case documents will involve the participation of three of the roles described above, as follows:

Table 9 - Weighted average hourly cost of documenting cases not turned into SARs

Component	Indirect Supervision		Direct Supervision		Clerical Work (Recordkeepir		Weighted average
	%time	Hourly Cost	%time	Hourly Cost	%time	Hourly Cost	hourly cost
Documenting cases not turned into SARs	1%	$0.94	19%	$9.47	80%	$18.05	$29.00

$28.46 rounded up to $29.00

The total annual PRA burden of this stage would be 1,343,872 hours, at a total cost of $38,972,288, as described in Table 10 below:

Table 10 - Total annual PRA burden and cost of documenting non-filing

Handling of cases not turned into SARs					
Nr. of Cases	Minutes per case	Total Minutes	Total Hours	Weighted average hourly cost	Total Cost
3,225,295	25	80,632,375	1,343,872	$29.00	$38,972,288

Weighted Average Hourly Cost from Table 9

3. Estimate of the Burden of the SAR Filing Process

FinCEN's prior estimate of the traditional average burden hours associated with the SAR filing process [28] was based on a 2010 assessment of the manual effort involved in the drafting, writing, filing, and storing of a paper-based SAR with a standard narrative of 4,000 characters (*i.e.,* one page), and the storing or segregation of paper-based supporting documentation. Since 2011, financial institutions have been able to (a) file SARs electronically either in batch or discrete format, and (b) include with their SARs an attachment containing tabular data such as transaction data providing additional suspicious activity information not suitable for inclusion in the narrative. This attachment must be an MS Excel-compatible comma separated value (CSV) file with a maximum size of 1 megabyte. These new features contribute to a substantial decrease in the hourly burden of the mechanical aspects of the filing and storage of SARs and supporting documentation.

As set out in the estimates above, the review of approximately 5,560,854 cases would result in the closing out of 3,225,295 cases, and the filing of 2,335,559 original and 416,135 continuing SARs. In the previous part, FinCEN identified a tractable segmentation of SAR complexity: (a) Continuing SARs; (b) original SARs with standard content filed by non-depository institutions; (c) original SARs with extended content filed by non-depository institutions; (d) original SARs with standard content filed by depository institutions; and (e) original SARs with extended content filed by depository institutions. In all cases, the estimate represents the administrative burden involved in producing and reviewing a SAR, overseeing the process of filing a SAR, and the actual filing of a SAR, and not just the mechanical process of generating, submitting, and storing the SAR (which might be very small for fully-automated filers using the batch-filing method).

FinCEN assumes that the SAR filing process involves the following four roles described in Table 6, in varying proportions depending on whether the burden accounts for the reporting or the recordkeeping stage of the process:

Table 11A- Weighted average hourly cost of drafting, writing, and submitting SARs/Standard Content

Component	Indirect Supervision		Direct Supervision		Clerical Work (Case review)		Weighted average
	%time	Hourly Cost	%time	Hourly Cost	%time	Hourly Cost	hourly cost
Drafting, writing, and submitting SARs	1%	$0.94	19%	$9.47	80%	$24.51	$35.00

$34.93 rounded up to $35.00

Table 11B- Weighted average hourly cost of drafting, writing, and submitting SARs/Extended Content

Component	Indirect Supervision		Direct Supervision		Clerical Work (Case review)		Weighted average
	%time	Hourly Cost	%time	Hourly Cost	%time	Hourly Cost	hourly cost
Drafting, writing, and submitting SARs	5%	$4.69	20%	$9.97	75%	$22.98	$38.00

$37.64 rounded up to $38.00

Table 12 - Weighted average hourly cost of storing SARs and supporting documentation

Component	Indirect Supervision		Direct Supervision		Clerical Work (Recordkeepir		Weighted average
	%time	Hourly Cost	%time	Hourly Cost	%time	Hourly Cost	hourly cost
Storing SARs and supporting documentation	0%	$0.00	5%	$2.49	95%	$21.43	$24.00

$23.93 rounded up to $24.00

3.1. Continuing SARs

In the case of a suspicious transaction that continues over time, filers must submit continuing SARs every ninety days. Financial institutions filed 416,135 continuing SARs as part of the 2019 SAR submissions. FinCEN estimates that, on average, the burden involved in filing a continuing SAR will be relatively low, and will be substantially the same among all types of financial institutions. The estimated hourly burden and its cost for continuing SARs are as follows:

[28] FinCEN's estimate of the traditional average burden hours involved in the SAR filing process was 2 hours for SARs filed individually (60 minutes attributed to reporting, and 60 minutes attributed to recordkeeping), and 2.5 hours per SAR for joint filings (90 minutes attributed to reporting, and 60 minutes attributed to recordkeeping). Joint filings are a single SAR filed by two or more separate financial institutions. This type of filing constitutes less than 1% of total filings.

Table 13- Continuing SARs- Drafting, writing, and submitting reports

Method of filing	Nr. of reports	Minutes per report	Total minutes	Total hours	Weighted average hourly cost	Total Cost
Batch	358,736	20	7,174,710	119,578	$35	$4,185,230
Discrete	57,399	40	2,295,979	38,266	$35	$1,339,310
Total	416,135		9,470,690	157,844		$5,524,540

Weighted Average Hourly Cost from Table 11A

Table 14 - Continuing SARs - Storing filed reports and supporting documentation

Method of filing	Nr. of reports	Minutes per report	Total minutes	Total hours	Weighted average hourly cost	Total Cost
Batch	358,736	5	1,793,678	29,894	$24	$717,456
Discrete	57,399	15	860,992	14,349	$24	$344,376
Total	416,135		2,654,670	44,243		$1,061,832

Weighted Average Hourly Cost from Table 12

3.2. Original SARs Filed by Non-Depository Institutions

Based on the application of the percentage described in Part 1 to SARs with narratives over one page filed by non-depository institution, FinCEN identified 988,377 reports with standard content and 6,897 with extended content.

Original SARs Filed by Non-Depository Institutions (Standard Content)

For the purpose of calculating the burden of original SARs with standard content filed by non-depository institutions, FinCEN estimates that the average burden involved in the filing of original SARs will be higher than that of continuing SARs. Specifically, FinCEN uses an estimate of 40 minutes per batch-filed report and 60 minutes per discrete-filed report for drafting, writing, and submitting the SARs, and 5 minutes per batch-filed reports and 15 minutes per discrete-filed report for storing filed reports and supporting documentation. The estimated hourly burden and its cost for this subset of SARs are therefore as follows:

Original SARs filed by non-depository financial institutions

Table 15A - Original SARs/Non-Depository Institutions/Standard Content - Drafting, writing, and submitting SARs

Method of filing	Nr. of reports	Minutes per report	Total minutes	Total hours	Weighted average hourly cost	Total Cost
Batch	780,730	40	31,229,200	520,486	$35	$18,217,010
Discrete	207,647	60	12,458,820	207,647	$35	$7,267,645
Total	988,377		43,688,020	728,133		$25,484,655

Weighted Average Hourly Cost from Table 11A

Table 16A - Original SARs/Non-Depository Institutions/Standard Content - Storing filed reports and supporting documentation

Method of filing	Nr. of reports	Minutes per report	Total minutes	Total hours	Weighted average hourly cost	Total Cost
Batched	780,730	5	3,903,650	65,060	$24	$1,561,440
Discrete	207,647	15	3,114,705	51,911	$24	$1,245,864
Total	988,377		7,018,355	116,971		$2,807,304

Weighted Average Hourly Cost from Table 12

Original SARs Filed by Non-Depository Institutions (Extended Content)

For the purpose of calculating the burden of original SARs with extended content filed by non-depository institutions, FinCEN estimates that the average burden will be several times higher than that of standard content SARs, and the related cost will include a larger proportion of the levels of the organization with higher fully-loaded hourly wages (those representing indirect and direct supervision). The estimated hourly burden and its cost for this subset of SARs are therefore as follows:

Table 15B- Original SARs/Non-Depository Institutions/Extended Content - Drafting, writing, and submitting SARs

Method of filing	Nr. of reports	Minutes per report	Total minutes	Total hours	Weighted average hourly cost	Total Cost
Batch	5,436	200	1,087,200	18,120	$38	$688,560
Discrete	1,461	300	438,300	7,305	$38	$277,590
Total	6,897		1,525,500	25,425		$966,150

Weighted Average Hourly Cost from Table 11B

Table 16B - Original SARs/Non-Depository Institutions/Extended Content - Storing filed reports and supporting documentation

Method of filing	Nr. of reports	Minutes per report	Total minutes	Total hours	Weighted average hourly cost	Total Cost
Batched	5,436	5	27,180	453	$24	$10,872
Discrete	1,461	15	21,915	365	$24	$8,760
Total	6,897		49,095	818		$19,632

Weighted Average Hourly Cost from Table 12

3.3. Original SARs Filed by Depository Institutions

Based on the segmentation described in Part 1 of depository institution SARs into standard content and extended content, FinCEN identified 1,313,774 reports with standard content, and 26,513 that included extended content.

The estimate of the reporting and recordkeeping burden of these two SAR subsets is as follows, using the per-SAR burden estimates included in the tables:

Original SARs Filed by Depository Institutions (Standard Content)

Original SARs filed by depository financial institutions (standard content)

Table 17 - Original SARs/Depository Institutions/Standard Content - Drafting, writing, and submitting SARs

Method of filing	Nr. of reports	Minutes per report	Total minutes	Total hours	Weighted average hourly cost	Total Cost
Batch	1,157,995	40	46,319,820	771,996	$35	$27,019,860
Discrete	155,779	60	9,346,710	155,778	$35	$5,452,230
Total	1,313,774		55,666,530	927,774		$32,472,090

Weighted Average Hourly Cost from Table 11A

Original SARs Filed by Depository Institutions (Extended Content)

Table 18 - Original SARs/Depository Institutions/Standard Content - Storing filed reports and supporting documentation

Method of filing	Nr. of reports	Minutes per report	Total minutes	Total hours	Weighted average hourly cost	Total Cost
Batch	1,157,995	5	5,789,977	96,499	$24	$2,315,976
Discrete	155,779	15	2,336,678	38,944	$24	$934,656
Total	1,313,774		8,126,655	135,443		$3,250,632

Weighted Average Hourly Cost from Table 12

Table 19 - Original SARs/Depository Institutions/Extended Content - Drafting, writing, and submitting SARs

Method of filing	Nr. of reports	Minutes per report	Total minutes	Total hours	Weighted average hourly cost	Total Cost
Batch	17,516	200	3,503,200	58,386	$38	$2,218,668
Discrete	8,997	300	2,699,100	44,985	$38	$1,709,430
Total	26,513		6,202,300	103,371		$3,928,098

Weighted Average Hourly Cost from Table 11B

Table 20 - Original SARs/Depository Institutions/Extended Content - Storing filed reports and supporting documentation

Method of filing	Nr. of reports	Minutes per report	Total minutes	Total Hours	Weighted Average Hourly Cost	Total Cost
Batch	17,516	5	87,580	1,459	$24	$35,016
Discrete	8,997	15	134,955	2,249	$24	$53,976
Total	26,513		222,535	3,708		$88,992

Weighted Average Hourly Cost from Table 12

Estimated Reporting and Recordkeeping Burden: The estimated reporting and recordkeeping burden by type of process and report is as follows:

Table 21 - PRA burden, per report, by type of process

Type of Process	Type of Report	Minutes per report
Recordkeeping		
Case review	Cases related to original SARs	20
	Cases related to continuing SARs	3
	Declined cases	25
All SARs	Batch-filed	5
	Discrete-filed	15
Reporting		
Continuing SARs	Batch-filed	20
	Discrete-filed	40
Original SARs/non-depository/standard	Batch-filed	40
	Discrete-filed	60
Original SARs /non-depository/extended	Batch-filed	200
	Discrete-filed	300
Original SARs/depository/standard	Batch-filed	40
	Discrete-filed	60
Original SARs /depository/extended	Batch-filed	200
	Discrete-filed	300

Estimated Total Annual Reporting and Recordkeeping Burden: The total estimated reporting and recordkeeping burden and cost per type of process and type of report are as follows:

As detailed in Table 22 below, the total estimated recordkeeping and reporting annual PRA burden for the case review and SAR filing process of the seven OMB control numbers covered by this notice is 5,462,026 hours, for a total cost of $206,422,989.

Table 22 - Total annual PRA cost

Type of process		Total hour burden	Total cost
Recordkeeping			
Case review	Tables 8A, 8B, and 10	3,218,296	130,819,064
All SARs	Tables 14, 16A, 16B, 18 and 20	301,183	7,228,392
Reporting			
Continuing SARs	Table 13	157,844	5,524,540
Original SARs/non-depository/standard	Table 15A	728,133	25,484,655
Original SARs/non-depository/extended	Table 15B	25,425	966,150
Original SARs/depository/standard	Table 17	927,774	32,472,090
Original SARs/depository/extended	Table 19	103,371	3,928,098
Grand Totals		5,462,026	206,422,989

The distribution of the total estimated annual PRA burden and cost, by type of financial institution and SAR (original or continuing), and by SAR production process stage is as follows: [29]

Table 23 - Total annual PRA burden, in hours, by type of financial institution

Type of financial institution	SARs				Burden (in hours per year)						
					Evaluation		Documentation		Filing		Total Burden
	Cont	Orig	pct Cont	pct Orig	Cont	Orig	Cont	Orig	Cont	Orig	
Depository											
Banks	293,616	1,203,357	70.56%	51.52%	12,648	955,044	0	692,408	142,589	1,051,925	2,854,613
Credit Unions	64,925	136,928	15.60%	5.86%	5,278	108,675	0	78,789	31,531	119,699	343,972
Non-Depository											0
MSBs	45,201	859,414	10.86%	36.80%	2,261	682,076	0	494,505	21,951	751,265	1,952,058
Other non-depositor	12,393	135,860	2.98%	5.82%	619	107,823	0	78,172	6,018	118,752	311,384
Grand Total	416,135	2,335,559			20,806	1,853,618	0	1,343,873	202,089	2,041,640	5,462,026

Some figures were adjusted to eliminate rounding up differences

Table 24 - Total annual PRA cost, by type of financial institution

Type of financial institution	SARs				Cost						
					Evaluation		Documentation		Filing		Total cost
	Cont	Orig	pct Cont	pct Orig	Cont	Orig	Cont	Orig	Cont	Orig	
Depository											
Banks	293,616	1,203,357	70.56%	51.52%	$719,333	$46,797,210	$0	$20,079,821	$4,647,204	$35,560,119	$107,803,688
Credit Unions	64,926	136,930	15.60%	5.86%	$159,063	$5,325,055	$0	$2,284,883	$1,027,616	$4,046,386	$12,843,002
Non-Depository											
MSBs	45,202	859,415	10.86%	36.80%	$110,741	$33,421,690	$0	$14,340,632	$715,434	$25,396,370	$73,984,867
Other non-depositor	12,391	135,857	2.98%	5.82%	$30,357	$5,283,300	$0	$2,266,978	$196,118	$4,014,678	$11,791,432
Grand Total	416,135	2,335,559			$1,019,494	$90,827,255	$0	$38,972,315	$6,586,372	$69,017,553	$206,422,989

Some figures were adjusted to eliminate rounding up differences

FinCEN acknowledges that some of the partial estimates may over- or understate the burden and cost of some the stages of the SAR production process covered by this notice, due to generalization and lack of more detailed information. FinCEN wishes to emphasize that the total burden presented in Table 22 is spread across a number of different SAR reporting requirements involving different types of financial institutions. Indeed, in the case of depository institutions, both FinCEN and the Federal banking agencies have regulations requiring SAR reporting.[30] However, only one SAR form is filed in satisfaction of the rules of both FinCEN and the Federal banking agencies. FinCEN has historically never attempted to allocate the burden between agencies for SARs required by the rules of more than one agency.

FinCEN intends to conduct more granular studies of the filing population in the near future, to arrive at more realistic estimates that take into consideration a more specific breakdown of the SAR production process, including estimating the burden to financial institutions of Stages 1 to 3, which may include the inter-agency burden allocation referred to above. The data obtained in these studies may result in a significant variation of the estimated total annual PRA burden.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years.

Part 3. Request for Comments

a. Specific Requests for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on the calculation of the total PRA burden of filing the SAR, under the current regulatory requirements. Specifically, comments are invited on the following issues:

1. FinCEN has based the estimates contained in this notice on the actual SARs filed in 2019. We have restricted the analysis to features we could measure and statements we were able to support with data extracted from the 2019 filers and submissions, using limited external data for estimates of parameters such as labor costs and conversion rates for alerts into filed SARs. FinCEN is not able to factor in its estimate of the PRA burden the burden of portions of the process for which FinCEN lacks information in filed reports or reliable existing studies. All requests for comments ask the public to suggest other factors that may affect the burden and cost of SAR reporting. Suggested factors that *FinCEN could*

[29] FinCEN obtained the breakdown by applying the percentages of continuing and original SARs by type of financial institution listed in Table 1, to the burden and cost estimates contained in Tables 8A, 8B, 10, and 13 to 20. Financial institutions the type of which is ''undetermined'' are included in the ''Other non-depository'' category in Tables 23 and 24.

[30] See 12 CFR 208.62, 211.5(k), 211.24(f), and 225.4(f) (Federal Reserve Board); 12 CFR 353.3 (Federal Deposit Insurance Corporation); 12 CFR 748.1(c) (National Credit Union Administration); 12 CFR 21.11 and 12 CFR 163.180 (Office of the Comptroller of Currency); and 31 CFR Chapter X (FinCEN).

quantify by analyzing the contents of the BSA database, or by referring to statistical information publicly available, and without conducting a formal survey of the reporting financial institutions would be especially appreciated.

2. FinCEN proposes to expand the annual PRA burden estimate to cover three stages of the SAR production process: (a) The review of cases based on monitoring alerts considered true positives; (b) the documentation of the decision not to turn a case into a SAR; and (c) the SAR filing process. A sample conversion rate of cases that lead to SARs for depository institutions was used to calculate how many total cases at all financial institutions would have to be evaluated to produce the total number of original SARs filed in 2019. FinCEN invites comments on the characterization of these three stages, the general case conversion rate utilized, and the existence of other generally available research documents that may show different case conversion rates for different financial institution types.

3. FinCEN estimates that, *in general,* the cost of labor involved in the three stages of the SAR production process covered by this notice will depend on the level of involvement in each stage of at least four different types of labor within the organization (general supervision, direct supervision, clerical work for evaluation, and clerical work for recordkeeping). Is this a reasonable identification of the roles involved in the SAR process? Has FinCEN calculated labor costs reasonably? Within the calculations of PRA burden, has FinCEN reasonably estimated the involvement of the different kinds of labor identified?

4. FinCEN arrived at estimates for (i) the hour burden of the review of all cases based on true positive alerts, and (ii) the decision not to file SARs based on the proportion of the cases that were not converted into original SARs. *In general and on average,* are these estimates reasonable?

5. FinCEN segmented the universe of SAR filings into several different categories for purposes of estimating SAR complexity: (a) Continuing SARs; (b) original SARs with standard content filed by non-depository institutions; (c) original SARs with extended content filed by non-depository institutions; (d) original SARs with standard content filed by depository institutions; and (e) original SARs with extended content filed by depository institutions. For each of these categories, FinCEN adjusted the estimated SAR filing burden depending on the filing method (batch or discrete). Is this segmentation reasonable? *Are there other categories of SARs which FinCEN could quantify by analyzing the contents of the BSA database and without conducting a formal survey of the reporting financial institutions*?

6. Are the other assumptions FinCEN made to calculate the burden associated with filing the different categories of SARs reasonable, such as the number of minutes required for each category of report?

b. General Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (5) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 20, 2020.

Derek Baldry,

Deputy Chief of Staff, Financial Crimes Enforcement Network.

[FR Doc. 2020–11247 Filed 5–22–20; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request Relating to Requests for Miscellaneous Determination

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning requests for miscellaneous determination by organizations exempt under section 501(c)(3). More specifically, the burden associated with filing Form 8940, *Request for Miscellaneous Determination.*

DATES: Written comments should be received on or before July 27, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to Ronald J. Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Request for Miscellaneous Determination.

OMB Number: 1545–2211.

Form Number(s): 8940.

Abstract: Organizations exempt under section 501(c)(3) may file Form 8940 for miscellaneous determinations under sections 507, 509(a), 4940, 4942, 4945, and 6033. Nonexempt charitable trusts may also file a Form 8940 for an initial determination under section 509(a)(3).

Current Actions: There is no change to the burden previously approved by OMB. This request is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 2,100.

Estimated Time per Respondent: 13 hours, 47 min.

Estimated Total Annual Burden Hours: 28,959.

The following paragraph applies to all the collections of information covered by this notice:

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

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

Desired Focus of Comments: The Internal Revenue Service (IRS) 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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: May 18, 2020.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2020–11132 Filed 5–22–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New]

PREVENTS Agency Information Collection Activity: Service Level Measurement-PREVENTS Survey

AGENCY: Veterans Experience Office, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Experience Office, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–New.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 421–1354 or email *danny.green2@va.gov.* Please refer to ''OMB Control No. 2900-New'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Service Level Measurement-PREVENTS Survey.

OMB Control Number: None.

Type of Review: New collection.

Abstract:

This survey provides customer experience insights related to the experience of Veterans in accessing services and resources made possible via Executive Order 13861, known as the President's Roadmap to Empower Veterans and End a National Tragedy of Suicide (PREVENTS). Feedback on this survey from Veterans Service Organizations, Veterans, and community organizations will help ensure that the PREVENTS Office has the information it needs to implement the Roadmap and communicate its efforts to empower Veterans and prevent suicide. Survey respondents will include Veterans Service Organization Members, Veterans, and individuals affiliated with nonprofit and community organizations. This survey is a nonprobability-based survey and is not intended to make inferences about any overall population. This survey will be administered to Veterans who are affiliated with Veteran Service Organizations, individuals affiliated with Veteran-focused community-based or nonprofit organizations, or individuals who are affiliated with Veteran Service Organizations (VSOs). The survey will be publicized via an article that contains a survey link in a Blog in the Vet Resources Newsletter produced by the Department of Veterans Affairs, email communications with Veterans Service Organizations, and email, in-person, and video-message communications to community-based organizations and strategic partners. Collected data are uploaded to the VSignals survey analysis tool and raw data are made present for analysis. Survey questions focus on current and potential mental health resources, communication channels, and outreach strategies that are currently being provided, or could be provided, to Veterans to ensure their safety and security.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register Notice** with a 60-day comment period soliciting comments on this collection of information was published at Vol. 85, No. 50 on March 13, 2020, pages 14727–14728.

Affected Public: Individuals.

Estimated Annual Burden: 4,767 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 57,200.

By direction of the Secretary.

Danny S. Green,

VA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–11184 Filed 5–22–20; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Federal Communications Commission

47 CFR Parts 1 and 54
Establishing a 5G Fund for Rural America; Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 54

[GN Docket No. 20–32; FCC 20–52; FRS 16709]

Establishing a 5G Fund for Rural America

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) proposes to retarget universal service funding for mobile broadband and voice in the high-cost program to support the deployment of 5G services by establishing the 5G Fund for rural America and seeks comment on the appropriate framework for implementing the 5G Fund.

DATES: Comments are due on or before June 25, 2020; reply comments are due on or before July 27, 2020.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments identified by GN Docket No. 20–32 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 Commission's Electronic Comment Filing System (ECFS) *https://www.fcc.gov/ecfs/.* Except when the filer requests that materials be withheld from public inspection, any document may be submitted electronically through the Commission's ECFS. Persons that need to submit confidential filings to the Commission should follow the instructions provided in the Commission's March 31, 2020 public notice, DA 20–361, regarding the procedures for submission of confidential materials.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Dr., Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th St. SW, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.
- *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: Kelly A. Quinn, Office of Economics and Analytics, (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in GN Docket No. 20–32, FCC 20–52, adopted on April 23, 2020 and released on April 24, 2020. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street SW, Washington, DC 20554, except when Commission Headquarters is otherwise closed to visitors. *See* Public Notice, *Restrictions on Visitors to FCC Facilities,* that appeared on the Commission website March 12, 2020, or by using the search function on the Commission's ECFS web page at *https://www.fcc.gov/ecfs/.* It is also available on the Commission's website at *https://www.fcc.gov/document/fcc-proposes-5g-fund-rural-america-0.* The Order that was adopted concurrently with this NPRM will be published elsewhere in the **Federal Register**.

Synopsis

I. Introduction

1. 5G mobile wireless networks promise to be the next leap in broadband technology, offering significantly increased speeds, reduced latency, and better security than 4G LTE networks can offer. 5G mobile wireless broadband service is expected to create as many as three million new jobs, generate $275 billion in private investment, and add $500 billion in new economic growth. The Commission anticipates that the progression to 5G service will be swift. Since late 2018, major U.S. mobile wireless carriers have lit up 5G networks covering more than 200 million Americans in aggregate. And, as part of its recently approved transaction, T-Mobile has committed to deploying 5G service to 99 percent of Americans within six years, including covering 90 percent of those living in rural America within that timeframe. The Commission is concerned, however, that even with these significant deployment commitments, some rural areas will remain where there is insufficient financial incentive for mobile wireless carriers to invest in 5G-capable networks, and those communities could be excluded from the technological and economic benefits of 5G for years to come. During this transition to 5G service, the Commission therefore reaffirms its commitment to using Universal Service Fund support to close the digital divide and to make sure that parts of rural America are not left behind.

2. Given the concerns many stakeholders raised about the accuracy of Mobility Fund Phase II 4G LTE coverage data, many of which were validated during Commission staff's investigation into carriers' maps, and in light of the changes taking place in the marketplace, it no longer makes sense to use limited universal service support to deploy 4G LTE networks. Rather, to ensure that all Americans enjoy the benefits of the most modern, advanced communications technologies offered in the marketplace no matter where they live, and to maintain American leadership in 5G, the Commission proposes to establish a 5G Fund for Rural America, which would use multi-round reverse auctions to distribute up to $9 billion, in two phases, over the next decade and beyond to bring voice and 5G broadband service to rural areas of the country that are unlikely to see unsubsidized deployment of 5G-capable networks. Phase I of the 5G Fund would target at least $8 billion of support to rural areas of the country that would be unlikely to see timely deployment of voice and 5G broadband service absent high-cost support or as part of T-Mobile's transaction-related commitments. To balance the

Commission's policy goal of efficiently redirecting high-cost support to the areas where it is most needed with the Commission's obligation to ensure that it has an accurate understanding of the extent of nationwide mobile wireless broadband deployment, the Commission seeks comment on two options for identifying areas that would be eligible for 5G Fund support.

3. One approach for Phase I could take immediate action to define eligible areas based on current data sources that identify areas as particularly rural, and thus in the greatest need of universal service support. In recognition of the particular challenges of ensuring that voice and 5G broadband service are deployed to areas that lack any mobile broadband service, the Commission would prioritize areas that have historically lacked 4G LTE, or even 3G, service. This would ensure that the Commission could move quickly to target universal service support to those areas least likely to receive service without support, such as those with sparse populations, rugged terrain, or other factors. Under this approach, the Commission anticipates commencing the 5G Fund Phase I auction in 2021.

4. Alternatively, the Commission could delay the 5G Fund Phase I auction until after it collects and processes improved mobile broadband coverage data through the Commission's Digital Opportunity Data Collection proceeding. Collecting these data would allow the Commission to identify with greater precision those areas of the country that remain unserved by 4G LTE service. While this option would likely result in a less expansive and a more targeted list of eligible areas and help ensure prioritization of areas that currently lack service, it would potentially delay the start of the 5G Fund Phase I auction and deployment of 5G-capable networks in those areas.

5. Phase II of the 5G Fund would follow the completion of Phase I and would target universal service support to bring wireless connectivity to harder to serve and higher cost areas, such as farms and ranches, and make at least $1 billion available specifically aimed at deployments that would facilitate precision agriculture. By proposing to rely on a two-phased approach, as the Commission did with the Connect America Fund and adopted in the *Rural Digital Opportunity Fund Report and Order,* 85 FR 13773 (Mar. 10, 2020), for the Rural Digital Opportunity Fund, the Commission can commence a 5G Fund Phase I auction while also ensuring that Phase II would cover harder-to-serve areas so that such areas are not left behind. Moreover, the proposal to implement this two-phased approach would allow the Commission to build upon future recommendations from the its Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States (Precision Agriculture Task Force) to more accurately target Phase II support towards services that will meet the growing needs of America's farms and ranches.

6. Full participation in today's society requires that all American consumers, not just those living in urban areas, have access to the most current and advanced technologies and services available in the marketplace. By supporting the build out of 5G mobile broadband networks in areas that likely would otherwise go unserved, the Commission can help Americans living, working, and travelling in rural communities gain access to communication options on par with those offered in urban areas.

7. The Commission's universal service obligations demand that it keep pace with changes in the communications marketplace. Similarly, the Commission's policy goal must be to use its limited Universal Service Fund dollars in rural America to support the deployment of service using the most current and advanced technology available consistent with what is being offered to urban consumers. The Commission's proposals for the 5G Fund recognize that market realities have changed since the Commission adopted Mobility Fund Phase II, and that supporting the provision of 4G LTE service in unserved and underserved areas will not allow the Commission to accomplish this goal. By proposing to replace the planned Mobility Fund II with the 5G Fund, the Commission seeks to direct universal service funds to support networks that are more responsive, more secure, and up to 100 times faster than today's 4G LTE networks. The Commission reaffirms its commitment to fiscal responsibility and propose concrete performance requirements and public interest obligations to ensure that rural consumers would be adequately served by the mobile wireless carriers receiving universal service support from the 5G Fund. We also propose to amend our generally applicable competitive bidding rules for universal service support and to codify recent guidance regarding letters of credit for universal service competitive bidding mechanisms.

II. Background

8. In 2011, as part of its comprehensive reform of the universal service and intercarrier compensation programs, the Commission froze high-cost support and established the Mobility Fund to ensure that universal service support for mobile services would be targeted in a cost effective manner. The Mobility Fund included two phases. Phase I allocated one-time support for mobile carriers to provide 3G or better service to eligible areas, including on Tribal lands. To minimize shocks to carriers that might result in service disruptions for consumers, the *USF/ICC Transformation Order and Further Notice,* 76 FR 73830, Nov. 29, 2011, 76 FR 78384, Dec. 16, 2011, provided for a five-year transition period during which mobile wireless competitive eligible telecommunications carriers receiving frozen high-cost support would continue to receive support subject to a phase down reduction of 20 percent per year beginning July 1, 2012. The Commission noted that, during the transition period, mobile wireless carriers, including those receiving legacy support, would have the opportunity to seek one-time support under Mobility Fund Phase I to expand 3G or better service to areas where such service was unavailable while also receiving phase-down legacy support.

9. The Commission also provided that if Mobility Fund Phase II were not operational by July 1, 2014, the phase down of frozen high-cost support for legacy support recipients would pause at the 60 percent level in effect on that date. The Commission concluded that the phase-down of legacy support for legacy support recipients serving Tribal lands would also pause at that time. The Commission also indicated that any pause in the support phase-down would be accompanied by additional mobile broadband public interest obligations.

10. For Mobility Fund Phase I, the Commission provided up to $300 million, along with an additional $50 million for Tribal Mobility Fund Phase I, in one-time support payments awarded through two reverse auctions. For Mobility Fund Phase II, the Commission proposed to provide ongoing support—including support for Tribal lands—for a period of 10 years and sought comment in the *USF/ICC Transformation Order and Further Notice* on the structure and operation of that fund. Subsequently, the Wireline Competition Bureau and the Wireless Telecommunications Bureau issued a Public Notice seeking additional public input on certain issues relating to Mobility Fund Phase II. The Wireline Competition Bureau and the Wireless Telecommunications Bureau sought to build upon their experience in implementing reverse auctions to

distribute universal service support and the experiences of mobile wireless carriers that participated in Mobility Fund Phase I, and sought comment for Mobility Fund Phase II on issues pertaining to the method for identifying areas eligible for support and establishing the geographic unit for bidding and measuring coverage, performance obligations, and the term of support. Given that mobile wireless carriers had already begun commercial deployment of 4G LTE in many parts of the country, the Commission proposed in April 2014 to refocus Mobility Fund Phase II to target those areas of the country where it was unlikely that 4G LTE service would be made available absent support, and those areas where existing mobile voice and broadband service would not be preserved without support.

11. In September 2016, the Wireless Telecommunications Bureau released its analysis of mobile wireless carriers' December 2015 FCC Form 477 submissions to identify the areas in the country that might require support on an ongoing basis in order to ensure adequate 4G LTE coverage. In addition to identifying the specific areas of the country that were lacking 4G LTE coverage, staff examined the distribution of high-cost support to assess the efficacy of that support to determine where existing mobile voice and broadband service would require continued support. That analysis revealed that as much as 75 percent of legacy high-cost support was being distributed to carriers in areas where it may not be needed because 4G LTE service was already being provided by an unsubsidized carrier. Furthermore, according to the data staff reviewed, only approximately 20 percent of the area of the United States (excluding Alaska) either lacked 4G LTE service entirely or had 4G LTE service provided only by a subsidized carrier. In other words, mobile wireless carriers were receiving approximately $300 million or more each year in subsidies to provide service even though those subsidies were unnecessary to ensure the availability of 4G LTE service in those areas.

12. In its 2017 *Mobility Fund Phase II Report and Order,* 82 FR 15422, Mar. 28, 2017, the Commission adopted rules to move forward with the Mobility Fund Phase II auction to allocate up to $4.53 billion over 10 years to support the deployment of 4G LTE service to areas that were too costly for the private sector to serve without support and to preserve such service where it might not otherwise exist absent subsidies. In the subsequent *Mobility Fund Phase II Challenge Process Order,* 82 FR 42473, Sept. 8, 2017, the Commission established the framework for a challenge process aimed at resolving disputes about areas found to be presumptively ineligible for Mobility Fund Phase II support. Mobile wireless carriers were required to submit 4G LTE coverage maps by January 4, 2018, to be followed by a process in which parties could challenge the submitted coverage maps.

13. Based on evidence submitted into the record that called into question the accuracy of the submitted coverage map of at least one nationwide provider, shortly after the close of the Mobility Fund Phase II challenge process submission window, Commission staff conducted a preliminary review of the speed test data that had been submitted to the Commission. The staff review of challenger data, in combination with the record evidence focusing on specific areas in which coverage appeared to be overstated, suggested among other things that some carriers' coverage data reported to the Commission did not accurately reflect consumer experience in those areas. Based upon this review and the carriers' responses to staff inquiries, in December of 2018 the Commission launched a formal investigation of the Mobility Fund Phase II 4G LTE coverage data submitted by certain carriers. In announcing the start of the investigation into potential violations of the data collection rules, the Commission suspended the response phase of the Mobility Fund Phase II challenge process pending conclusion of the investigation. The staff investigation involved collecting additional information from certain carriers regarding their generation of coverage data, conducting independent drive test data to verify the challenger data, and analyzing specific allegations made in the record to evaluate the accuracy of the submitted coverage maps.

14. On December 4, 2019, the Rural Broadband Auctions Task Force released a report on the results of that investigation. Over the course of the investigation, Commission field agents drove nearly 10,000 miles and conducted more than 24,000 speed tests on the mobile networks of Verizon, U.S. Cellular, and T-Mobile across six test routes in 12 states where evidence in the record indicated coverage maps were overstated. Staff discovered that the Mobility Fund Phase II coverage maps submitted by these carriers likely overstated actual coverage and did not reflect on-the-ground performance in many instances, with only 62 percent of the field agent drive tests achieving the 5 Mbps minimum download speed predicted by the maps. In addition to making specific recommendations to improve the accuracy of coverage maps in the future, the staff report recommended that the Commission terminate the challenge process, concluding that the coverage maps were not a sufficiently reliable or accurate basis upon which to complete the challenge process as designed.

15. On October 16, 2019, the Commission approved a transaction between T-Mobile and Sprint, wherein the parties made certain binding commitments as a condition of approval, including substantial nationwide and rural deployment of 5G service within six years of the merger closing date. Specifically, T-Mobile committed to deploying 5G service covering 85 percent of the population in rural areas and 97 percent of all Americans within three years after closing, with coverage rising to 90 percent of the population in rural areas and 99 percent nationwide within six years. Moreover, the parties committed that their deployed 5G service will meet minimum download speed performance benchmarks of at least 50 Mbps available to 90 percent of the rural population, with two-thirds of rural Americans able to receive download speeds of at least 100 Mbps. T-Mobile announced in December 2019 that it had switched on its 5G network across the nation using low-band spectrum. The other nationwide carriers similarly have begun to deploy 5G service in select cities, with widely-available 5G service expected in the near future.

III. Discussion

16. The Commission proposes to retarget universal service funding for mobile broadband and voice in the high-cost program to support the deployment of 5G services by establishing the 5G Fund for Rural America. The Commission believes that supporting the deployment of 5G networks is necessary to ensure that rural America can secure the economic and technological benefits that come from wireless innovation. That is, the Commission's commitment to closing the digital divide compels it to ensure that the same services are available in rural America as in urban areas. The rapid pace of deployment of 5G networks in many parts of the country, combined with T-Mobile's commitment to cover 90 percent of rural Americans with its 5G network, suggests that it is no longer the time to begin a 10-year support program to deploy 4G LTE networks. Consequently, the 5G Fund would replace Mobility Fund Phase II,

which would have provided federal support for 4G LTE service in unserved areas, as the means by which the Commission completes the reform of mobile legacy high-cost support. The Commission seeks comment on this proposal.

17. 5G networks are expected to greatly enhance mobile broadband performance by increasing wireless speeds and reducing latency, as well as enabling transformative new services such as smart grids, Internet of Things, Virtual/Augmented Reality, and a host of other applications with the potential to reshape many facets of American life, that will all need robust wireless connectivity. Specifically, through 5G deployment, applications that are particularly useful in rural areas, such as connectivity for remote education and telemedicine, will help the Commission to close the digital divide. Rural farmland in particular has unique connectivity needs, including the proliferation of devices with high data needs, and 5G networks are crucial to unlocking the potential of precision agriculture for the American farmers and ranchers that feed the world by improving productivity and reducing costs. Thus far, the deployment of 5G service has been primarily concentrated in more urban areas with larger population bases.

18. Nor does the Commission believe that supporting the deployment of 4G LTE service would be adequate for rural communities to fully participate in the modern connected economy, given the increased data speeds, security, and responsiveness of 5G services. While there remain areas of the country that lack even 4G LTE service, the need for 5G networks will only increase in the future: By one estimate, 5G connections in North America will exceed 4G LTE connections by 2025. Further, consumers are using more and more data, on average, and this is expected to continue to grow significantly. Targeting support to those areas that would otherwise be unlikely to see deployment of 5G service would therefore help ensure that the Commission is using its limited universal service funds to narrow the digital divide.

19. More specifically, the Commission proposes that the universal service support offered through the 5G Fund should be used to support rural-area mobile high-speed 5G networks that meet at least the 5G–NR (New Radio) technology standards developed by the 3rd Generation Partnership Project (3GPP) with Release 15 (or any successor release that may be adopted by the Office of Economics and Analytics and the Wireline Competition Bureau after notice and comment). Since 5G networks and the associated handset ecosystem have developed at a greater pace than many had predicted, if the Commission were to continue supporting older technologies, it would risk providing subsidies to support outmoded network technologies that may be limited in their ability to provide the same level of connectivity, and the associated economic benefits, that 5G would likely provide. It is crucial that the whole of America experiences the benefits of 5G, and not just those living in the more urban areas of the country. The Commission seeks comment on this proposal. Should any commenter propose an alternative release, the Commission seeks comment on the costs and benefits of the 5G Fund supporting such an alternative.

A. Two Approaches to a 5G Fund for Rural America

20. The Commission's policy goals for the 5G Fund are premised on its conclusion that universal service funding for the advancement of high-speed robust mobile services to support 5G technology in rural areas is an appropriate and necessary use of universal service funds. The Commission bases its proposal to implement the 5G Fund on a determination that it should target universal service funding to support the deployment of the highest level of mobile service widely available today—5G. In proposing the implementation of the 5G Fund, the Commission reiterates its commitment to minimizing the overall burden of universal service contributions on consumers and businesses by expending the finite funds available in the most efficient and cost effective manner.

21. The Commission therefore seeks comment on two proposed options for the 5G Fund in order to achieve its policy goals and ensure that reform of mobile high-cost support helps to close the digital divide. On the one hand, the Commission could proceed most quickly to the 5G Fund Phase I auction by identifying those areas that would be eligible for support based primarily on the degree of rurality of each area, and then prioritize support in areas that have historically lacked 3G and 4G LTE services in order to ensure that all Americans are served by 5G networks quickly. The Commission anticipates commencing the Phase I auction as early as next year if it pursues this course. On the other hand, the Commission could take an alternative tack in which it would wait to identify areas eligible for support until it develops improved mobile coverage data through the Digital Opportunity Data Collection proceeding, but potentially at the cost of delaying the 5G Fund Phase I auction and the Commission's reform of the legacy high-cost support program.

22. These two options reflect a fundamental challenge in balancing competing concerns. On the one hand, the Commission recognizes the pressing need for universal service support in rural areas that are sparsely populated, costly to serve, and have historically lacked adequate mobile service, and seeks to ensure that those areas do not fall further behind. The Commission notes that under the legacy high-cost support program, in 12 states and territories—including Indiana, Ohio, Pennsylvania, and Vermont—mobile carriers receive no high-cost support despite such states having extensive rural and/or mountainous areas that are likely to lack adequate mobile service. In an additional seven states and territories—California, Georgia, New Hampshire, South Dakota, Tennessee, Utah, and the Commonwealth of Northern Mariana Islands—mobile carriers statewide received less that $1 million per year, or less than one-quarter of 1 percent of legacy high-cost support disbursements, despite all having extensive rural, mountainous, or otherwise hard-to-serve areas. On the other hand, the accuracy of the mobile broadband coverage data that carriers submit to the Commission has been called into question, and the Commission acknowledges the pressing need to reform its mobile coverage data collection to understand more precisely where mobile coverage is truly lacking. Addressing the problems with mobile coverage data would allow the Commission to better target areas in need of support but would delay the disbursement of support to many of those same areas.

23. Binding commitments made by T-Mobile to deploy 5G service to 90 percent of rural Americans (and 99 percent of the population nationwide) within six years will result in extensive 5G coverage across many rural and hard-to-serve areas of the nation, and will inform the Commission's analysis in several respects. *First,* these commitments are measured by population covered rather than a defined geographic area. While the Commission expects that these commitments will result in deployment of 5G service to many areas including areas that may lack 4G LTE service today, based on staff analysis, they could still leave up to approximately 81 percent of the rural land area of the United States uncovered. *Second,* the Commission believes it would be

inappropriate to allow the use of high-cost support to fulfill merger conditions, and therefore expect that the support awarded via the 5G Fund would be used to deploy 5G service to areas other than where T-Mobile will deploy. *Third,* if the Commission does not adequately account for T-Mobile's commitments, the Commission risks using finite universal service 5G Fund support to overbuild areas where T-Mobile already has an enforceable obligation to deploy. The Commission seeks comment on these proposals and assumptions, including the costs and benefits of either option.

1. Option A: Funding 5G in Rural America in 2021

24. To implement the Commission's goal of redirecting high-cost support to those areas where voice and 5G broadband service would not otherwise be deployed absent support, the Commission's proposal under Option A would be to determine eligibility for 5G Fund Phase I support based on existing data sources. This would enable the Commission to move quickly to authorize funding to areas not likely to receive voice and 5G broadband services. As the deployment of 5G service has primarily been focused on urban environments to date, the Commission expects the degree of rurality of an area can provide a reasonable estimate of the areas where 5G is unlikely to be deployed absent federal support. This approach would obviate the need to collect and process new mobile broadband coverage data from carriers and allow for a more rapid disbursement of support to unserved rural areas. The Commission anticipates that under Option A, it would commence the 5G Fund Phase I auction in 2021.

25. *Eligible Areas.* Under this approach, the Commission proposes to make all areas of the country meeting a certain definition of ''rural'' eligible for 5G Fund support. To identify such areas, the Commission proposes to include any census tract that is part of U.S. Department of Agriculture's Rural-Urban Commuting Area Codes (RUCA) 5–10, except any census blocks within those areas that are urban or water-only. Under this definition, approximately 67 percent of the country's land area would be eligible for support.

26. More specifically, the Commission proposes to distinguish between rural and urban areas based on the most recent decennial U.S. Census Bureau definition of such areas, and proposes to exclude all urban geographic areas. This definition of rural is how such areas were defined for purposes of the T-Mobile-Sprint transaction. The Commission seeks comment on this proposal. In the U.S. Census Bureau data, Urbanized Areas are defined as areas that contain 50,000 or more people, while Urban Clusters are defined as areas that have a population of at least 2,500 people and less than 50,000 people. The Urban-Rural Classification identifies 486 Urbanized Areas and 3,087 Urban Clusters nationwide. Collectively, these urban areas include approximately 81 percent of the population and approximately 3 percent of the land area. The Commission believes both of these areas are likely to receive robust 5G service absent a subsidy. The Commission seeks comment on this view and on other ways of ensuring that urban or other areas already receiving or poised to receive robust 5G service without subsidy are excluded from eligibility. Urban Areas and Urban Clusters are defined at the census block level, and the Commission proposes to consider as rural any census block that is not classified within an Urban Area or Urban Cluster to help inform the Commission's determination of eligible areas. Water-only blocks are excluded from the Commission's analysis, and the Commission has proposed to exclude Alaska, Puerto Rico and the U.S. Virgin Islands from 5G Fund support. The Commission will include, however, the entirety of American Samoa, Guam, and the Northern Mariana Islands as eligible. The Commission also seeks comment on whether it would be appropriate to exclude from eligibility urban areas that fall within Tribal lands.

27. This definition of rural, while useful as a starting point, is overly broad for determining eligibility for 5G Fund support in and of itself. If the Commission were to rely solely on this classification, approximately 97 percent of the land area of the U.S. would be eligible for 5G Fund support. The Commission therefore proposes to refine this set of eligible areas through a ''degree of rurality'' to better target funding to where it is needed most.

28. The Commission proposes basing the degree of rurality of any given area on the U.S. Department of Agriculture's Rural-Urban Commuting Area (RUCA) Codes that employ the most recent decennial census data (2010) and the 2006–10 American Community Survey, and to categorize census tracts based on population density, urbanization, and daily commuting patterns. The primary RUCA codes (1–10) ''delineate metropolitan, micropolitan, small town, and rural commuting areas based on the size and direction of the primary (largest) commuting flows.'' In addition, the secondary RUCA codes identify other connections among rural and urban places based on the size and direction of the secondary, or second largest, commuting flow.

29. The Commission expects that the RUCA codes would be able to distinguish those areas of the country that are less likely to receive 5G service absent subsidies, and note that RUCAs are census-tract based, consistent with the geographic areas the Commission proposes to use below as the minimum geographic area for bidding in the auction. The Commission seeks comment on the costs and benefits associated with the use of RUCAs to help determine eligibility. Does the fact that RUCAs are based on decennial census data affect their usefulness in determining eligibility for support? Which codes should the Commission use to classify areas as rural for the purposes of the 5G Fund and why? Given the urban-rural delineation described above, the Commission proposes to make eligible for support only those areas contained within RUCA codes 5 through 10, where code 5 is defined as micropolitan high commuting: primary flow 30 percent or more to a large Urban Cluster, and code 10 is defined as rural areas: primary flow to a tract outside an Urban Area or Urban Cluster. If the Commission were to use RUCA codes 5 through 10 to identify eligible areas, approximately 67 percent of the land area of the United States (excluding Alaska, Puerto Rico and the U.S. Virgin Islands) would be eligible for 5G Fund support. Alternatively, should the Commission be more or less expansive in its approach, and if so, how?

30. Are there alternative available datasets, such as the Office of Management and Budget's county-based Core-Based Statistical Areas, the U.S. Department of Agriculture's Rural-Urban Continuum Codes, the U.S. Department of Agriculture-Economic Research Service's Frontier and Remote Area Codes, the U.S. Department of Agriculture-Economic Research Service's land use dataset, or others, that the Commission should consider in determining eligible areas? Commenters supporting alternative datasets should address why the supported dataset would be preferable and whether it should be used on its own or in conjunction with other data.

31. In addition, the Commission seeks comment on whether using U.S. Census Bureau population density data, either on its own or in conjunction with the Rural-Urban Commuting Area Codes or alternative datasets as set out above, is an appropriate way to proceed. The

Commission requests that commenters provide information on which population density threshold might be the most appropriate and why. For example, the Commission could use a 10 or 20 person per square mile threshold or higher. The Commission also seeks comment on whether it should consider population density at the census block, census block group, or census tract level, and why.

32. Finally, the Commission seeks comment on any other alternative methodologies or existing data the Commission could use to help identify areas eligible for 5G Fund support that would balance the need to ensure the timely deployment of 5G to rural areas with the need to allocate funding using the best data currently available to the Commission. Apart from determining whether an area is urban or rural for purposes of allocating 5G Fund support, are there any other factors that could help identify where mobile carriers would have an insufficient incentive to build out a 5G network?

33. *Prioritizing Areas that Historically Lack Mobile Service.* In addition to identifying areas eligible for 5G Fund support on the basis of their rurality, the Commission proposes to prioritize among those areas those places that have historically lacked 3G or 4G LTE service, and seek comment on how to identify them. Using high-cost support to deploy voice and 5G broadband service presents different policy challenges than a fund designed to fill in gaps in otherwise expansive coverage. The Commission recognizes, however, that its proposal to define the areas eligible for support without relying on carrier-reported coverage data may capture both areas where 4G LTE service has already been deployed, as well as areas currently lacking any mobile broadband service at all. Closing the digital divide requires a concerted effort to ensure universal service funds support new deployments in previously unserved areas, as well as supporting upgrades of existing networks to new technologies. Areas that have historically lacked 3G or 4G LTE service may therefore require additional focus and higher levels of support in order to ensure that 5G-capable networks are deployed in a timely manner. The Commission seeks comment on this approach.

34. The Commission seeks comment on currently available sources of data that would allow it to best target 5G Fund support to areas that have historically lacked mobile service. The Commission does not believe it should identify areas eligible for support based on existing mobile broadband coverage data because staff has found that these coverage data, submitted both as part of FCC Form 477 and in the one-time Mobility Fund Phase II data collection, do not really reflect actual on-the-ground coverage in many instances. However, because FCC Form 477 coverage data is filed twice per year, the Commission believes it could provide a useful window into which areas were deployed most slowly. The Commission seeks comment on this view, and on the best way to use FCC Form 477 or other mobile coverage data to identify these areas. For example, should the Commission prioritize funding based on coverage at a single point in time, or are there better methodologies the Commission could consider? The Commission also notes that while parties have raised concerns that these data tend to overstate the extent of coverage and therefore should not be used to render areas ineligible, no parties have asserted the data understate the extent of coverage. Are concerns over the accuracy of available coverage data lessened when these data are used for purposes of prioritization? The Commission seeks comment on these issues and on other potential mobile coverage data sources that would help inform which areas should be prioritized due to a historic lack of service.

35. The Commission also seeks comment on how best to prioritize such areas in the 5G Fund auction. For the Rural Digital Opportunity Fund Phase I auction, the Commission effectively increased the reserve price in census blocks lacking even 10/1Mbps service by $10 per location over census blocks that lack 25/3 Mbps broadband but already have access to 10/1 Mbps service. While the mechanism by which the Commission proposes to calculate prices on a per square kilometer basis in the 5G Fund Phase I auction differs from the Rural Digital Opportunity Fund, the Commission notes that any prioritization could be incorporated into the adjustment factor process the Commission proposes herein. The Commission seeks comment generally on the mechanics of how to prioritize areas that have historically lacked service, as well as on what the appropriate level of prioritization would be. Should such areas receive an upward adjustment of 25 percent, similar to that preference adopted for the Rural Digital Opportunity Fund? Should the Commission also consider multiple levels of prioritization depending on other factors? The Commission seeks comment on these issues.

36. The Commission believes that its proposed approach under Option A is consistent with the requirements of the recently enacted the Broadband Deployment Accuracy and Technological Availability Act (Broadband DATA Act), Pub. L. 116–130, 134 Stat. 228 (2020), which among other things requires the Commission to collect mobile coverage data and release mobile broadband deployment maps based upon collected data. The statute requires the Commission to use these maps when awarding new funding to deploy broadband service after the maps have been created. Given the anticipated timeline of the Commission's proposal to define eligibility based upon degree of rurality, the Commission expects that the 5G Fund Phase I auction would close before the creation of the maps required by the statute, obviating the need to use those maps when determining the areas eligible for Phase I. The Commission seeks comment on this view. To the extent that the maps are created prior to Phase II of the 5G Fund, the Commission seeks comment on how to use those maps for any 5G Fund Phase II funding awards.

2. Option B: Collecting New Data Before Funding 5G Rural America in 2023 or Later

37. The Commission also seeks comment on an alternative proposal under which it would delay the Phase I auction, and any support for rural 5G, until the Commission completes work to develop more granular mobile broadband coverage maps in the Digital Opportunity Data Collection proceeding. Under the Commission's Option B approach, the Commission would determine areas eligible for 5G Fund Phase I support only after collecting and processing new mobile broadband coverage data from carriers. The Commission sought comment on ways to improve the accuracy of mobile coverage data submitted by carriers in the *Digital Opportunity Data Collection Order and Further Notice,* 84 FR43705, 43764, Aug. 22, 2019. Additionally, in light of issues raised about the accuracy of the mobile broadband coverage data submitted by carriers for the one-time collection of 4G LTE coverage data in the Mobility Fund Phase II proceeding, staff made specific recommendations on how to improve the collection of mobile coverage data, including by standardizing many of the parameters carriers use to generate propagation maps. While these issues remain part of an open rulemaking, the Commission anticipates that proceeding will allow it to collect more accurate mobile broadband coverage data in the future.

Subsequently, Congress enacted the Broadband DATA Act, largely affirming the Commission's approach to broadband mapping in the Digital Opportunity Data Collection proceeding, including collecting uniform, granular coverage maps from service providers, collecting feedback on the maps from members of the public and from state, local, and Tribal governments, and developing a database of broadband-addressable locations. However, the Commission currently lacks an appropriation from Congress to fulfill its obligations under the Broadband DATA Act and complete mobile broadband coverage maps. Under this approach, the Commission would first collect data and create new mobile broadband coverage maps, before using those maps to identify as eligible those areas that remain unserved on an unsubsidized basis. This would likely result in less expansive and more targeted eligible areas than under the Commission's Option A proposal. However, due to the current lack of appropriated funding, the expected length of time that would be needed to collect, verify, and analyze these data, and to collect and adjudicate objections from members of the public and state, local, and Tribal governments, this approach would also be likely to significantly delay the Phase I auction and disbursement of high-cost support to rural areas, including to those areas that do not currently receive support.

38. The Commission anticipates that the earliest it could conduct the 5G Fund Phase I auction after collecting new coverage data under the Option B approach would be sometime in 2023. Specifically, based on the Commission's experience in deploying new, industrywide map-based data collections, staff has estimated that completing the new statutorily-required rulemaking; developing the IT systems and resources necessary to collect and verify submitted mobile coverage data and allow for a public-facing challenge process (whether done in-house or via contract); collecting, verifying, and analyzing the coverage data; and collecting and adjudicating any challenges to these data would add at least 18–24 months to the auction process, even if Congress were to appropriate sufficient funds to implement the Broadband DATA Act. The Commission seeks comment on this view and on whether there are additional things it should consider that could shorten that process.

39. *Areas Eligible for 5G Fund Support.* Under this approach, the Commission would propose to make eligible for 5G Fund support all areas of the country where mobile 5G service would be unlikely to be offered in the absence of high-cost support using new carrier-reported mobile broadband coverage data. To identify such areas, the Commission proposes that any area that updated coverage data show lacks 4G LTE service by an unsubsidized carrier would be eligible for 5G Fund support. As part of this proposal, the Commission would use legacy high-cost support subsidy data from the Universal Service Administrative Company (USAC) that define each recipient's subsidized service areas to determine whether an area would have service by an unsubsidized carrier. The Commission notes that current 5G deployments in rural areas are a relatively greenfield state and seeks comment on whether it should use 5G deployment data to identify eligible areas under this approach. Would basing eligibility on where 4G LTE has yet to be deployed without support, nearly 10 years after the technology was first deployed, serve as a better indicator of where 5G service would similarly not be deployed absent support? The Commission seeks comment on this proposal and its assumptions. Should the Commission adopt a broader definition to identify areas that should be eligible for 5G Fund support, such as areas where coverage data show lack 5G service? Or should the Commission also consider historical 4G LTE coverage data to include as eligible areas that did not see 4G LTE deployment within a shorter duration, such as within five years? If so, how would the Commission mitigate issues with the accuracy of historical coverage data?

40. In light of the Commission's proposed definition of eligibility for 5G Fund support under this approach, the Commission expects it would not be necessary to further prioritize areas that have historically lacked 3G or 4G LTE service as these areas would be identified in the new carrier-reported mobile coverage data. The Commission seeks comment on this conclusion or whether there are other metrics by which the Commission should prioritize certain areas under Option B, similar to Option A, if the Commission has more expansive eligible areas than proposed herein. If so, how should the Commission identify such areas? The Commission seeks comment on these issues.

B. Framework for the 5G Fund

41. The general framework that the Commission proposes for the 5G Fund would remain largely the same under either eligibility and auction timing proposal. However, where the Commission's two eligibility framework proposals differ materially, the Commission discusses the implications of each on the proposed auction structure.

1. Term of Support

42. The Commission proposes a term of support of 10 years for each phase of the 5G Fund, with monthly support disbursements. As the Commission recently explained in adopting a 10-year support term for the Rural Digital Opportunity Fund, a 10-year term of support encourages long term investment and was partially responsible for the robust participation that occurred in the successful Connect America Fund Phase II (CAF Phase II) auction. The Commission expects that the same incentives would apply here. The Commission seeks comment on this proposal. Does a 10-year term of support for each phase of the 5G Fund help encourage more bidders—particularly smaller wireless carriers—to participate in a 5G Fund auction? Commenters should specifically address whether a 10-year term of support is appropriate for the 5G Fund in light of the significant capital and effort needed to deploy and upgrade high-speed, mobile broadband networks in rural areas, and whether a 10-year term of support is consistent with the timeframe used by rural carriers to plan and schedule network buildout. Alternatively, commenters should discuss whether a different term of support is appropriate and explain the specifics of their proposal.

2. Budget

43. The Commission proposes a total budget of up to $9 billion for the 5G Fund, which would be awarded in two separate phases, with the first phase targeting support to eligible rural areas and the second phase focusing on harder to serve and higher cost areas, such as farms and ranches, specifically targeting deployments that would facilitate precision agriculture. Of this budget, the Commission proposes that Phase I of the 5G Fund would include up to $8 billion, of which the Commission proposes to reserve $680 million for service to Tribal lands. The Commission proposes to exclude areas in Alaska, for which high-cost support is provided via the Alaska Mobile Plan adopted in the *Alaska Plan Order,* 81 FR 69772, Dec. 7, 2016, as well as areas in Puerto Rico and the U.S. Virgin Islands territories, for which high-cost mobile support is provided as described in *PR–USVI Fund Report and Order,* 84 FR 59937, Nov. 7, 2019, where the Commission is already making available

high-cost support, including for 5G mobile broadband, from the areas that would be eligible to receive support from the 5G Fund. The Commission seeks comment on these proposals and on alternatives to them. To establish how much support would be available in the 5G Fund Phase I auction, the Commission also seeks comment on whether it should reduce the total budget of Phase I of the 5G Fund by an amount equivalent to the amount of funds that would be necessary to cover the overall phase down of legacy support. Current legacy high-cost support received by mobile carriers is approximately $382 million per year, excluding Alaska, Puerto Rico, and the U.S. Virgin Islands. Should the Commission deduct the funds necessary to cover the phase down of this support from the total amount of support it offers for eligible areas in the Phase I 5G Fund auction?

44. The up to $8 billion budget the Commission proposes for Phase I of the 5G Fund is premised, in part, on repurposing the $4.53 billion budget adopted for Mobility Fund Phase II, which intended to redistribute the amount of legacy support mobile carriers would receive over the next decade, outside of Alaska, Puerto Rico, and the U.S. Virgin Islands, combined with a recognition that significant additional financial resources will be needed to accomplish an undertaking of this kind. Although the current level of legacy support of approximately $382 million per year has decreased from when the Mobility Fund Phase II budget was adopted, the Commission nonetheless proposes to repurpose the entire $4.53 billion Mobility Fund Phase II budget, and seeks comment regarding how much additional funding may be needed to best achieve the Commission's policy objectives. The Commission notes that unlike the Mobility Fund Phase II budget, which was designed to fund the remaining areas of the country that were not served by 4G LTE (estimated at that time to be approximately 19 percent of the land area of the U.S.), under Option A, the Commission is proposing to support 5G deployment to potentially a significantly larger part of the country (approximately 67 percent of the land area of the U.S.) and, consequently, budget needs would be higher. While it remains unclear how much of the country would be eligible for 5G Fund support under the Commission's alternative Option B proposal, given the apparent overstatement of existing coverage data, the Commission anticipates that the areas unserved by 4G LTE could be substantially larger than originally estimated once it collects more accurate mobile broadband coverage data.

45. The Commission notes that its proposals for the 5G Fund budget are meant to ensure auction competition and efficient distribution of limited universal service support. Considering T-Mobile's extensive commitments to deploy 5G services and the proposals, discussed below, to remove T-Mobile's planned deployment areas from the auction, the Commission seeks comment on whether budgeting $8 billion for Phase I of the 5G Fund may reduce the efficiency of the auction and whether a smaller budget for Phase I of the 5G Fund would be more appropriate. Considering the scope of the areas that would be eligible to compete for support, does the budget the Commission proposes for Phase I of the 5G Fund cost-effectively incentivize carriers to participate in the auction in order to deploy 5G consistent with the public interest obligations it proposes for the fund?

46. The Commission's proposal would make at least an additional $1 billion, as well as any unawarded funds from Phase I of the 5G Fund, available for the budget of Phase II of the 5G Fund. Phase II of the 5G Fund specifically would seek to target funds support toward the deployment of technologically innovative networks that provide 5G service and would facilitate precision agriculture. The Commission proposes a budget of at least $1 billion for Phase II of the 5G Fund because it recognizes that significant resources may be necessary for carriers to commit to network buildout in the hardest to serve rural areas, like farms and ranches. The Commission anticipates that dedicating at least $1 billion to this second phase of funding would allow the Commission not only to close the remaining digital divide but also direct funds to innovative agricultural solutions, increasing the nation's economic efficiency and encouraging economic growth in rural areas. Reliable, advanced mobile broadband network deployment capable of providing 5G service is crucial to the adoption of smart farm and precision agriculture technologies because vast areas of croplands in rural areas currently remain unserved. The Commission also anticipates that Phase II of the 5G Fund would build off of what is learned from the Commission's Precision Agriculture Task Force, a cross-agency federal advisory committee comprised of public and private stakeholders in the agriculture and technology fields.

47. 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 supporting 5G service that is reasonably comparable to service available in urban areas means continually assessing the need to support services that compare to the ever-improving standard of 5G service provided in urban areas. The Commission anticipates reassessing the budget for the 5G Fund Phase II auction following the 5G Fund Phase I auction. We seek comment on these budget proposals as well as any alternatives, including associated methodologies, for how to appropriately size the 5G Fund Phase I and Phase II budgets. Commenters offering alternatives to the Commission's budget proposals should support their proposals and should address if they have accounted for the phase down of legacy support as well as how their proposed budget(s) would ensure that the Commission remains a responsible steward of finite universal service fund resources.

3. Support for Tribal Lands

48. *Tribal Lands Preference.* The Commission recognizes the distinct challenges of ensuring that Tribal lands are provided with 5G service. To address these difficulties, the Commission seeks comment on a proposed approach to incorporating a Tribal lands preference into the 5G Fund auctions.

49. Under the Commission's proposed approach for Phase I, up to $680 million of the proposed $8 billion Phase I budget would be made available to support networks serving eligible areas in Tribal lands. This amount would double the amount that the Commission had estimated it would reserve to support Tribal lands from the Mobility Fund Phase II budget and is in accord with the proposed 5G Fund budget of up to $9 billion, which is approximately double the total Mobility Fund Phase II budget. Only eligible areas on Tribal lands would be assigned support under the reserved Tribal lands budget. Bidding for funding under the Tribal reserve budget and bidding for support under the unreserved portion of the budget would take place simultaneously as part of a single auction. Bids would be considered separately for support under the Tribal budget and the unreserved budget until the point at which total requested support for eligible Tribal lands could be accommodated under the Tribal budget, thus determining the areas that would win support under the Tribal reserve. Bidding would continue in order to

determine winners under the unreserved budget. Any unused funds from the Tribal reserve would be added to the unreserved budget, and any new bids for Tribal areas would then compete with bids for non-Tribal areas under the combined overall budget.

50. The Commission seeks comment on the benefits and potential drawbacks of this approach to establishing a separate Tribal reserve that would be made available first to Tribal lands, to the extent there are successful bidders willing to use these funds to serve Tribal lands. Under this proposal, the price at which support to areas assigned under the Tribal reserve would likely be higher than the price at which support would be assigned under the unreserved budget. The extent of the differential price effect would depend on the relative levels of competition in Tribal and non-Tribal areas.

51. The Commission asks commenters to consider whether the proposed separate Tribal reserve budget would significantly advance the Commission's goal of promoting 5G service to Tribal lands. If a commenter believes that another approach would better balance the Commission's interest in assigning funds under the 5G Fund in a cost effective manner with the Commission's interest in overcoming the distinct challenges of expanding 5G service to Tribal lands, the Commission asks that the commenter explain in detail the suggested alternative and reasons for preferring that approach.

52. *Identifying Tribal Lands.* The Commission proposes to identify those areas considered to be Tribal lands for high-cost purposes broadly in line with the Tribal areas identified in the Lifeline program. The high-cost program rules define Tribal lands as ''any federally recognized Indian tribe's reservation, pueblo or colony, including former reservations in Oklahoma, Alaska Native regions . . . as well as Hawaiian Home Lands . . . .'' For the Lifeline program, the Commission interpreted these same terms to correspond with geographic boundaries of the map of Hawaiian Home Lands maintained by the Department of Hawaiian Home Lands, the U.S. Census Bureau's American Indians and Alaska Natives Map, the Oklahoma Historical Map (1870–1890), as amended by the Commission to include the Cherokee Outlet, and the Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act. The Commission proposes to use these same mapping resources in the 5G Fund, to the extent applicable, as it has used in the context of the high-cost program.

53. More specifically, the Commission proposes to use the most recent boundary data available for this purpose published by the U.S. Census Bureau as the primary source for identifying the boundaries of Tribal lands for the 5G Fund. The American Indian, Alaska Native, Native Hawaiian (AIANNH) data associate a particular Tribal area with a unique Tribe using a four-digit census code identification number and also include a flag indicating whether each area is recognized by a State or the Federal Government. For purposes of defining Tribal boundaries in the 5G Fund, the Commission proposes to only include areas that the AIANNH data indicate are federally recognized. In addition to using the Census Bureau's AIANNH boundaries, the Commission proposes to include the boundaries of all census blocks wholly contained within areas identified as Tribal for the enhanced Lifeline support areas in Oklahoma (based upon the Oklahoma Historical Map (1870–1890)), using the most recent census block boundary data available for this purpose. While support to carriers in Alaska is proposed to be outside the scope of the 5G Fund, the Commission's proposal would define Tribal lands more generally throughout the high-cost program. The Commission also proposes to include the Census Bureau's Alaska Native Regional Corporation boundaries so as to define as Tribal land those areas in Alaska that are not part of the AIANNH boundaries.

54. The Commission proposes to modify the definition of Tribal lands for the high-cost program to allow for the designation of certain non-Tribal lands as Tribal, similar to the rules for the Lifeline program. Using this designation process, and consistent with waivers previously granted by the Commission to expand the definition of Tribal land in the Commission's rules to also include certain areas of a tribe that do not otherwise meet the definition, the Commission proposes to designate as Tribal land those areas within the study area boundaries of the Eastern Navajo Agency and Sacred Wind Communications in New Mexico. This approach would allow so-called ''checkerboard'' Tribal and non-Tribal land areas in this section of New Mexico to be aggregated as Tribal lands for purposes of the high-cost program and the 5G Fund, consistent with past Commission waivers. The Commission seeks comment on this proposal.

55. Under the Commission's proposal, all Tribal land with the same four-digit census code within the minimum geographic area for bidding would be grouped together to allow bidders to bid on Tribal areas grouped by Tribe. For Tribal land that is not part of the Census Bureau's federally-recognized AIANNH boundaries, the Commission proposes to assign such land the census code for the appropriate tribe. Specifically, the Commission proposes to identify as part of the Navajo Nation the portions of the study area boundaries of the Eastern Navajo Agency and Sacred Wind Communications in New Mexico that fall outside of any Tribal boundary from the Census Bureau's data. The Commission also proposes to identify the portions of census blocks wholly contained within the enhanced Lifeline support areas in Oklahoma that fall outside of any Tribal boundary identified by the Census Bureau with the Cherokee, Iowa, Kickapoo, and Pawnee tribes as appropriate based upon the ''former reservations in Oklahoma'' identified in the Oklahoma Historical Map (1870–1890). Because there is no individual Alaska Native village associated with areas in Alaska that are not part of the AIANNH boundary data, the Commission proposes to identify these areas with the appropriate Alaska Native Regional Corporation identifier. The Commission seeks comment on these proposals and whether this process is sufficient to identify Tribal lands for the 5G Fund and the high-cost program generally.

4. A Multi-Round, Descending Clock Auction

56. 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. The Commission seeks comment on whether it should consider any modifications to this approach for the purposes of a 5G Fund auction.

57. For Phase I of the 5G Fund, the Commission proposes to use a multi-round, descending clock auction to identify which carriers would receive support in which areas and the amount of support that each winning bidder would be eligible to receive. The Commission proposes that this descending clock auction would consist of sequential bidding rounds according to an announced schedule providing the start time and closing time of each bidding round. The Commission proposes to use bidding procedures similar to those used in the auction framework adopted for the Rural Digital Opportunity Fund, and adopted in the *CAF Phase II Auction Order,* 81 FR 44413 (Jul. 7, 2016) and used in the CAF Phase II auction. The Commission proposes a multi-round auction to

enable bidders to adjust their bidding strategies over the course of the auction so as to create viable aggregations of geographic areas in which to construct networks.

58. The Commission proposes that bids for 5G Fund support would be accepted and winning bids would be determined based on a support price per adjusted square kilometer. That is, each eligible area would have an associated number of adjusted square kilometers reflecting particular factors such as difficult terrain and other relevant factors affecting the cost of providing service to the area. Support amounts for an area would be determined by multiplying an area's associated adjusted square kilometers by the relevant price per square kilometer. For example, an area with 100 square kilometers and an adjustment factor of x would have 100*x adjusted square kilometers. This approach would ensure that carriers bidding to serve the hardest-to-serve parts of the country can compete efficiently and fairly in the auction.

59. As is the Commission's usual practice, during the pre-auction process, if the Commission adopts its proposal regarding the auction objective and design, the Commission would seek comment on and adopt an opening price per adjusted square kilometer that is high enough that even carriers requiring a very high level of support will be able to compete in the auction. The opening clock price, multiplied by an area's adjusted square kilometers, would represent the highest support amount that a winning bidder could receive in the auction. The same opening price, in dollars per adjusted square kilometer, would apply to all the eligible areas in the auction. The clock price would be decremented in subsequent rounds of the auction, implying lower support amounts for each area. Since the opening clock price is intended to serve as a starting point for bidding and not an estimate of final prices, the Commission anticipates that the opening price that it proposes would be based on rough estimates of the cost of providing service to hard-to serve areas, taking into account any adjustments that are adopted. The Commission invites comment here on the best approach to estimating a reasonable starting point for bidding in the 5G Fund Phase I auction.

60. If the Commission adopts its proposal to establish a separate budget reserved for Tribal lands, it proposes to use an integrated bidding process to assign support from both the Tribal lands reserved budget and the unreserved 5G Fund Phase I budget, using a single price clock that would apply to bids for support under both budgets. Bid processing procedures would ensure that the Tribal reserve budget would clear at a price per adjusted square kilometer that is not less than the price at which the unreserved budget would clear, and as a result, winning bids under the Tribal reserve budget would begin to be assigned at support prices that were no less, and potentially greater than, the prices at which bids under the unreserved budget could be assigned. Absent a decision to establish a separate budget for Tribal lands, the bidding system would consider all bids on a dollars per adjusted square kilometer basis for assignment under the overall budget. As the Commission did for CAF Phase II, and as adopted for the Rural Digital Opportunity Fund, the Commission proposes to leave the detailed clock auction bidding and bid processing procedures to be established in an auction procedures public notice after notice and an opportunity for comment during the pre-auction process.

61. The Commission also proposes to include all eligible areas nationwide in the 5G Fund Phase I auction, so that bidders compete for support across all areas at the same time.

62. For the 5G Fund Phase II auction, the Commission proposes using a similar multi-round, descending clock auction format to identify the areas that would be served, the winning bidders, and the support amounts they would receive with bids being compared based on a price per square kilometer. The Commission further proposes that any bidding preferences would be implemented using the approach it addresses here: By setting aside a portion of the budget to be assigned based on competition across areas qualifying for the preference, as considered here for Tribal lands in Phase I of the 5G Fund, or through an adjustment to the number of square kilometers (or other units) associated with the geographic area.

63. The Commission seeks comment on all these proposals for the 5G Fund Phase I and Phase II auctions. The Commission also seeks comment on whether there are any rule changes that it should consider for a 5G Fund auction that would lead to greater efficiency or better outcomes for the 5G Fund and rural consumers.

5. Minimum Geographic Area for Bidding

64. The Commission proposes generally to use census tracts containing areas eligible for 5G Fund support as the minimum geographic area for bidding in an auction. That is, the Commission proposes to overlay the eligible areas with U.S. Census Bureau census tracts boundaries, and have bidders in a 5G Fund auction bid for support to serve the eligible areas within each census tract. The Commission seeks comment on this proposal. The Commission also seeks comment on whether areas larger than census tracts, such as counties, may be more suitable as biddable items for 5G Fund support. Alternatively, would use of a different geographic unit, which could provide for more targeted bidding, be more appropriate, especially for smaller wireless carriers?

65. Further, the Commission proposes removing from any 5G Fund auction any tracts that have *de minimis* eligible areas, defined as an area of one square kilometer or less within the tract, because the Commission believes there would be little or no demand for these areas and that the amount of the winning bid associated with such areas would likely be too small to pay out. The Commission seeks comment on this proposal. Commenters should discuss the costs and benefits associated with each approach.

66. Because the Commission proposes to allocate funds reserved for support to Tribal lands from a separate Tribal lands budget, if it adopts that approach, the Commission would also need to identify the tracts or partial tracts containing eligible areas that coincide with the area of a specific Tribal entity. To do this, the Commission proposes to overlay the boundaries of Tribal lands for each federally-recognized Tribal entity, as set forth below, on the eligible areas within each census tract if the Commission ultimately adopts a separate Tribal lands budget. Thus, under this proposal, the minimum geographic area for bidding would be census tracts, split by Tribal land, containing areas eligible for 5G Fund support. The Commission seeks comment on this proposal.

6. Adjustment Factor

67. The Commission proposes to incorporate an adjustment factor into the 5G Fund auction design and the methodology for disaggregation of legacy support that would assign a weight to certain geographic areas. Such weighting would reflect, among other things, the relative cost of serving areas with differing terrain characteristics as well as the potential business case for each area. Given the Commission's wide discretion to distribute universal service funding in a way that serves the public interest, it proposes to use an adjustment factor to help distribute 5G Fund and legacy support to a range of

areas across the country that are geographically and economically diverse.

68. The Commission does not intend to have an adjustment factor capture the full differences between the costs and benefits of providing service to different types of geographic areas. The Commission proposes to cap the adjustment factor if needed to ensure the funding allocation determined by the auction is both equitable and efficient. The Commission seeks commenters' views on its proposal to adopt an adjustment factor.

69. In the Order adopted concurrently with this NPRM, the Commission directs the Office of Economics and Analytics and the Wireline Competition Bureau to propose and seek comment on adjustment factor values and the underlying methodologies that could be used to develop them. To inform their proposals, the Commission recommends that the Office of Economics and Analytics and the Wireline Competition Bureau use data from several sources including the U.S. Geological Survey, historical coverage and infrastructure deployment data received by the Commission, data from the U.S. Census Bureau, spectrum holdings information, Mobility Fund Phase I auction data, and other data as necessary.

7. Transitioning From Legacy Support to 5G Fund Support

70. The Commission proposes a general framework for transitioning from legacy high-cost support to 5G Fund support that would reform mobile high-cost support while minimizing the disruption to carriers currently receiving legacy support.

71. As an initial matter, the Commission tentatively concludes that the 5G Fund would constitute a comprehensive mechanism for mobile high-cost support that serves as an alternative to Mobility Fund Phase II. Similar to the Commission's conclusions in the *PR–USVI Fund Report and Order* for the Uniendo a Puerto Rico Fund and the Connect USVI Fund, the Commission likewise tentatively concludes that the 5G Fund is consistent with statutory restrictions on the Commission's authority to modify the rules for legacy high-cost support. We seek comment on these tentative conclusions.

72. *Geographic Flexibility for Legacy Support.* The Commission seeks comment on allowing a mobile competitive eligible telecommunications carrier (ETC) receiving legacy high-cost support for a particular subsidized service area the flexibility to use such support for the provision, maintenance, and upgrading of facilities and services within any of the designated service areas for which it receives legacy high-cost support, regardless of whether those areas span more than one state, only during the limited period of time until the Commission transitions away from legacy support. While the Commission generally limits the scope of where high-cost support received for a particular service area can be used, the Commission believes that, in these special circumstances, continuing to restrict legacy support recipients to using the legacy high-cost support received for a particular service area only within that service area may not be in the public interest in all cases. More specifically, since the freeze in legacy high-cost support in 2012, the amount of legacy support a carrier receives for a particular service area no longer has any nexus to the cost of providing service in that area. Unlike mobile competitive ETCs receiving legacy high-cost support, recipients of the Commission's modernized funding mechanisms receive specific, predictable, and sufficient support amounts determined either by competitive bidding, a cost model, or the carrier's own reported costs to meet the recipients' obligation to deploy, provision, and maintain voice and broadband services across their designated service areas. Allowing a mobile competitive ETC the flexibility to reallocate its use of legacy high-cost support amongst its subsidized service areas could allow a carrier to make more efficient decisions about its use of support considering the current costs of providing service in high-cost areas, while still satisfying the statutory obligation to use such support for its intended purposes. The Commission seeks comment on providing this flexibility and on whether it is consistent with the Commission's overall universal service goals.

73. *Disaggregation of Legacy Support.* Similar to the approach the Commission took in the *Mobility Fund Phase II Report and Order,* the Commission proposes to use high-cost disbursement data from USAC that define the subsidized service area for each legacy support recipient to determine the areas in which legacy support is currently provided. USAC tracks the amount of support disbursed for each legacy support recipient's subsidized service area (a ''study area'') and the wire centers in each study area where the carrier has been designated as an ETC. The Commission expects that USAC will prepare and release maps of each legacy support recipient's subsidized service areas by combining these high-cost data with wire center boundary data. These high-cost subsidized service area boundaries would form the basis of our disaggregation process. Because high-cost support is disbursed by USAC for a carrier's entire subsidized service area, whereas the Commission's proposed 5G Fund transition framework would treat legacy support differently in different portions of a recipient's service area—for example, in eligible and ineligible portions of the area as well as in eligible areas where support is won and where there is no winner—the Commission must be able to disaggregate legacy support. For this purpose, the Commission would overlay the boundaries of eligible areas and the minimum geographic area for bidding over each legacy support recipient's service area. The Commission would subdivide the geographic boundary data for each carrier's subsidized service area into the smallest constituent piece for which support must be disaggregated and transitioned separately. More specifically, the Commission proposes to overlay on each carrier's subsidized service area boundary data: (a) The eligible area boundaries; (b) the minimum geographic area for bidding, *e.g.,* census tract boundaries; and (c) the subsidized service area boundary data for other legacy support recipients. The Commission would then calculate the percent area for each constituent piece in order to allow us to disaggregate and apportion the legacy high-cost support amount for each area. In the Order adopted concurrently with this NPRM, the Commission directs the Office of Economics and Analytics and the Wireline Competition Bureau to propose and seek comment on how to apply an adjustment factor to these disaggregation steps to account for the relative costs of providing mobile service, as well as whether and how any adjustment factor should differ between bidding and the disaggregation process.

74. *Carriers Eligible to Receive Legacy Support.* In the interim period before legacy support is fully transitioned to 5G Fund support, the Commission proposes to clarify that only terrestrial mobile wireless carriers may receive mobile high-cost support. Consequently, carriers offering non-terrestrial services, such as mobile-satellite service, would not be eligible to receive legacy support. Under the Commission's proposal, any legacy support recipient that would no longer be eligible to receive support would cease to receive legacy support after the effective date of an order adopting this requirement. This

proposal would not, however, prevent an affected carrier from bidding for, and winning, new 5G Fund support in the auction, provided that it is otherwise eligible. The Commission seeks comment on this proposal.

75. *Legacy Support Transition Schedule.* As part of the 5G Fund framework, the Commission proposes a schedule to transition each legacy support recipient's disaggregated legacy support to 5G Fund support that is broadly analogous to the schedule adopted in the *Mobility Fund Phase II Report and Order* for Mobility Fund Phase II, with some differences. Similar to Mobility Fund Phase II, legacy high-cost support would be converted to 5G Fund support, maintained for no more than five years to preserve service, or subject to phase down over two years depending upon whether the area was eligible for 5G Fund support and if eligible, whether there was a winning bidder for the area in the auction. For legacy support that is subject to two-year phase down, support would be provided at two-thirds of the level of the disaggregated legacy support for the first 12 months, and one-third of the level of the disaggregated legacy support for the next 12 months. All legacy high-cost support in areas subject to phase down would end no later than two years after announcement of the conclusion of the auction.

76. Notwithstanding the general transition schedule that the Commission proposes, however, it additionally propose that all legacy high-cost support to mobile carriers at the frozen identical support level would cease no later than five years after the effective date of an order adopting this proposal, regardless of when 5G Fund Phase I auction is conducted. Specifically, any mobile carrier that continues to receive legacy high-cost support not subject to the two-year phase down would cease to receive such support no later than the first day of the month five years after effective date of an order adopting this requirement. In making this proposal, the Commission notes that it originally anticipated that the legacy support structure would end in 2017, but for the pause in phase down and delay in awarding support through the Mobility Fund Phase II auction. By setting an absolute date on which legacy support to mobile carriers would cease, the Commission takes steps to help align the incentives of current legacy support recipients with the Commission's goal of transitioning such support to 5G Fund support using competitive bidding. The Commission seeks comment on this proposal and on whether its proposal adequately incentivizes a rapid transition away from the inefficient legacy support structure. Should the Commission commensurately push back the date on which legacy support would cease if it adopts its approach under Option B to collect new coverage data before proceeding to the 5G Fund Phase I auction?

77. Under the transition schedule that the Commission proposes, in areas determined not to be eligible for 5G Fund support, legacy support would be phased down starting the first day of the month after the effective date of an order adopting these requirements and release of the final list of areas eligible for 5G Fund support. This proposal differs from the transition schedule adopted in the *Mobility Fund Phase II Report and Order,* because, unlike in that proceeding, where the final set of eligible areas could not be known until the conclusion of the Mobility Fund Phase II challenge process, under Option A the proposed areas that would be eligible for 5G Fund support would be determined concurrent with adoption of these proposed rules, or under Option B would be determined at some point soon after collecting new mobile broadband coverage data. Since the Commission expects that carriers would not require support in order to deploy 5G service in areas ineligible for 5G Fund support, and legacy support recipients would not be able to win 5G Fund support in the auction for those areas, the Commission tentatively concludes that it would not be in the public interest to continue legacy support for ineligible areas. The Commission seeks comment on this proposal.

78. For areas that would be eligible for 5G Fund support, on the first day of the month following the release of a public notice announcing the close of the 5G Fund Phase I auction, legacy support for current recipients would either be maintained, pending authorization of the carrier to receive 5G Fund support (for the winning bidder in the Phase I auction), maintained in order to preserve service (for one legacy support recipient in areas without a winning bidder in the Phase I auction), or subject to phase down (for all other legacy support recipients). That is, for eligible areas that are not won in the 5G Fund Phase I auction, legacy support would begin to phase down over two years or be maintained in order to preserve service for no more than five years after the Phase I auction closes regardless of whether the eligible area may be won in the 5G Fund Phase II auction. In eligible areas won in the 5G Fund Phase II auction, legacy support (whether subject to phase down or preservation-of-service support) would either be maintained, pending authorization of the carrier to receive 5G Fund support (for the winning bidder in Phase II), or be subject to phase down (for all other legacy support recipients) beginning the first day of the month following release of a public notice announcing the close of the 5G Fund Phase II auction. Legacy high-cost support subject to phase down after the 5G Fund Phase I auction would continue to follow the original phase down schedule that commenced after the close of the 5G Fund Phase I auction for support recipients that were not the winning bidder in eligible areas won during the 5G Fund Phase II auction. If the carrier receiving maintenance of support in order to preserve service is not the winning bidder in the 5G Fund Phase II auction for an eligible area won during the 5G Fund Phase II auction, that carrier would begin to receive phased down support at this time. Under this proposal, legacy high-cost support maintained to preserve service after the 5G Fund Phase I auction would continue for eligible areas not won during the 5G Fund Phase II auction.

79. More specifically, for a winning bidder that is receiving legacy support in the area of its bid, the Commission proposes that legacy support would cease and 5G Fund support would commence on the first day of the month following release of a public notice authorizing the carrier to receive 5G Fund support. If the winning bidder defaults on its bid prior to the authorization of support, or is denied such authorization, the Commission would not award 5G Fund support for that area. However, to avoid adverse incentives and consistent with our proposal to maintain support to preserve service only in areas that lack a winning bid, a carrier that currently receives legacy support in the area of its winning bid would not receive preservation-of-service support and would instead be subject to phase down if the carrier defaults on its bid prior to authorization or is denied such authorization.

80. For winning bidders that do not receive legacy high-cost support in the areas of their winning bids, 5G Fund support would commence on the first day of the month following release of a public notice authorizing the winning bidder to receive 5G Fund support. For a winning bidder that is not an ETC in an area it won in a 5G Fund auction, the Commission would not authorize the winning bidder to receive 5G Fund support until it has been designated as an ETC in that area. Instead, only after it has been designated as an ETC for that

area could the winning bidder be authorized to receive 5G Fund support.

81. In eligible areas where there is no winning bidder in a 5G Fund auction, the Commission proposes that the legacy support recipient receiving the minimum level of sustainable support would continue to receive such support until further Commission action, but for no more than five years after the first day of the month following the effective date of an order adopting this requirement, in line with the Commission's proposal to cease all legacy support within five years. The Commission proposes to define the minimum level of sustainable support to be the lowest amount of legacy support among carriers that have deployed the highest level of mobile technology within the state. The Commission seeks comment on this proposal and whether these are the best metrics by which to measure deployment in order to ensure service continues in eligible areas not won during the auction.

82. The following chart summarizes the Commission's proposed schedule to transition from legacy support for areas in the 5G Fund Phase I auction. Consistent with the existing high-cost disbursement schedule, all legacy support transition schedule timing would be aligned to the first day of the month following a triggering action.

TRANSITION SCHEDULE FOR LEGACY HIGH-COST SUPPORT TO 5G FUND SUPPORT

Eligibility	Auction result	Bidder or recipient status	Support type & timing
Ineligible			2-year phase down commences after effective date of rules and release of final eligible areas.
Eligible	Won in auction	Carrier is the winning bidder but does not receive legacy support for the area it won.	5G Fund support commences after auction close and bidder is authorized.
Eligible	Won in auction	Carrier is the winning bidder and is a legacy support recipient for the area it won.	Legacy support ceases and 5G Fund support commences after close of the auction and bidder is authorized for area.
Eligible	Won in auction	Carrier is a legacy support recipient but is not the winning bidder in the area for which it receives support..	Legacy support ceases and 2-year phase down commences after auction close.
Eligible	Not won in auction	Carrier is a legacy support recipient but does not receive the minimum level of sustainable support for the area for which it receives support.	Legacy support ceases and 2-year phase down commences after auction close.
Eligible	Not won in auction	Carrier is a legacy support recipient and receives the minimum level of sustainable support for the area for which it receives support.	Legacy support continues for no more than 5 years after effective date of rules.

83. The Commission seeks comment on this framework generally and its proposed schedule to transition from legacy support to 5G Fund support. The Commission seeks comment on whether, in order for a legacy support recipient to be eligible to have its support maintained under the preservation-of-service rule for a particular area, it should require the carrier to participate in the 5G Fund Phase I auction and place a bid on that area. The Commission also tentatively concludes that legacy support recipients should be subject to additional public interest obligations and performance requirements to continue to receive legacy support in order to make sure that those primarily rural areas do not fall behind. The Commission seeks comment on this framework and proposed schedule to transition from legacy support to 5G Fund support. The Commission also seeks comment on proposed alternative frameworks and transition schedules.

8. Public Interest Obligations and Performance Requirements for Legacy High-Cost Support Recipients and 5G Fund Support Recipients

84. The Commission proposes that both legacy high-cost support recipients and 5G Fund support recipients would have a public interest obligation to provide 5G service alongside the voice service for which high-cost support is provided, and to meet measured performance requirements as a condition of receiving support. Specifically, the Commission proposes to require 5G Fund support recipients to provide mobile, terrestrial voice and data services that comply, at a minimum, with 5G–NR technology as defined by 3GPP Release 15 (or any successor release that the Office of Economics and Analytics and the Wireline Competition Bureau may require 5G Fund support recipients to comply with after notice and comment). The Commission proposes that mobile wireless carriers receiving 5G Fund support must also meet minimum baseline performance requirements for data speed, data latency, and data allowance. These proposals should ensure that rural areas receive service comparable to high-speed, mobile broadband available in urban areas. In accord with the *USF/ICC Transformation Order and Further Notice,* the Commission also proposes to require legacy support recipients to meet public interest obligations and performance requirements that would ensure the deployment of 5G network technology in each carrier's subsidized service areas. Specifically, under the Commission's proposal, legacy support recipients would be required to provide voice and data services that comply with the same 5G–NR technology required for 5G Fund support recipients.

85. *Public Interest Obligations, Performance Requirements, and Reporting Requirements for Legacy Support Recipients.* To ensure that the most advanced mobile services are available in all areas where a carrier is currently receiving legacy high-cost support, the Commission proposes to establish additional public interest obligations, performance requirements, and reporting requirements that such recipients must meet in order to continue receiving legacy support. In the *USF/ICC Transformation Order and Further Notice,* the Commission anticipated that if the phase down of high-cost support were halted at any

point during the transition to a more efficient distribution of funding, the Commission would adopt additional mobile broadband public interest obligations and performance requirements for continued receipt of such support.

86. The phase down was halted in 2014 and since that time legacy support recipients have received approximately $2 billion in high-cost support without having to meet any specific broadband deployment obligations. The absence of broadband public interest obligations and performance requirements does a disservice to rural Americans living in areas served by legacy support recipients because the Commission's rules require high-cost recipients to use support ''only for the provision, maintenance, and upgrading of facilities and services for which the support is intended'' and do not specify that such recipients must deploy the most current wireless technologies or expand their services to meet current standards. Indeed, because support levels were frozen at the end of 2011 based on the now-eliminated identical support rule and no service obligations are in place, legacy support recipients may be incentivized to reduce services to increase profit margins. Moreover, these current circumstances can create incentives against the reform of legacy, inefficient support and the refocusing of the Commission's limited universal service funds on unserved rural areas. Accordingly, today the Commission proposes to meet its stated intention in the *USF/ICC Transformation Order and Further Notice* and ensure that all Americans living in areas served by legacy support recipients receive the most advanced wireless services.

87. *Initial Report of Current Service Offerings.* To better understand the services current mobile recipients of legacy high-cost support are offering in their subsidized areas, the Commission tentatively concludes that each legacy support recipient should be required to file an initial report describing its current service offerings in its subsidized service areas and how the legacy support it is receiving is being used. The Commission tentatively concludes that this report would be required to be filed no later than three months after the Commission receives Paperwork Reduction Act approval for this requirement following its adoption.

88. *Adoption of Public Interest Obligations and Performance Requirements for Legacy Support Recipients.* The Commission tentatively concludes that it should adopt additional, broadband-specific public interest obligations and performance requirements for all current mobile legacy high-cost support recipients and that these obligations and requirements, as an interim step before the 5G Fund auction, should largely mirror the requirements for 5G Fund support recipients. Such action will ensure that rural Americans do not get left behind simply because they are served by a mobile legacy high-cost support recipient. To ensure that recipients of legacy high-cost support meet their public interest obligation to provide 5G service in their subsidized service areas, the Commission proposes to adopt interim and final service milestones to monitor their progress in meeting the performance requirements by the established deadlines, and propose that a legacy support recipient meet the same minimum baseline performance requirements for data speed, latency, and data allowance ultimately adopted for 5G Fund support recipients. The Commission also proposes that legacy support recipients have the same public interest obligations as it proposes for 5G Fund support recipients to provide 5G service at reasonably comparable rates, an allow collocation and voice and data roaming.

89. The Commission proposes requiring that current legacy support recipients provide 5G broadband service that meets the established performance requirements for legacy support recipients to at least 85 percent of the square kilometers in their subsidized service areas in each state by a final service deployment milestone deadline at the end of the fourth full calendar year after the effective date of an order adopting this requirement. The Commission notes that the Rural Wireless Association, which represents a number of legacy support recipients, has indicated that its members have used high-cost support to upgrade their networks to 4G LTE and would be willing to deploy 5G service in their subsidized service areas if such high-cost support continues. Because the infrastructure necessary to provide high speed broadband likely exists throughout the subsidized service areas of many legacy support recipients, the Commission expects that 5G service could be deployed more quickly than for a greenfield buildout. As such, the Commission believes that legacy support recipients that continue to receive support, including under the preservation-of-service rule, should be able to reasonably deploy 5G broadband service throughout their subsidized service areas within four years. However, because it may not be feasible for a legacy support recipient to deploy 5G service in areas where legacy support is being reduced, the Commission proposes to exempt from this requirement any portion of a carrier's subsidized service area where the legacy support recipient is subject to a two-year phase down of legacy high-cost support.

90. The Commission seeks comment on these proposals. If it moves forward with our Option A approach, the Commission seeks comment on whether these public interest obligations and performance requirements should be delayed from taking effect until after release of the final list of areas eligible for support in the 5G Fund Phase I auction, in light of the Commission's proposal to exempt ineligible portions of a legacy support recipient's subsidized service area from these obligations. In contrast, the Commission does not anticipate delaying these obligations if it moves forward with its Option B approach, given that release of the final eligible areas may be delayed by two years or more. Would delaying these public interest obligations and performance requirements until the Commission has final eligible areas under either proposal be consistent with its goal of ensuring that rural areas that continue to receive legacy high-cost support do not fall behind?

91. The Commission also proposes that legacy support recipients meet interim service deployment milestones prior to the final service milestone. Specifically, a current legacy support recipient must provide 5G broadband service that meets the established performance requirements for legacy support recipients service to at least 40 percent of its subsidized service areas by the end of the second full calendar year after the effective date of an order adopting this requirement, and to at least 60 percent of their subsidized service areas by the end of the third full calendar year after the effective date of an order adopting this requirement. The Commission proposes to require that legacy support recipients certify and demonstrate that they have met their service deployment milestones by meeting certain requirements as a measurement of performance within their subsidized areas using the same process the Commission ultimately adopts for 5G Fund support recipients. The Commission tentatively concludes that legacy high-cost support will not be provided to legacy support recipients that do not meet the established performance requirements by the applicable service deployment milestone deadlines. Should the Commission instead adopt a tiered non-compliance framework for legacy

support recipients that fail to meet these proposed performance requirements similar to what the Commission proposes for 5G Fund support recipients that fail to meet their performance requirements? The Commission also seeks comment on whether these obligations should be amended or refined to specify different percentages of service to Tribal lands within a legacy support recipient's subsidized service areas to ensure customers residing on Tribal lands would receive service as the preceding obligation and milestones are met.

92. *Annual and Interim Reporting Requirements for Legacy Support Recipients.* The Commission tentatively concludes that current mobile recipients of legacy high-cost support should be required to file reports regarding their efforts to provide 5G services throughout their subsidized service areas that meet the proposed public interest obligations and performance requirements. Specifically, the Commission tentatively concludes that for as long as a legacy support recipient receives legacy support, it should be required to file an annual report by July 1 in each year that includes updated information about the legacy support recipient's current service offerings in its subsidized service areas and how legacy support is being used to provide 5G services in these areas, and a certification that the legacy support recipient is in compliance with the public interest obligations and all of the terms and conditions associated with the continued receipt of legacy support disbursements. These annual reports would be filed with USAC via a web portal, and USAC would make all such data available to the Commission and state/Tribal governmental agencies. The Commission also tentatively concludes that each legacy support recipient should be required to file interim milestone reports and a final milestone report by March 1 of the calendar year following each applicable service milestone demonstrating that it has deployed 5G service that meets the performance requirements adopted for legacy support recipients. These interim milestone reports would be filed with USAC via a web portal, and USAC personnel would be responsible for verifying submitted data to determine compliance with the established performance requirements for legacy support recipients. The Commission seeks comment on these proposed reporting requirements.

93. Should the Commission exempt legacy support recipients that receive a *de minimis* amount of support from the public interest obligations and performance requirements it adopts for legacy support recipients, and if so, what level of support would be *de minimis*? Instead of requiring certain 5G broadband service coverage requirements, should the Commission require that legacy support recipients use an increasing percentage of their support toward deployment of 5G service? If so, how should the Commission measure compliance? The Commission seeks comment on these approaches and, if adopted, would direct the Office of Economics and Analytics and the Wireline Competition Bureau to establish, through a separate notice and comment process, the procedures used to verify legacy support recipients' compliance with these public interest obligations and performance requirements.

94. *Ensuring Auction Competitiveness.* The Commission recognizes that the current legacy high-cost support levels are unrelated to the costs of deploying 5G service, and seeks comment generally on ways to stimulate robust competition in the 5G Fund auction, especially from legacy support recipients in the service areas for which they are subsidized. How can the Commission ensure that legacy support recipients are incentivized to participate in the 5G Fund auction? Should the Commission require that legacy support recipients whose subsidized service areas are eligible in the 5G Fund auction bid on these areas to be eligible to have such support preserved in case the area remains unsold in the auction? The Commission seeks comment on these matters.

95. One party has suggested that the Commission consider an alternative mechanism offering current legacy high-cost support recipients that have fewer than 500,000 subscribers the option to continue to receive such support in return for deploying 5G service. In order to properly align the incentives to ensure auction competitiveness, should the Commission adopt such an alternative, or a similar mechanism by which legacy support recipients have an opportunity to accept reduced support, in return for the Commission removing from the 5G Fund auction areas that would otherwise be eligible for support? If we were to adopt such a process, what would be an appropriate subscriber count cutoff to determine which legacy support recipients are small carriers? How much of our proposed 5G Fund budget should be set aside for this purpose, and would such a mechanism ensure that the Commission's limited universal service funds are best spent to expand 5G service? What would be the costs and benefits of either of these mechanisms? Are there better means by which the Commission can encourage a rapid transition to 5G Fund support for legacy support recipients that also ensures 5G service deployment in areas that do not receive 5G Fund support? Preliminary high-cost support data from USAC show that significant portions of the subsidized service areas of many legacy support recipients overlap each other, and continuing to disburse support to more than one carrier to cover the same area would be at odds with the Commission's proposal to award 5G Fund support to only a single carrier. Additionally, under the Commission's proposed definitions for 5G Fund eligible areas, some portion of the subsidized service area of legacy support recipients may not be eligible for 5G Fund support. If the Commission were to consider offering legacy support recipients the option to continue to receive support, it seeks comment on whether to exclude subsidized service areas where more than one carrier receives legacy support, as well as areas that are not eligible for 5G Fund support. If a legacy support recipient were to decline this offer, should that carrier be ineligible to continue to receive support under the preservation-of-service rule proposed above? The Commission seeks comment on these matters and any alternatives to ensure the alignment between its tentative conclusion to adopt additional public interest obligations and performance requirements for current recipients and ensuring a competitive auction.

96. *Public Interest Obligations and Performance Requirements for 5G Fund Support Recipients.* To ensure that 5G Fund support recipients meet their public interest obligation to provide 5G service in areas where they receive support, the Commission proposes to adopt interim and final service milestones to monitor their progress in meeting the performance requirements by the established deadlines. Specifically, the Commission proposes that a support recipient must meet minimum baseline performance requirements for data speed, latency, and data allowance by the applicable deadlines. In addition, support recipients would have a public interest obligation to provide their 5G service at reasonably comparable rates and allow collocation and voice and data roaming throughout the 10 year support term. The service milestones the Commission proposes for the 5G Fund are similar to those adopted for the Rural Digital Opportunity Fund, CAF Phase II, and in the Uniendo a Puerto Rico Fund and the Connect USVI Fund proceeding.

97. For interim service milestones, the Commission proposes that a 5G Fund support recipient must commercially offer service that meets the established 5G performance requirements to at least 40 percent of the total square kilometers associated with the eligible areas for which it is authorized to receive 5G Fund support in a state by the end of the third full calendar year following authorization of support, to at least 60 percent of the total square kilometers by the end of the fourth full calendar year, and to 80 percent of the total square kilometers by the end of the fifth full calendar year. Additionally, in accord with the Commission's decision in the *Rural Digital Opportunity Fund Report and Order* to adopt an optional early service milestone for the Rural Digital Opportunity Fund, it proposes to adopt an optional early service milestone for the 5G Fund, which would allow a support recipient to reduce the value of its letter of credit if it offers service that meets the established 5G performance requirements to at least 20 percent of the total square kilometers in its winning bid areas in a state by the end of the second full calendar year following funding authorization. The Commission also proposes to align the service milestones with those of other high-cost programs to minimize the administrative burdens on the Commission, USAC, and support recipients. Accordingly, regardless of when a 5G Fund recipient is authorized to begin receiving support, the Commission proposes that each service milestone would occur on December 31. This proposal is consistent with the Wireline Competition Bureau's recent *CAF Phase II Auction Recipients' Deployment and Reporting Deadlines Aligned Order,* 35 FCC Rcd 109 (2020), that established uniform milestone deadlines for CAF Phase II auction support recipients and the Commission's decision in the *Rural Digital Opportunity Fund Report and Order* to adopt consistent milestone deadlines for the Rural Digital Opportunity Fund. The Commission acknowledges that by proposing to align the 5G Fund interim and final service milestones deadlines with those of other high-cost programs, some 5G Fund support recipients could possibly have more than three years to complete their first interim milestone. The Commission seeks comment on these proposals.

98. The Commission also proposes that a 5G Fund support recipient must provide service that meets the established 5G performance requirements to at least 85 percent of the total square kilometers associated with the eligible areas for which it is authorized to receive 5G Fund support in a state by a final service milestone by the end of the sixth full calendar year following authorization of support. This proposed final service milestone is similar to the final buildout requirement adopted in the *USF/ICC Transformation Order and Further Notice* for Mobility Fund Phase I. In addition, the Commission proposes that by the final service milestone, a 5G Fund support recipient would need to demonstrate that it provides service that meets the established 5G performance requirements to least 75 percent of the total square kilometers within each biddable area (*e.g.,* census block group or census tract) for which it is authorized to receive support. The Commission seeks comment on these proposals. The Commission also seeks comment on whether there are additional measures it could adopt that would help ensure that 5G Fund support recipients would meet their interim and final service milestones.

99. *Data Speed.* The Commission seeks comment on the minimum network speeds that 5G Fund support recipients should be required to deliver. In the *PR–USVI Fund Report and Order,* the Commission required support recipients to provide speeds of 35/3 Mbps, and the Commission seeks comment on whether it should adopt that requirement here. The Commission believes that such speeds would be achievable for carriers that only have access to low-band spectrum, as may be the case in rural areas, and seek comment on this view. Should the Commission adopt a higher performance requirement, such as 50/5 Mbps? Would higher speeds be feasible for rural areas, given the spectrum available to carriers? Do the benefits to rural consumers of requiring higher network speeds outweigh the potential costs of meeting those requirements? Should the Commission's proposed speed requirement increase over time to account for the likely pace of improvements in 5G service to well-served areas? The Commission also seeks comment on how to best quantify these speed requirements statistically, *e.g.,* if these speeds should be specified as median, mean, or another percentile of probability, and how these variations can be accounted for over the total extent of the coverage area.

100. *Minimum Cell Edge Requirements.* In addition to requiring deployment of 5G service with download and upload speeds of at least 35 Mbps and 3 Mbps, the Commission proposes to require that carriers deploy service in eligible areas with a minimum cell-edge download speed of 7 Mbps and a minimum cell edge upload speed of 1 Mbps, with a 90 percent coverage probability and a 50 percent cell loading factor. The Commission anticipates that these proposed requirements would ensure that the desired typical user experience in areas supported by the 5G Fund would be realistically attainable over the broad coverage area supported by the 5G Fund. The Commission seeks comment on this proposal, including the specific cell edge throughput, probability, and cell loading values proposed. Are these cell edge values appropriate to ensure performance across the cell area that would be adequate to meet the Commission's proposed 35 Mbps/3 Mbps data speed requirement?

101. Alternatively, should the Commission require different cell edge coverage probability and cell loading targets, such as 80 percent cell-edge coverage probability or 30 percent loading? Should the Commission require a lower cell loading value because rural environments may experience typical loading levels lower than 50 percent? Should the Commission require a different cell-edge minimum download and upload speed? Should the Commission require a minimum spectral efficiency (bps/Hz) metric, and if so, what should it be, and should it be considered in addition to, or as an alternative to, the download and upload speeds mentioned above? If the Commission adopts a minimum spectral efficiency metric, should this metric vary based upon the spectrum band used? What higher spectral efficiency (bps/Hz) improvements for 5G compared to 4G LTE are possible at the edge of (and overall for) rural cell sites? The Commission also seeks comment on whether these data speed and minimum cell edge requirements should be re-evaluated during the 5G Fund term as technologies continue to improve and speeds become faster.

102. *Latency.* The Commission proposes to require networks in eligible areas supported by the 5G Fund to have a latency of 100 milliseconds or less per round trip, a latency value referred to in the *Rural Digital Opportunity Fund Report and Order* as ''low latency.'' The Commission seeks comment on this metric, including comment on whether the deployment of 5G technology should alter the Commission's proposed latency requirements. The Commission proposes that measurement of latency be implemented using a standalone user device-based application which initiates and terminates round trip time measurements between the user device

and specified test servers. The Commission seeks comment on this proposal. The Commission also seeks comment on the network reference points between which the latency measurement should be conducted, and whether to specify the protocol layer, type, length, and number of packets. The Commission seeks comment on whether this latency requirement should decrease over time to account for the likely pace of improvements in 5G service to well-served areas.

103. *Data Allowance.* To ensure that rural consumers have access to service plans comparable to those offered in urban areas, the Commission proposes that 5G Fund support recipients must provide at least one service plan in eligible areas that includes a data allowance that would correspond to the average United States subscriber data usage. The Commission seeks comment on this proposal. The Commission also recognizes that industry and consumer practices regarding usage levels will evolve over time, especially as consumer internet usage continues to be dominated by video consumption. The Commission seeks comment on what type of service plan would fulfill this purpose—would one equivalent to a mid-level plan offered by a nationwide provider suffice? The Commission also seeks comment on when during the support term it should set this requirement, and what data allowance proposal would be high enough to ensure that rural consumers have access to service plans comparable to those offered in urban areas. Should the data allowance the Commission adopts increase over time, for instance at the interim service milestones it establishes for deployment of service? What data, and what data sources, should the Commission use to establish the monthly data allowance? Commenters should include current industry data to support any proposed standard, and should comment on the likely availability of a data source that would continue to be updated during the proposed 10-year term of the 5G Fund program.

104. The Commission also seeks comment on whether to establish a cap on the maximum data usage allowance that would be required for the final service milestone, and, if so, what industry data should be considered and incorporated into the calculation of a cap. If commenters disagree with the possibility of an increase of the data usage allowance requirement during the 5G Fund support term, they should explain why the 5G Fund standard should remain static even if, as anticipated, significant increases in average data usage occur in the industry over the next 10 years. Commenters supporting the adoption of a specific metric for the final service milestone prior to the auction should provide details regarding why a specific metric is suitable. Finally, if a data usage allowance for the final service milestone was to be established prior to the auction, the Commission seeks comment on how that allowance metric should be determined, including which data sources should be used.

105. *Reasonably Comparable Rates.* The Commission proposes, consistent with section 254(b)(5) of the Communications Act of 1934, as amended (Act), to require that 5G Fund support recipients have a public interest obligation to offer their services in eligible rural areas at rates that are reasonably comparable to rates they offer in urban areas. In the *USF/ICC Transformation Order and Further Notice,* the Commission concluded that, as a condition of receiving federal high-cost universal service support, all recipients of such support must offer broadband service in their supported area that meets certain basic performance requirements at rates in rural areas that are reasonably comparable to rates offered in urban areas. For both voice and broadband services, the Commission considers rural rates to be ''reasonably comparable'' to urban rates under section 254(b)(3) of the Act if rural rates fall within a reasonable range of urban rates for reasonably comparable voice and broadband services.

106. As an initial matter, the Commission proposes to define ''urban'' for this purpose using the same urban/rural definition as used in the initial step for defining eligible areas for the 5G Fund auction, which is based on the 2010 U.S. Census Bureau delineation. The Commission seeks comment on how it should determine if a carrier's rates are reasonably comparable to those it offers in urban areas. For instance, should the Commission conclude that if a carrier is offering the same rates, terms, and conditions (including usage allowances, if any, for a specified rate) to both urban and rural customers, then it would fulfill the requirement that its rates are reasonably comparable? The Commission also seeks comment on whether a carrier should be able to demonstrate it provides reasonably comparable rates if one of its stand-alone voice plans and one service plan offering data are substantially similar to plans offered in urban areas. In addition, in cases where a 5G Fund recipient does not serve urban areas and therefore must compare its rates to those of a different mobile carrier, the Commission seeks comment on how the 5G Fund recipient should identify the carrier and specific rate plans upon which it is basing its compliance certification, and what it should submit as corroborating evidence of reasonably comparable rates, such as information from the urban provider's web page or other marketing materials. All ETCs must advertise the availability of their voice services through their service areas, and the Commission requires support recipients also to advertise the availability of their broadband services within their service area. The Commission seeks comment on these proposals.

107. *Collocation and Voice and Data Roaming.* To ensure that support recipients do not use public funds to achieve unfair competitive advantage, the Commission proposes to adopt a public interest obligation that would require the same general collocation and voice and data roaming obligations that the Commission adopted for Mobility Fund Phase I, with certain minor changes. The Commission proposes that during the 10-year 5G Fund term, support recipients be required to allow reasonable collocation by other carriers of services that would meet the technological requirements of the 5G Fund on all 5G network infrastructure constructed with Universal Service Fund support that it owns or manages in the area for which it receives support. In addition, during this period, the Commission proposes that the recipient may not enter into facilities access arrangements that restrict any party to the arrangement from allowing others to collocate on the 5G network infrastructure. The Commission reminds participants that during the 10-year 5G Fund term, support recipients must comply with the Commission's voice and data roaming requirements in effect as of the adoption of 5G Fund rules on networks that are built through 5G Fund support.

9. Reporting Requirements

108. Consistent with the requirements adopted for CAF Phase II and the Rural Digital Opportunity Fund, the Commission proposes that a 5G Fund support recipient must submit an annual report certifying its compliance with the public interest obligations, performance requirements, and any other terms and conditions associated with receipt of 5G Fund support. The Commission further proposes that a support recipient must also file interim and final service milestone reports demonstrating that it has met the 5G Fund performance requirements for

deployment of service. The Commission also proposes a rule that would require a support recipient authorized to receive 5G Fund support and its agents to retain any documentation prepared for, or in connection with, the award of the 5G Fund support for a period of not less than 10 years after the date on which the support recipient receives its final disbursement of 5G Fund support.

109. *Annual Reports.* The Commission proposes that a 5G Fund support recipient be required to file an annual report by July 1 of each year after each year in which it was authorized to receive 5G Fund support. The Commission proposes that a support recipient's annual report would cover the preceding calendar year and that the support recipient would be required to certify that it has complied with the public interest obligations, performance requirements, and any other terms and conditions associated with receipt of 5G Fund support in order to continue receiving 5G Fund disbursements. The annual report would be filed with USAC via a web portal, and USAC would make all such data available to the Commission and state and Tribal governmental agencies. The Commission seeks comment on this proposal, including the length of time the web portal should be open to receive annual certifications each year. The Commission retains its authority to look behind recipients' annual reports and to take action to address any violations.

110. *Interim and Final Milestone Reports.* The Commission proposes that 5G Fund support recipients must collect and submit speed test data in interim and final service milestone reports, in accordance with the guidelines outlined below, and as developed further in the Digital Opportunity Data Collection proceeding that is considering more broadly applicable standards. The service milestone reports would include data to demonstrate compliance with the interim and final service milestones and the performance requirements for the 5G Fund. The Commission proposes that these reports would be submitted to USAC, as adopted for CAF Phase II and the Rural Digital Opportunity Fund. USAC personnel would be responsible for verifying submitted data to determine compliance with 5G Fund requirements. The Commission invites comment on proposed guidelines for testing and on alternatives.

111. The Commission seeks comment on whether it should standardize the network performance testing and coverage mapping methodologies used by 5G Fund recipients to report on their compliance service milestones. As a general matter, the Commission has been taking steps to achieve standardization in testing, mapping, and reporting of mobile broadband deployment. In its decision to conditionally approve the transaction between T-Mobile and Sprint, the Commission made clear that the approval of the transaction would be conditioned on the network buildout commitments of the licensees to provide 5G service to a large portion of the U.S. population, including rural areas, and these commitments include the submission of drive test results and coverage maps to the Commission at three- and six-year milestones. Further, the staff report concerning the investigation of the Mobility Fund Phase II 4G LTE coverage data submitted by certain carriers revealed significant discrepancies between coverage maps generated by carriers whose networks were tested and the actual, on-the-ground mobile experience, as measured by staff speed tests. Commission staff therefore recommended that, for proceedings in which the Commission collects mobile broadband deployment data, it should further standardize the propagation map parameters and assumptions that carriers use to generate their coverage data and require the submission of actual on-the-ground evidence of performance alongside coverage maps. Similarly, the Commission sought comment in its *Digital Opportunity Data Collection Order and Further Notice* on what additional steps the Commission should take to obtain more accurate and reliable mobile broadband deployment data. The Commission also notes that detailed validation processes have been implemented in other recent universal service auction proceedings. Consistent with the Commission's past efforts to encourage the use of consistent methodologies to verify buildout, the Commission proposes particular methods for 5G Fund support recipients to demonstrate provision of required performance and coverage.

112. The Commission proposes that a support recipient's interim and final service milestone reports would be due by March 1 of the calendar year following each applicable December 31 milestone deadline. The Commission proposes that failing to timely submit a service milestone report that includes the required representative data and certification concerning performance and coverage requirements by the established deadline would subject support recipients to defined consequences (as specified in the non-compliance proposal herein). Consistent the requirements adopted for CAF Phase II and the Rural Digital Opportunity Fund, the Commission further proposes that if a support recipient has not met the established performance requirements by the applicable service milestone deadline, it must inform the Commission, USAC, and the relevant state, U.S. Territory, or Tribal government, if applicable, in writing within 10 business days that it has failed to meet an interim or the final service milestone.

10. Demonstrating Compliance With Performance Requirements

113. The Commission proposes to require that 5G Fund recipients certify and demonstrate that they have met service deployment milestones by meeting certain requirements as a measurement of performance within a 5G Fund support area. More specifically, the Commission proposes to require that recipients demonstrate performance using a combination of predictive propagation modeling and comprehensive on-the-ground measurement testing. The Commission notes that comprehensive on-the-ground measurement testing would likely be the most accurate measure of performance in a carrier's coverage area; however, the scale and cost of relying solely on this method, especially to measure performance in particularly difficult terrain, may be overly burdensome. Conversely, propagation modeling may offer an efficient alternative, with less expense, for predicting performance (including download and upload speeds), but such results may not accurately reflect coverage and the on-the-ground consumer experience. The Commission is mindful that rural areas, which may have few roads and difficult terrain, would likely be the most costly areas for a carrier to drive test, and such tests still may not reach large areas that have coverage but are less accessible for drive tests. The Commission's proposal therefore includes a combination of measurement testing and carefully defined propagation modeling as a balanced approach to achieve reasonable coverage performance verification accuracy with reduced costs and logistical burdens. The Commission seeks comment on this approach to verifying compliance. The Commission notes that Ofcom in the United Kingdom has taken a similar combined approach to verifying compliance with coverage performance obligations. While Ofcom's specific requirements may be different from those the Commission may ultimately adopt, the Commission seeks comment on this overall combined approach and

methodology including coverage prediction of user speeds.

114. Under the Commission's proposal, 5G Fund support recipients would be required to use predictive propagation modeling to generate and submit milestone coverage maps showing the areas where 5G service has been deployed. While recognizing that carriers' planning methodologies may differ somewhat, the Commission proposes to standardize many of the propagation model parameters across 5G Fund recipients. Specifically, the Commission would require that milestone coverage maps must be generated to show cell edge coverage with minimum download and upload speeds of 7 Mbps and 1 Mbps, respectively, with 90 percent probability and 50 percent loading. The Commission also would require that milestone maps show where 35 Mbps/3 Mbps or better service is available. As part of this proposal, the Commission would also require that 5G Fund recipients generate coverage maps that take into account terrain and clutter, and use terrain and clutter data with a resolution of 100 meters or better. The Commission seeks comment on its proposal and these technical specifications. Are there other propagation model parameters that would be necessary to standardize for 5G Fund recipients to show successful deployment or that would improve the accuracy of predictive coverage maps? While recipients may use a variety of propagation models, including proprietary and non-public models, to design and deploy their networks, should the Commission require that all support recipients submit coverage maps using a common coverage model, such as Irregular Terrain Model (ITM), to validate coverage? What are the costs and benefits of such an approach?

115. The Commission would also require comprehensive on-the-ground measurement testing as part of this proposal. Specifically, the Commission would require that 5G Fund recipients conduct and submit speed test measurement data demonstrating compliance with coverage requirements. The Commission proposes to evaluate the sufficiency of measurements by first overlaying a uniform grid of one square kilometer (1 km by 1 km) grid cells on the carrier's propagation model-based coverage maps. The Commission would then require that the measurement data include at least three measurements per square kilometer grid cell predicted to have coverage to demonstrate compliance with coverage requirements. The Commission seeks comment on this testing density, or on whether any alternative measurement approach would be better. Under the Commission's proposal, each reported speed test would be required to include, at a minimum, download speed, upload speed, signal strength, latency, and packet loss measurements. Median speeds for measured grid cells would be compared to the area for which support was awarded. The Commission would require that the median reported speed tests show measurements with download and upload speeds of at least 35 Mbps and 3 Mbps, respectively, in those areas marked as offering such service. The Commission would also require that measurements at the cell edge show minimum download and upload speeds of 7 Mbps and 1 Mbps, respectively, for 90 percent of the cell-edge tests. The Commission proposes that at least 96 percent of the speed tests in the cumulative speed test data submitted for each construction milestone have a data latency of 100 milliseconds or less roundtrip from the device to the edge of the service provider network and back. The Commission seeks comment on these proposals and the potential burden that may be imposed by requiring three measurements per grid cell. To the extent these data are burdensome to collect, the Commission seeks comment on the costs and benefits of requiring these data, and whether there are alternatives to allow the Commission to accurately verify coverage.

116. The Commission seeks comment on alternative approaches to how testing could be performed such that the Commission would have confidence that the milestone coverage speeds are met without testing every square kilometer of the 5G Fund area. Is it possible to sample sufficient drivable or accessible areas and, based on the comparison of those results to the coverage map, determine if the Commission can have confidence in the full coverage map? What ratio of 1 km by 1 km grid cell samples to coverage area would be required to have confidence in the predictions of the coverage map? Is it possible, for example, to achieve 96 percent or greater confidence in expected user speeds on coverage maps, with say 15 percent of the grid cells in a covered area with recorded speed test measurements that cover important terrain features, and imputed (calculated) median speeds in each of the other grid cells in the covered area (85 percent of the area grid cells)? The Commission seeks comment on this and alternative measurement methods that balance the desire for limiting the cost and complexity of speed test measurement campaigns, with the desire for high confidence in the resulting maps.

11. Milestone Map Supporting Data

117. The Commission also proposes to require that 5G Fund recipients submit supporting data in addition to their milestone coverage maps so that USAC can evaluate and verify compliance with coverage performance requirements. The Commission proposes the collection of system level data to validate the performance and architecture of the funded network. The Commission also proposes to require the submission of a complete link budget showing the relationship between the coverage map signal strength prediction and the required minimum download and upload speeds. Submitted link budgets would include all of the parameters necessary to verify the coverage map, including signal to noise ratio (SNR) assumptions for downlink and uplink per spectrum band. Additionally, the Commission proposes to require that 5G Fund recipients submit information on the propagation model employed to design the 5G network coverage areas. Would these submissions provide sufficient information for milestone report validation or should the Commission also require specific network information such as information on cell site deployments in the coverage areas, including location, antenna height, antenna type, antenna gain, antenna orientation, antenna downtilt, antenna multiple-input and multiple-output (MIMO) configuration, emitted isotropic radiated power, operating frequency band(s), channel bandwidth (including possible carrier aggregation), Reference Signal Received Power (RSRP) signal strength, and any other data required to verify coverage maps? If the Commission requires specific cell site deployment information, should it also require information on backhaul type, backhaul capacity, backhaul oversubscription ratio, and a functional network diagram? The Commission further proposes that 5G Fund recipients provide a narrative on both cell sites and network capacities with traffic engineering assumptions and how the overall network, as built, could meet the performance requirements and scale for future growth. The Commission seeks comment on these proposals. Are these data necessary if the Commission ultimately adopts requirements in the Digital Opportunity Data Collection for the same or similar information from mobile carriers? How should the Commission align these

requirements with any future mobile broadband coverage data collections?

118. Alternatively, to avoid transmitting large quantities of commercially sensitive service provider proprietary data to USAC, should the Commission instead provide 5G Fund recipients a standard propagation model (software), *e.g.,* point-to-point Irregular Terrain Model (ITM), and user throughput calculation software, so that 5G Fund recipients could produce terrain-based coverage maps based on parameters that mirror recipients' proprietary software coverage predictions without transferring proprietary, site-specific data to USAC? The Commission seeks comment on this alternative, including the parameters of such modeling and calculation software.

119. The Commission proposes that these data and maps be submitted to USAC by the service milestone reporting deadlines to determine if the service milestone has been met. Cumulative data would be used for the service milestone determinations in years four, five, and six for 5G Fund support recipients. For legacy high-cost support recipients, cumulative data would be used for the service milestone determinations in years two, three, and four. Deployment of service that meets established performance requirements may be achieved by a 5G Fund support recipient earlier than its interim and final required milestones. An area for which successful speed test data has been presented at an earlier milestone need not be tested again to show continuing compliance with performance requirements; however, the Commission proposes that support recipients have an annual obligation to certify continuing provision of service meeting the established public interest obligations adopted for the 5G Fund. The Commission proposes that at least 96 percent of the speed tests in the cumulative speed test data submitted for each construction milestone would be required to have a download speed of 7 Mbps and 1 Mbps upload speed and a latency of no greater than 100 ms roundtrip. The Commission proposes that tests must be distributed across all drivable areas of the cell coverage area, including both cell center and cell edge where possible. The Commission seeks comment on how many measurements, or what percentage of total required measurements, must be conducted at the cell edge. The Commission proposes requiring that recipients' milestone reports include all speed test measurements collected within the calendar year ending on the relevant December 31 milestone deadline. The Commission seeks comment on these proposals.

12. Coverage Area Measurement Methodology

120. To verify compliance with milestone deployment, the Commission proposes that it would review submitted coverage and speed test data. The Commission proposes that speed tests must be conducted using a device certified by the 5G Fund recipient as compatible with its 5G network. The Commission proposes that each speed test be taken between the hours of 6:00 a.m. and 12:00 a.m. (midnight) local time and within the calendar year ending on the relevant construction milestone period. Should a network load simulator be required to provide sufficient comparison to busy hour network congestion? The Commission proposes that speed tests must be taken outdoors, and that speed tests would only be counted if they fall within the area for which 5G Fund support was awarded. While the Commission proposes to require that test data be taken outdoors, how should it consider data collected at stationary locations versus mobile in-vehicle tests? Because low speed or stationary throughput measurements are typically higher than high mobility throughput measurements, should the Commission mandate a mixture of in-vehicle and stationary measurements? How can the Commission ensure that the speed test measurements represent the typical user case for the area covered?

121. The Commission notes that, regardless of the measurement methodology employed by a 5G Fund recipient, large areas of the recipient's coverage area may not be accessible via road due to the rural nature of the target areas. In general, the number of measurements across a rural area are likely either to be sparse compared to the total area or potentially unduly burdensome to collect. Are there methods of testing non-drivable/non-accessible areas, such as technological features like minimization of drive testing or measurement campaigns conducted via drone, that the Commission should consider? What parameters, such as vehicle speed and height above ground, should be specified to ensure that the test represents the user experience?

13. Testing Measurement Application Development

122. Speed tests supporting 5G Fund recipients' coverage maps could include downlink, uplink, latency, and signal strength measurements and be performed using an end-user application that measures performance between the mobile device and specified test servers. In support of its Measuring Mobile Broadband efforts, the Commission developed and released the FCC Speed Test App. This app measures the download and upload speed of a given connection in bits-per-second-per-hertz (bps), latency, and packet loss by performing data transfer from/to a target test node selected from a specified set. The test operates for a fixed duration and reports download and upload throughputs and latency values. There are many smartphone apps which report signal strength and data speeds; however, due to the inherent fluctuations of the RF environment, an app that reports instantaneous signal strength or download speed does not necessarily represent the overall user experience. The Commission seeks comment on specifying apps and methodologies that will ensure consistent and comparable measurements. Should the Commission consider developing an app to be used to verify coverage? Should its use be required, and if so, should there be any exceptions to its use, for example if there are features within a 5G network that allow for extraction of the performance requirements? The Commission seeks comment on these issues.

C. Eligibility Requirements

123. The Commission proposes requiring parties seeking 5G Fund support to satisfy eligibility requirements that are consistent with those adopted for Mobility Fund Phase I, CAF Phase II, and the Rural Digital Opportunity Fund. The Commission seeks comment on its proposals and on any other suggested eligibility requirements. If commenters suggest other eligibility requirements, they should be specific and explain how those requirements would serve the ultimate goals of the 5G Fund. While the Commission proposes eligibility requirements, it also seek comment on ways the Commission can encourage participation in competitive bidding by the widest possible range of qualified parties.

1. ETC Designations

124. Only ETCs designated pursuant to section 214(e) of the Act are eligible to receive support from the high-cost program. However, consistent with the rules adopted for the CAF Phase II auction and the Rural Digital Opportunity Fund, the Commission proposes to permit an applicant seeking to participate in a 5G Fund auction to be designated as an ETC after it is

announced as a winning bidder for a particular area. For the CAF Phase II auction, the Commission did not limit bidding in the auction only to ETCs, however, it required all winning bidders to obtain an ETC designation that covers all of the areas in which they won support prior to being authorized to receive support. The Commission therefore proposes that entities applying to bid in a 5G Fund auction would not be required to be ETCs at the time of the short-form application filing deadline, but that winning bidders would be required, within 180 days after 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 each of the geographic areas in which they won support. The Commission expects that allowing entities that are not ETCs to apply to bid in a 5G Fund auction may improve competition in the auction by encouraging participation from entities that may be hesitant to invest resources in applying for an ETC designation without knowing if they would be likely to win 5G Fund support.

125. Similar to the approach taken in the CAF Phase II auction and adopted for the Rural Digital Opportunity Fund, the Commission also proposes that the Wireline Competition Bureau waive the deadline where it determine that a winning bidder has demonstrated good faith efforts to obtain its ETC designation(s), but the proceeding has not been completed by the deadline. The Commission proposes that good faith would be presumed if the winning bidder filed its ETC application with the relevant authority within 30 days after the release of the public notice announcing winning bidders.

126. Additionally, the Commission proposes to forbear from the statutory requirement that the ETC service area of a 5G Fund winning bidder conform to the service area of the rural telephone company serving the same area. For Mobility Fund Phase I, the Commission forbore from requiring that the service areas of an ETC conform to the service area of any rural telephone company serving the same area, pursuant to section 214(e)(5) of the Act and § 54.207(b) of the Commission's rules. The Commission approved forbearance on the same terms for CAF Phase II and the Rural Digital Opportunity Fund. Consistent with the approach taken in Mobility Fund Phase I, CAF Phase II, and the Rural Digital Opportunity Fund, the Commission proposes that for those entities that obtain ETC designations as a result of being selected as winning bidders for 5G Fund support, the Commission would forbear from applying section 214(e)(5) of the Act and § 54.207(b) of the Commission's rules. The Commission anticipates that forbearing from the service area conformance requirement would eliminate the need for redefinition of any rural telephone company service areas in the context of a 5G Fund auction.

127. The Commission seeks comment on its proposals regarding ETC designations and forbearance from the service area conformance requirement. Commenters should address the three statutory requirements for any such forbearance.

2. Spectrum Access

128. The Commission proposes requiring that an applicant seeking to participate in a 5G Fund auction have access to spectrum in an area that enables it to satisfy the applicable performance requirements in order to receive 5G Fund support for that area. As more fully explained in the Commission's proposed pre-auction short-form application requirements, the Commission would require an applicant to describe its access to spectrum, and to certify that that the description is accurate, that it has access to spectrum in the area(s) in which it intends to bid, that it has such access to spectrum at the time it applies to participate in competitive bidding and at the time it applies for support, and that it would retain its access to the spectrum through the applicable term of support adopted by the Commission for the 5G Fund. The Commission seeks comment on this proposal.

3. Financial and Technical Capability

129. As it has required in other universal service proceedings, the Commission proposes requiring an entity to certify that it is financially and technically qualified to provide the services supported by the 5G Fund within the specified timeframe in the geographic areas for which it sought support. Requiring this certification is a reasonable protection for the auction process and to safeguard the award of universal service funds. As more fully explained in its proposed application requirements, the Commission proposes requiring an applicant to certify as to its financial and technical qualifications in both its pre-auction short-form application and its post-auction long-form application. The Commission seeks comment on this proposal.

4. Encouraging Participation

130. In order to encourage participation in a 5G Fund auction by the widest possible range of entities, the Commission proposes to permit all qualified applicants to participate in a 5G Fund auction. The Commission's commitment to fiscal responsibility requires that it distribute the Commission's finite budget to the provider that submits the superior, most cost-effective bid in a 5G Fund auction. The Commission did not prohibit any particular class of parties from participating in Mobility Fund Phase I based on size or other concerns or from seeking Mobility Fund Phase I support based solely on a party's past decision to relinquish universal service support provided on another basis. In order to avoid potentially limiting the Commission's ability to close the 5G coverage gap, it proposes to follow the same approach here. The Commission expects that its general auction rules and procedures would provide the basis for an auction process that would promote the Commission's objectives for the 5G Fund and provide a fair opportunity for all serious, interested parties to participate. The Commission seeks comment on this proposal.

5. Transaction Conditions

131. With respect to the T-Mobile-Sprint transaction, the Commission notes that it required certain commitments as conditions to its approval of the transaction. In particular, certain deployment commitments were required nationwide, and also in rural areas. Specifically, T-Mobile pledged to cover 85 percent of the United States' rural population with 5G service within three years of the consummation of the transaction, and 90 percent within six years. T-Mobile further committed that, within three years, two-thirds of the rural population would have access to 5G download speeds of at least 50 Mbps, while over half (55 percent) would have access to 5G download speeds of at least 100 Mbps. Within six years of the merger closing date, T-Mobile pledged that 5G download speeds of at least 50 Mbps would be available to 90 percent of the rural population, while two-thirds of the rural population would be able to receive 5G service with download speeds of at least 100 Mbps.

132. The Commission tentatively concludes that T-Mobile should not be permitted to use any eligible areas for which it might win 5G Fund support to fulfill its transaction-specific rural commitments. The Commission seeks

comment on two approaches to implement this tentative conclusion. First, because T-Mobile has transaction commitments to cover a certain percentage of population rather than specific areas, the Commission seeks comment on allowing T-Mobile to make pre-auction binding commitments to deploy 5G services in eligible areas within the adopted deployment milestones for the 5G Fund without receiving 5G Fund support and otherwise prohibiting T-Mobile from participating in the bidding process. Would allowing T-Mobile to ''win'' an eligible area before the 5G Fund auction for $0 align with the Commission's goal of directing limited universal service funds to areas that would not otherwise see deployment of 5G networks? If the Commission were to allow this, are there any restrictions on where T-Mobile should be able to make such commitments?

133. Second, the Commission seeks comment on permitting T-Mobile to identify areas before the auction where it intends to deploy 5G service and removing these areas from the list of areas eligible to win support in the auction. If the Commission were to allow T-Mobile to identify such areas, the Commission seeks comment on how to ensure that T-Mobile deployed in these areas, including enforcement mechanisms. The Commission also seeks comment on whether there should be restrictions on which areas T-Mobile may identify, and, if restrictions should be adopted, the Commission seeks comment on the specifics of these restrictions.

134. The Commission seeks comment on any other alternatives to address the interaction between the T-Mobile merger conditions and the Commission's 5G Fund objectives, and asks commenters to provide specific implementation ideas to support any alternatives they propose.

135. Do other carriers have enforceable commitments to deploy 5G? If so, what tools does the Commission have to enforce such commitments and ensure that they are met? Should these carriers be allowed, similar to T-Mobile, to identify these areas to remove them from the auction? The Commission seeks comment on these questions and any alternative mechanisms to address planned 5G deployment that would ensure that the Commission's limited funds are most efficiently targeted to the areas most in need of support. Regarding potential future transactions, the Commission similarly tentatively concludes that no party may meet any 5G deployment merger conditions adopted in any other transactions with 5G Fund support. The Commission seeks comment on using similar mechanisms as discussed above for T-Mobile and any alternatives to align merger commitments in any potential future transactions with the Commission's 5G Fund objectives. The Commission seeks comment on these proposals and any alternatives to best take into account existing and future transaction conditions in its consideration of awarding 5G Fund support.

6. Inter-Relationship With Other Universal Service Mechanisms and Obligations

136. The Commission proposes to allow recipients of other high-cost universal service support to participate in a 5G Fund auction. While the Commission does not anticipate that it would prohibit applicants from participating in a 5G Fund auction merely because they have won support through other universal service mechanisms, the Commission notes that the goals of 5G Fund are to help ensure the availability of *mobile* voice and broadband services across rural areas of the country. The Commission therefore proposes to prohibit a 5G Fund support recipient from using 5G Fund support to satisfy any pre-existing high-cost deployment obligations to fixed locations, to prohibit a recipient of other high-cost support from using that support to satisfy its 5G Fund deployment obligations. The Commission seeks comment on this proposal.

D. Application Process

137. The Commission proposes to use a two-stage application filing process for the 5G Fund, consisting of a pre-auction short-form application and a post-auction long-form application. Under this proposal, the Commission would require an entity interested in participating in a 5G Fund auction to file a short-form application to establish its qualifications to participate in the auction, relying primarily on the applicant's disclosures as to identity, ownership, and agreements, as well as a description of its access to spectrum and various applicant certifications. After the short-form application deadline, Commission staff would conduct an initial review of the short-form applications to determine whether applicants have provided the necessary information required at the short-form stage to be qualified to participate in the auction. Following this initial review, applicants whose short-form applications are deemed incomplete would be given a limited opportunity to cure defects and to resubmit corrected applications. Only minor modifications to an applicant's short-form application would be permitted. Once Commission staff's final review is complete, a public notice would be released indicating which applicants are deemed qualified to bid in the auction.

138. After the close of the auction, the Commission would require a winning bidder to submit a long-form application with more detailed information about its qualifications, funding, and the network it intends to use to meet its public interest obligations and performance requirements, to allow Commission staff to conduct a more extensive review of the winning bidder's qualifications prior to being authorized to receive 5G Fund support. As with the short-form application, Commission staff would conduct a review of all timely filed long-form applications, afford applicants a limited opportunity to make minor modifications to amend their applications or cure defects, and to resubmit corrected applications. Once Commission staff completes a final review of the long-form applications, a public notice would be released identifying each winning bidder that may be authorized to receive 5G Fund support. The Commission seeks comment on its proposal, and on any alternative approaches.

139. The Commission also seeks comment on the information it proposes to collect from each auction applicant in its short-form application and from each winning bidder in its long-form application. Consistent with its past practices, the Commission proposes requiring an applicant to provide basic information in its short-form application to enable the Commission to review and assess whether the applicant is qualified to participate in the auction. The Commission also proposes and seeks comment on requirements for the long-form application process pursuant to which winning bidders would demonstrate that they are legally, technically and financially qualified to receive support.

1. Short-Form Application Requirements

140. *Part 1, Subpart AA Rules for Competitive Bidding for Universal Service Support.* The Commission proposes that its existing Part 1, Subpart AA universal service competitive bidding rules should apply to an applicant seeking to participate in competitive bidding process for 5G Fund support so that such applicants would be required to: (1) Provide information that would 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 competitive bidding process, (2) identify its authorized bidders, (3) make various universal service support specific certifications, (4) provide any additional information that may be required by the Commission in order to evaluate an applicant's qualifications to participate in the competitive bidding process, and (5) comply with the rule prohibiting certain communications during the competitive bidding process.

141. The Commission also proposes the following revisions to its Part 1, Subpart AA rules to codify policies and procedures applicable to the auction application process that have been adopted for CAF Phase II and the Rural Digital Opportunity Fund, better align provisions in Part 1, Subpart AA with like provisions in the Commission's Part 1, Subpart Q spectrum auction rules, and make other updates for consistency, clarification, and other purposes. The Commission seeks comment on these proposals.

142. *Ownership Disclosures.* Section 1.21001(b)(1) of the Commission's rules requires an applicant to disclose in its application the identity of the applicant, including information regarding parties that have an ownership or other interest in the applicant. For Mobility Fund Phase I, CAF Phase II, and the Rural Digital Opportunity Fund, the Commission adopted separate rules specifying that the type of ownership information to be provided by applicants is the information required by § 1.2112(a) of the Commission's rules. To simplify the ownership disclosure requirements for applicants, the Commission proposes to revise § 1.21001(b)(1) to specify that the type of ownership information to be provided by applicants is the information set forth in § 1.2112(a).

143. *Authorized Bidders.* The Commission's spectrum auction rules prohibit the same individual from serving as an authorized bidder for more than one applicant in an auction. This prohibition ensures that an individual is not in a position to be privy to bidding strategies of more than one entity in a spectrum auction, and therefore not a conduit—intentional or unintentional—for bidding information between auction applicants. The same concerns that prompted the Commission to adopt this prohibition in spectrum auctions exist in the universal service auction context. Therefore, to align with the Commission's spectrum auction rules and help guard against potential violations of the prohibited communications rule, the Commission proposes to revise § 1.21001(b)(2) of its rules to prohibit the same individual from serving as an authorized bidder for more than one applicant in a universal service auction.

144. *Agreement Disclosures; Certification Concerning Agreement Disclosures.* Section 1.21001(b)(3) of the Commission's rules requires applicants to identify all real parties in interest to any agreements relating to the participation of the applicant in the competitive bidding. Section 1.21001(b)(4) of the Commission's rules requires an applicant to certify that its application discloses all real parties in interest to any agreements involving the applicant's participation in the competitive bidding. To better align the agreement disclosure requirement and associated certification for universal service auctions with the agreement disclosure requirement in the Commission's spectrum auction rules and with the procedures adopted for the CAF Phase II auction and the Rural Digital Opportunity Fund, the Commission proposes to revise § 1.21001(b)(3) to require an applicant to provide a brief description of each agreement it discloses and propose to revise § 1.21001(b)(4) to require an applicant to certify that it has provided in its application a brief description of, and identified each party to, any partnerships, joint ventures, consortia or other agreements, arrangements or understandings of any kind relating to the applicant's participation in the competitive bidding and the support being sought.

145. *Certification Concerning Auction Defaults.* Section 1.21001(b)(7) of the Commission's rules requires an applicant to certify that it will make any payment that may be required pursuant to § 1.21004 in the event of an auction default. To confirm an applicant's understanding that it will be deemed in default and thus liable for a payment, the Commission proposes to revise § 1.21001(b)(7) to also require an applicant to acknowledge, as part of making this certification and as a condition of participating in the auction, that it will be deemed in default and subject to either a default payment or a forfeiture in the event of an auction default.

146. *Due Diligence Certification.* Consistent with the requirements adopted for the CAF Phase II auction and the Rural Digital Opportunity Fund, the Commission proposes requiring an applicant to acknowledge through a certification that it has sole responsibility for investigating and evaluating all technical and marketplace factors that may have a bearing on the level of 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 obligations applicable to the type of support it wins and the Commission's rules generally. This proposed certification will help ensure that each applicant acknowledges and accepts responsibility for its bids and any forfeitures imposed in the event of an auction 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.

147. *Limit on Filing Applications.* Consistent with the Commission's spectrum auction rules prohibiting the filing of more than one application by the same entity or by commonly controlled entities in a single auction and with the proposals in the *Auction 904 Comment Public Notice,* 85 FR 15092 (Mar. 17, 2020), the Commission proposes prohibiting the filing of more than one application by the same entity or by commonly controlled entities in a universal service auction under any circumstances. The Commission also proposes definitions for the terms ''controlling interest,'' ''consortium,'' and ''joint venture,'' which would be used to identify commonly controlled entities for purposes of this prohibition and for purposes of an applicant making any required auction application certifications. As in its spectrum auctions, the Commission proposes that in the case of a consortium, each member of the consortium would be considered to have a controlling interest in the consortium filing an application for an auction and thus a consortium member would not be able to separately file its own application to participate in that auction. Consistent with its spectrum auction rules and with the proposals in the *Auction 904 Comment Public Notice,* the Commission proposes revising § 1.21001(d) of its rules to specify that if an entity submits multiple applications in a single auction, or if entities that are commonly controlled by the same individual or same set of individuals submit more than one application in a single auction, only one of such applications may be found to be complete when reviewed for completeness and compliance with the Commission's rules. In the Commission's experience in the spectrum auction context, this has helped to minimize unnecessary burdens on Commission resources by eliminating the need to process

duplicative, repetitious, or conflicting applications.

148. *Certification Concerning Non-Controlling Interests.* Although the Commission proposes to prohibit the filing of more than one application by commonly controlled entities in a single auction, it recognizes that in some circumstances, entities may have non-controlling interests in other entities and both entities may wish to bid in an auction. Insofar as there is no overlap between the employees in both entities that leads to the sharing of bidding information, such an arrangement may not implicate our concerns over joint bidding among separate applicants in an auction. However, such an arrangement could allow for the non-controlling interest or shared employee to act as a conduit for communication of bidding information unless the applicants establish internal controls to ensure that bidding information would not flow between them. To address this possibility and ensure that such arrangements do not serve or appear to be conduits for information, consistent with the Commission's spectrum auction rules, the Commission proposes requiring an applicant that has a non-controlling interest with respect to more than one application in a single auction to certify that it is not, and will not be, privy to, or involved in, in any way, the bids or bidding strategy of more than one auction applicant and that it has established internal control procedures to preclude any person acting on behalf of the applicant from possessing information about the bids or bidding strategies of more than one applicant or communicating such information with respect to either applicant to another person acting on behalf of and possessing such information regarding another applicant.

149. *Prohibition on Joint Bidding Arrangements; Prohibited Communications Rule.* In view of the Commission's proposal to prohibit commonly controlled entities from filing more than one application in a single auction, no pro-competitive basis for permitting joint bidding arrangements between or among auction applicants (including any party that controls or is controlled by an applicant) is readily apparent. Conversely, joint bidding arrangements between or among such entities enhance the risk of undesirable strategic bidding during auctions. Therefore, consistent with the Commission's practice in spectrum auctions and with the proposals in the *Auction 904 Comment Public Notice,* the Commission proposes to revise § 1.21002(b) of its rules to prohibit applicants from entering into joint bidding arrangements relating to their participation in a universal service auction and propose to require each applicant to certify in its auction 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 other than those disclosed in its application. In connection with its proposal to prohibit joint bidding arrangements, the Commission proposes to revise the definition of ''applicant'' in § 1.21002(a) and to define ''bids or bidding strategies.''

150. The Commission also proposes other revisions to § 1.21002 to better align with its spectrum auction rules and the proposals made herein. The Commission proposes requiring an applicant that has a non-controlling interest with respect to more than one application to implement internal controls that preclude any person acting on behalf of the applicant from possessing information about the bids or bidding strategies of more than one applicant or communicating such information with respect to either applicant to another person acting on behalf of and possessing such information regarding another applicant. The Commission also proposes requiring an applicant to modify its application for an auction to reflect any changes in ownership or in membership of a consortium or a joint venture or agreements or understandings related to the support being sought.

151. Additionally, the Commission proposes clarification and accuracy revisions to § 1.21002 concerning the procedure for reporting a prohibited communication.

152. *Additional Application Requirements Specific to 5G Fund Auction Applicants.* In addition to providing the information required in Part 1, Subpart AA of the Commission's rules, consistent with the short-form requirements for Commission spectrum and universal service support auctions, the Commission proposes requiring applicants to also provide the following 5G Fund specific information in their short-form applications.

153. *Technical and Financial Qualifications Certification.* The Commission proposes to require a 5G Fund auction applicant to certify that it is technically and financially capable of meeting the 5G Fund public interest obligations and performance requirements in each area for which it seeks support. The Commission required Mobility Fund Phase I and CAF Phase II auction applicants to certify in their short-form applications that they were technically and financially capable of meeting the relevant public interest obligations in each area for which they sought support, and has adopted a requirement for Rural Digital Opportunity Fund auction applicants to make this same certification. The Commission seeks comment on this proposal.

154. *Status as an Eligible Telecommunications Carrier.* Although it proposes herein not to require an applicant to obtain an ETC designation prior to applying to participate in a 5G Fund auction, the Commission proposes requiring each applicant to disclose in its short-form application its status as an ETC in any area for which it will seek 5G Fund support or as an entity that will become an ETC in any such area after if it is a winning bidder for 5G Fund support, and to certify that its disclosure is accurate. The Commission required CAF Phase II auction applicants to make the same disclosure and certification and adopted a requirement for Rural Digital Opportunity Fund auction applicants to do so as well. The Commission also proposes to require an applicant to disclose in the short-form application any study area codes (SACs) associated with an applicant (or its parent company) if the applicant indicates it is currently an ETC. The Commission seeks comment on this proposal.

155. *Access to Spectrum.* In connection with the Commission's proposed eligibility requirements relating to spectrum access, it proposes requiring an applicant to describe the spectrum access it plans to use to meet its 5G Fund public interest obligations and performance requirements in the particular area(s) for which it intends to bid, and to certify that the description is accurate and that the applicant will retain its access to the spectrum for at least 10 years from the date support is authorized. The Commission would require an applicant to: (1) Disclose whether it currently holds or leases the spectrum, (2) identify the license applicable to the spectrum to be accessed, the type of service covered by the license, the particular frequency band(s), the call sign, and any necessary renewal expectancy, and (3) indicate whether such spectrum access is contingent on obtaining support in a 5G Fund auction. Because an applicant must have access to spectrum in all areas for which it will bid for support, the Commission proposes requiring that, as part of its spectrum access certification, an applicant also certify that it has access to spectrum in the area(s) in which it intends to bid in each state and/or Tribal land area selected in

its application (*i.e.,* certify that the geographic scope of the applicant's access covers the entire area for which the applicant intends to bid). Specifically, the Commission proposes requiring an applicant to make the following certification in its short-form application under penalty of perjury:

> The applicant has access to spectrum in each area in which it intends to bid for support within each state and/or Tribal land area selected in this application, the applicant will retain such access for at least ten (10) years after the date on which it is authorized to receive support, and the description of spectrum access in the area(s) for which the applicant intends to bid for support provided in this application is accurate.

The Commission would also require an applicant to have obtained any necessary approvals from the Commission for the required spectrum access prior to submitting a 5G Fund auction application for the described spectrum access to be considered sufficient. The Commission seeks comment on this proposal.

156. Given that 5G Fund support would be awarded to advance the deployment of 5G service, the spectrum an applicant plans to use to meet its 5G Fund public interest obligations and performance requirements must be capable of supporting 5G service as it is defined in the performance requirements the Commission proposes to adopt for 5G Fund support. The Commission therefore proposes that entities seeking to receive support from the 5G Fund have access to spectrum and sufficient bandwidth (at a minimum, 10 megahertz × 10 megahertz using frequency division duplex (FDD) or 20 megahertz using time division duplex (TDD)) capable of supporting 5G services. The Commission notes that 3GPP, Release 16 has finalized various frequency bands for North America that appear to be capable of supporting 5G. The Commission seeks comment on whether there is other spectrum (licensed or unlicensed) that it should also consider appropriate to support 5G services. Commenting parties should specifically describe how such other spectrum would support reliable, proven, commercially viable 5G service—*e.g.,* how the commenting party is currently using that spectrum to provide 5G mobile broadband service and/or how that spectrum is currently being used in the marketplace to provide 5G based mobile broadband service.

157. *Technical and Financial Qualifications.* Similar to the approach taken for the CAF Phase II auction and adopted for the Rural Digital Opportunity Fund, the Commission proposes establishing two pathways for an applicant to demonstrate its technical and financial qualifications to participate in a 5G Fund auction. The Commission would first require an applicant to indicate in its application whether it has been providing mobile wireless voice and/or mobile wireless broadband service for at least three years prior to the short-form application deadline (or that it is a wholly-owned subsidiary of an entity that has been providing such service for at least three years) to determine which pathway the applicant would need to take.

158. *Applicants That Have Been Providing Mobile Wireless Service for at Least Three Years.* If an applicant indicates that it has been providing mobile wireless voice and/or mobile wireless broadband service to end user subscribers for at least three years prior to the short-form application deadline (or is a wholly owned subsidiary of an entity that has been providing such service for at least three years), the Commission would require the applicant to (1) specify the number of years it (or its parent company, if it is a wholly owned subsidiary) has been providing such service, (2) certify that it (or its parent company, if it is a wholly owned subsidiary) has filed FCC Form 477s as required during that time period, and (3) provide any FCC Registration Numbers (FRNs) that the applicant or its parent company (and in the case of a holding company applicant, its operating companies) have used to submit mobile wireless voice and/or mobile wireless broadband data with FCC Form 477 data for the past three years. Data regarding where a service provider offers mobile wireless voice and/or mobile wireless broadband service, the number of mobile wireless voice and/or mobile wireless broadband subscribers it has, and the mobile wireless broadband speeds it offers would provide insight into an applicant's experience in providing such service and could help Commission staff determine whether an applicant can reasonably be expected to be capable of meeting the 5G Fund public interest obligations and performance requirements. The Commission expects that it would generally be sufficient to review FCC Form 477 data from only the past three years because those data would reflect the services that the applicant is currently offering or recently offered and would illustrate the extent to which an applicant was able to scale its network in the recent past. The Commission seeks comment on this proposal. The Commission also seeks comment on whether the applicant should be required to submit other information to enable the Commission to assess its technical and financial qualifications.

159. *Applicants That Have Been Providing Mobile Wireless Service for Fewer Than Three Years, or Not At All.* If an applicant indicates that it has not been providing mobile wireless voice and/or mobile wireless broadband service for at least three years prior to the short-form application deadline (or is not a wholly owned subsidiary of an entity that has been providing such service for at least three years), the Commission proposes to collect certain high-level operational history, technical, and financial information from the applicant to enable Commission staff to determine whether the applicant can reasonably be expected to be capable of meeting the 5G Fund public interest obligations and performance requirements.

160. The Commission proposes requiring an applicant that has not been providing mobile wireless voice and/or mobile wireless broadband service to end user subscribers for at least three years to submit information concerning its operational history and a preliminary project description. The information an applicant would be required to provide concerning its operational history would provide an opportunity for an applicant that is currently providing mobile wireless voice and/or mobile wireless broadband service to end user subscribers but for fewer than three years to describe its experience. The technical information an applicant would provide in a preliminary project description would be designed to obtain information about the network to be built or upgraded by the applicant and the technologies the applicant plans to use to provide mobile wireless broadband service in order to confirm that the applicant has developed a preliminary network design plan and/or business case for meeting its 5G Fund public interest obligations and performance requirements. Because the Commission expects that applicants will already have started planning to deploy the required mobile wireless voice and mobile wireless broadband services upon authorization of 5G Fund support, the Commission does not anticipate that it would be unduly burdensome to respond to these questions. Consistent with the procedures adopted for the CAF Phase II auction, the Commission proposes to treat the information submitted by an applicant concerning its operational history and its preliminary project description, along

with any associated supporting information, as confidential, and would withhold such information from routine public inspection both during and after a 5G Fund auction.

161. The Commission also proposes to require an applicant that has not been providing mobile wireless voice or mobile wireless broadband service for at least three years to submit the following financial information: (1) A letter of interest from a qualified bank stating that the bank would provide a letter of credit to the applicant if the applicant becomes a winning bidder for bids of a certain dollar magnitude, as well as the maximum dollar amount for which the bank would be willing to issue a letter of credit to the applicant, and (2) a statement that the bank would be willing to issue a letter of credit that is substantially in the same form as set forth in the model letter of credit provided in Appendix D to the NPRM. The Commission proposes requiring that the bank issuing the letter of interest meet the acceptability requirements proposed in the NPRM for banks issuing letters of credit to 5G Fund winning bidders. The Commission seeks comment on this proposal, and on whether it should provide an alternative (*e.g.,* submission of audited financial statements) in the event an applicant is unable to obtain a letter of interest.

162. Requiring a potential bidder to submit evidence in its short-form application that it can meet the 5G Fund public interest obligations and performance requirements in the area(s) for which it seeks 5G Fund support will help safeguard consumers from situations where bidders unable to meet such obligations divert support from bidders that can meet them. The information the Commission proposes to collect in the short-form application from an applicant that has been providing service for fewer than three years is designed to enable Commission staff to assess that applicant's technical and financial qualifications to bid for 5G Fund support and to meet the 5G Fund public interest obligations and performance requirements, while at the same time minimizing the burden on applicants and Commission staff. The Commission seeks comment on its proposals, and on whether it should consider collecting other information that would enable the Commission to assess an applicant's technical and financial qualifications.

163. The Commission recognizes that if it were to adopt these requirements, it would potentially be precluding interested bidders that are unable to meet these requirements from participating in an auction for 5G Fund support. Commenters proposing alternative requirements for demonstrating an applicant's technical and financial qualifications to participate in a 5G Fund auction should explain how their approach would similarly serve to further the Commission's responsibility to implement safeguards to ensure the public's funds are being provided to entities 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.

164. As in any Commission auction for universal service fund support, the Commission seeks to balance the burdens on 5G Fund auction applicants of completing a short-form application with the Commission's statutory obligation to protect universal service funds, the integrity of the auction, and rural consumers. The Commission seeks comment on the information it proposes to collect concerning an applicant's technical and financial qualifications.

2. Amendments to Red Light Rule for Universal Service Auctions

165. The Commission adopted rules, including a provision referred to as the ''red light rule,'' that implement the Commission's obligation under the Debt Collection Improvement Act of 1996, which govern the collection of debts owed to the United States, including debts owed to the Commission. Under the red light rule, applications and other requests for benefits filed by parties that have outstanding debts owed to the Commission will not be processed. Applicants seeking to participate in a universal service auction are subject to the Commission's red light rule. Pursuant to the red light rule, unless otherwise expressly provided for, the Commission will withhold action on an application by any entity found to be delinquent in its debt to the Commission.

166. Concluding that robust participation would be critical to the success of the CAF Phase II auction, the Commission provided a limited waiver of the red light rule for any Auction 903 applicant seeking to participate in the auction that was red lighted for debt owed to the Commission at the time it timely filed its short-form application. The limited waiver adopted for the CAF Phase II auction provided a red lighted applicant seeking to participate in that auction until the close of the application resubmission filing window to pay any debt(s) associated with the red light. Under this approach, if an applicant had not resolved its red light issue(s) by the close of the initial application filing window, its application would be deemed incomplete, and if the applicant had not resolved its red light issue(s) by the close of the application resubmission window, Commission staff would immediately cease all processing of the applicant's short-form application, and the applicant would be deemed not qualified to bid in the auction.

167. Because the Commission considers robust participation to be critical to the success of any universal service auction, including a 5G Fund auction, the Commission proposes to amend the Commission's rules to codify the relief granted by the CAF Phase II auction limited waiver to provide an applicant seeking to participate in any universal service auction the opportunity to resolve its red light issue(s) by the close of the application resubmission filing window. The Commission proposes no further opportunity for an applicant to cure any red light issue beyond what it describes here. The amendments the Commission proposes would not waive or otherwise affect the Commission's right or obligation to collect any debt owed to the Commission by a universal service auction applicant by any means available to the Commission, including set off, referral of debt to the United States Treasury for collection, and/or by red lighting other applications or requests filed by the affected auction applicant. The Commission seeks comment on this proposal.

3. Long-Form Application Requirements

168. The Commission proposes that its existing Part 1, Subpart AA universal service competitive bidding rules apply to 5G Fund auction winning bidders applying for 5G Fund support. Consistent with the post-auction long-form requirements for the Mobility Fund Phase I and CAF Phase II auctions, and with the requirements adopted for the Rural Digital Opportunity Fund, The Commission proposes requiring 5G Fund auction winning bidders to provide the following categories of information in their post-auction long-form applications.

169. *Ownership Disclosures.* The Commission proposes requiring a winning bidder to disclose in its long-form application ownership information as set forth in § 1.2112(a) of the Commission's rules. The Commission anticipates that wireless carriers that have participated in spectrum license auctions will already be familiar with this disclosure requirement. These companies will also have ownership

disclosure reports (in the short-form application or FCC Form 602) on file with the Commission, which may simply need to be updated, minimizing the reporting burden on winning bidders. The Commission seeks comment on this proposal.

170. *Agreement Disclosures.* The Commission proposes requiring a winning bidder to provide in its long-form application any updated information regarding the agreements, arrangements, or understandings related to its 5G Fund support disclosed in its short-form application. A winning bidder may also be required to disclose in its long-form application the specific terms, conditions, and parties involved in any agreement into which it has entered and the agreement itself. The Commission seeks comment on this proposal.

171. *ETC Designation.* Consistent with the provider eligibility requirements proposed for the 5G Fund, the Commission proposes to permit a winning bidder to obtain its ETC designation after the close of the auction, provided that it submits proof of its ETC designation within 180 days after the release of the public notice identifying winning bidders. The Commission proposes requiring that a winning bidder submit appropriate documentation of its ETC designation in all the areas for which it will receive support in its long-form application, or certify that it will do so within 180 days of the public notice identifying winning bidders. The Commission also proposes requiring a winning bidder to demonstrate that it has been designated an ETC covering each of the geographic areas for which it seeks to be authorized for support and that its ETC designation allows it to fully comply with the 5G Fund coverage requirements within the time provided to meet this requirement before 5G Fund support is authorized. The Commission seeks comment on this proposal.

172. *Financial and Technical Capability Certification.* As proposed for the short-form application, the Commission proposes that a winning bidder also be required to certify in its long-form application that it is financially and technically capable of providing the required coverage and performance levels within the specified timeframe in the geographic areas in which it won support. The Commission seeks comment on this proposal.

173. *Project Description.* The Commission proposes requiring a winning bidder to submit for its winning bids a detailed project description that describes the network to be built; identifies the proposed technology; demonstrates that the project is technically feasible; discloses the complete project budget; discusses each specific phase of the project (*e.g.,* network design, construction, deployment, and maintenance); and includes a complete project schedule with timelines, milestones, and costs. The Commission seeks comment on this proposal.

174. *Spectrum Access.* As proposed for the short-form application, the Commission proposes requiring a winning bidder to provide in its long-form application a description of the spectrum access that will be used to meet its obligations in areas for which it is the winning bidder, including whether it currently holds or leases the spectrum, the license applicable to the spectrum to be accessed, the type of service covered by the license, the particular frequency band(s), and the call sign, and any necessary renewal expectancy. The Commission would also require the winning bidder to certify that the description is accurate, that it has access to spectrum in the area(s) for which it is applying for support, and that it will retain such access for the entire 10-year support term. The Commission seeks comment on this proposal.

175. *Certifications as to Program Requirements.* The Commission proposes requiring a winning bidder to make various certifications in its long-form application as to program requirements. Specifically, the Commission proposes requiring a winning bidder to certify that it has the funds available for all project costs that exceed the amount of support to be received and that it will comply with all program requirements, including the public interest obligations and performance requirements adopted for the 5G Fund. The Commission also proposes requiring a winning bidder to certify that it will meet the applicable deadlines and requirements for demonstrating interim and final construction milestones adopted for the 5G Fund, and will comply with the data speed, data latency, data allowance, collocation, voice and data roaming, and reasonably comparable rate performance requirements and public interest obligations adopted for the 5G Fund. The Commission seeks comment on these proposed certifications, and on whether there are any other program related certifications it should require.

176. *Additional Information.* Similar to what the Commission is afforded under its Part 1, Subpart AA rules for competitive bidding for universal service support for short-form applications, the Commission proposes to adopt a rule that would permit the Commission to request from winning bidders in connection with its review of long-form applications such additional information as the Commission may require to determine whether an applicant should be authorized to receive 5G Fund support. The Commission seeks comment on this proposal.

4. Support Authorization Requirements and Steps

177. *Submission of letter of Credit, Opinion Letter, and Final ETC Designation.* The Commission proposes that before being authorized for support, a winning bidder must submit (1) an irrevocable standby letter of credit issued by a bank that is acceptable to the Commission in substantially the same form as set forth in the model letter of credit provided in Appendix C of the *Rural Digital Opportunity Fund Report and Order,* and that is otherwise acceptable in all respects to the Commission, (2) a legal counsel's opinion letter stating that the funds secured by the letter of credit will not be considered to be part of the recipient's bankruptcy estate in the event of a bankruptcy proceeding under Section 541 of the Bankruptcy Code, and (3) any final ETC designation that the winning bidder may still require. These safeguards will allow the Commission to use a letter of credit to resolve a failure to repay after non-compliance. In addition, to ensure uniformity and transparency across the Commission's high-cost universal service rules, the Commission also proposes to amend its letter of credit rules for other universal service fund programs to expand the definition of branch offices of non-United States banks that are considered eligible to issue letters of credit. The Commission seeks comment on these proposals. Should the Commission also consider any other non-United States bank branch office as specifically eligible to issue a letter of credit, if the bank's branch office is accessible to the USAC and will accept a letter of credit presentation from USAC via overnight courier, in addition to in-person presentations?

178. The Commission recognizes, however, that there may be a need for greater flexibility regarding letters of credit for Tribally-owned and -controlled winning bidders, and that it may need to provide a mechanism for such entities to petition for a waiver of the letter of credit requirement if they are unable to obtain a letter of credit, as the Commission did for the Rural Broadband Experiments and CAF Phase

II, and as the Commission has adopted for the Rural Digital Opportunity Fund. While the Commission expects to follow the same approach on this topic that it adopted for the Rural Digital Opportunity Fund, the Commission nonetheless invites comment on potentially providing a letter of credit waiver opportunity for Tribally-owned and -controlled winning bidders in a 5G Fund auction.

179. *Letters of Credit.* The Commission proposes to adopt here the same letter of credit rules it adopted for the Rural Digital Opportunity Fund, inclusive of guidance provided by the Wireline Competition Bureau, in coordination with the Rural Broadband Auctions Task Force and the Office of Economics and Analytics, in a recent public notice, DA 20–307 (Mar. 20, 2020), regarding the eligibility of non-United States banks to issue letters of credit. As the Commission has previously explained, requiring all long form applicants to obtain a letter of credit is ''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 auction obligations. The letter of credit requirements the Commission proposes for the 5G Fund will establish a mechanism to recover disbursed funding efficiently in the event of non-compliance and fulfill the Commission's responsibility to protect program funds, while also reducing the costs for applicants to participate in the 5G Fund.

180. Specifically, the Commission proposes that prior to being authorized for support, a 5G Fund long-form applicant must obtain a letter of credit equal to one year of the total support it would receive. Prior to the beginning of Year Two, the Commission proposes to require a 5G Fund support recipient to obtain a letter of credit equal to eighteen months of its total support. Prior to the beginning of Year Three, the Commission proposes to require that it obtain a letter of credit equal to two years of its total support. The Commission further proposes to require that a support recipient obtain a letter of credit equal to three years of total support until such time as USAC verifies that it has met the established performance requirements for deployment of service by its initial interim service milestone, *i.e.,* as proposed herein, to at least 40 percent of the total square kilometers associated with the eligible areas for which it is authorized to receive 5G Fund support in a state by the end of the third full calendar year following support authorization.

181. For a support recipient that misses its interim service milestone by the end of the third full calendar year following funding authorization, the Commission proposes to require it to maintain a letter of credit covering a total of three years of support until such time as USAC verifies it has met its deployment obligations. Likewise, the Commission proposes that any support recipient failing to meet two or more service milestones (that is, failing to catch up after missing a first service milestone and remaining behind the required percentage of square kilometers deployment at the next service milestone deadline) will be required to maintain a letter of credit in the amount of three years of support and will be subject to additional non-compliance penalties as outlined below. The Commission anticipates that these letter of credit requirements would both protect federal funds from potential non-compliance and serve as an incentive to timely deployment.

182. On the other hand, for a support recipient that meets its Year Three Interim Service Milestone, the Commission proposes to allow it to reduce the amount of support covered by its letter of credit. Specifically, consistent with the rules it adopted for the Rural Digital Opportunity Fund, the Commission proposes to allow a 5G Fund support recipient to reduce the amount of its letter of credit after it meets—and USAC verifies that it has completed—its initial Year Three Interim Service Milestone. Upon verification by USAC that the support recipient has met the established performance requirements for deployment of service by its interim service milestone, *i.e.,* as proposed herein to at least 40 percent of the total square kilometers associated with the eligible areas for which it is authorized to receive 5G Fund support in a state by the end of the third full calendar year following authorization of support, the Commission proposes to allow the recipient to reduce its letter of credit to an amount equal to one year of total support. Once a support recipient reduces its letter of credit value to one year of total support, the Commission proposes to allow it to maintain its letter of credit at that level for the remainder of the service milestones, as long as USAC verifies that the support recipient successfully and timely meets its remaining service milestone obligations.

183. Additionally, the Commission proposes to adopt an accelerated approach for a 5G Fund support recipient to reduce its letter of credit to an amount equal to only one year of total support if it meets, and USAC verifies it has met, the Optional Year Two Interim Service Milestone of providing service that meets the established 5G Fund performance requirements to at least 20 percent of the total square kilometers associated with the eligible areas for which it is authorized to receive support in a state by the end of the second full calendar year following support authorization.

184. The Commission proposes to require that a 5G Fund support recipient maintain a letter of credit until it has certified, and USAC has verified, that it has provided service that meets the established 5G performance requirements to at least 85 percent of the total square kilometers associated with the eligible areas for which it is authorized to receive support in a state, and at least 75 percent of the total square kilometers in each eligible census tract in a state, by the Year Six Final Service Milestone at the end of the sixth full calendar year following authorization of support. Consistent with the approach adopted for CAF Phase II and the Rural Digital Opportunity Fund, the Commission also propose that 5G Fund support recipients may be subject to other if they do not comply with the public interest obligations or any other terms and conditions associated with receiving 5G Fund support, including but not limited to the Commission's existing enforcement procedures and penalties, reductions in support amounts, revocation of ETC designations, and suspension or debarment.

185. In short, the Commission proposes a letter of credit trajectory that recognizes that once support recipients have demonstrated significant and verifiable steps toward meeting their deployment obligations, they should have the opportunity to avoid some of the more costly letter of credit requirements. The Commission anticipates that accelerated and reduced letter of credit options should reduce the costs of procuring letters of credit by 5G support recipients. For instance, in keeping with the Commission's proposals, a 5G Fund support recipient that elects to deploy quickly and meets the Optional Year Two Interim Service Milestone would never need to maintain a letter of credit that covered more than 18 months' of its total support, assuming it continues to meet all of its service milestones.

186. The Commission proposes that a 5G 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 Appendix D to the

NPRM and that a long-form applicant submit a bankruptcy opinion letter from outside legal counsel prior to being authorized to begin receiving 5G Fund support. The Commission also proposes to require that the letter of credit be issued by a bank that meets the same bank eligibility requirements adopted for the Rural Digital Opportunity Fund.

187. The Commission seeks comment on these proposals, whether the phase-down approach is an appropriate balancing of the costs and benefits of the letter of credit requirement, and on whether any adjustments should be made to the proposed letter of credit rules for the 5G Fund.

188. 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 Rural Digital Opportunity Fund auction rules require a long-form applicant to submit a single letter of credit that covers all the winning bids in a state. Should 5G Fund long-form applicants be required to submit one letter of credit that covers all the winning 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.

189. Finally, the completion of prior universal service auctions, including the Mobility Fund Phase I and the CAF Phase II auctions, provide a basis for lessons learned that can inform the letter of credit requirements in the 5G Fund. The Commission observed in these prior auction processes 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. The Commission therefore seeks comment on whether it should decline to require a letter of credit for the 5G Fund. Are there viable, less costly alternatives that still minimize risk to public funds?

190. *Opinion Letter.* Consistent with its requirements for past universal service fund auctions, the Commission proposes that a winning bidder must also submit with its letter(s) of credit an opinion letter from legal counsel. The Commission proposes that the opinion letter must clearly state, subject only to customary assumptions, limitations, and qualifications, that in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the account party's bankruptcy estate, or the bankruptcy estate of any other competitive bidding process recipient-related entity requesting issuance of the letter of credit under section 541 of the Bankruptcy Code. The Commission seeks comment on this proposal, including costs and benefits of such an opinion letter.

5. Defaults

191. The Commission proposes that a default on a winning bid before the winning bidder has been authorized to receive 5G Fund support would be considered an auction default that would subject the 5G Fund winning bidder to a forfeiture payment. The Commission further proposes that after a winning bidder has been authorized to receive support, a failure to comply with the public interest obligations or any other terms and conditions associated with receiving 5G Fund support could result in a reduction, loss, or repayment of support, and may subject the support recipient to further action, as explained herein.

192. *Forfeiture in the Event of an Auction Default.* Consistent with the approach taken for CAF Phase II and the Rural Digital Opportunity Fund, if a winning bidder is not authorized to receive 5G 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 that the winning bidder be deemed in default and subject to forfeitures. Similar to the approach taken in the CAF Phase II auction and adopted for the Rural Digital Opportunity Fund, the Commission proposes to subject any 5G Fund winning bidder that is liable for an auction default to a $3,000 base forfeiture per violation, subject to an upward adjustment based on the criteria set forth in the Commission's forfeiture guidelines.

193. The Commission further proposes that a winning bidder would be subject to the $3,000 base forfeiture for each separate violation of the Commission's rules, which the Commission would define as any form of default with respect to each geographic unit subject to a bid in order to ensure that each violation has a relationship to the area affected by the auction default, but is not unduly punitive. To ensure that any upward adjustment of the $3,000 base forfeiture amount is not disproportionate to the overall scope of the winning bidder's bid, the Commission proposes to limit any upward adjustment such that the total forfeiture that could be owed by a winning bidder would not exceed 15 percent of its total winning bid amount for the entire 10-year support term. Under this approach, a winning bidder deemed to be in default would be subject to a base forfeiture amount of $3,000, which could be adjusted upward to a total forfeiture amount of 15 percent of its total winning bid amount for the entire 10-year support term for each separate violation. Notwithstanding the Commission's proposal to limit any upward adjustment, in instances where the facts of an auction default indicate that a winning bidder engaged in anticompetitive behavior, the Commission proposes that the total forfeiture that could be owed by winning bidder in such circumstances would be up to the amount associated with preservation of service in the applicable area.

194. Auction defaults undermine the stability and predictability of the auction process and impose costs on the Commission and higher support costs for the Universal Service Fund. They also hinder the disbursement of funds that could have gone to another carrier, and thereby further delay the deployment of broadband service offerings in unserved areas. Adopting a forfeiture for auction defaults and requiring auction applicants to acknowledge in their short-form applications that they will be subject to a forfeiture in the event of an auction default will impress upon entities that apply to participate in a 5G Fund auction the importance of being prepared to meet the requirements adopted for the post-auction support authorization process, and highlight the need to conduct a due diligence review to ensure that they are qualified to both participate in the 5G Fund competitive bidding process and to meet the terms and conditions for being authorized to receive support if they become winning bidders. The Commission seeks comment on this proposal.

195. *Dismissal of Long-Form Application for Failure to Prosecute.* Section 1.21004(a) of the Commission's rules requires a winning bidder in any universal service auction to submit a timely and sufficient application for universal service support associated with its winning bids and provides that a winning bidder that fails to file an application for support or that for any other reason is not authorized to receive

support has defaulted on its winning bids. However, this rule does not discuss the timing within which a winning bidder with a pending support application must respond to Commission staff requests for additional information regarding its application and become authorized for support before that winning bidder will be considered to have failed to prosecute its application. The rule also does not specify the timing or circumstances pursuant to which the Commission can take action to dismiss an application for the winning bidder's failure to prosecute and deem the winning bidder to be in default. To allow the Commission to more efficiently and effectively process pending applications for universal service support, and considering lessons learned from the Mobility Fund Phase I and CAF Phase II post-auction application processes, the Commission proposes to amend § 1.21004 of the Commission's rules to add a new rule that permits the Commission to dismiss any universal service auction winning bidder's long-form application with prejudice and deem the winning bidder to be in default if the winning bidder fails to prosecute its long-form application, fails to respond substantially within a specified time period to official correspondence or requests for additional information, or otherwise fails to comply with requirements for becoming authorized to receive universal service support. This approach will encourage winning bidders to timely and diligently prosecute their long-form applications and take the steps necessary to become authorized to receive support, and will allow the Commission to efficiently dispose of applications for a winning bidder's failure to prosecute its application or otherwise comply with the requirements for becoming authorized to receive support and in turn deem the winning bidder to be in default. The Commission seeks comment on this proposal.

196. *Post-Authorization Non-Compliance Measures.* The Commission proposes post-authorization non-compliance measures for the 5G Fund that are similar to the non-compliance measures and framework for support reductions applicable to all high-cost ETCs and the process adopted by the Commission for drawing on letters of credit for CAF Phase II and Rural Digital Opportunity Fund support recipients. Specifically, the Commission proposes to rely on the following non-compliance tiers for failure to meet the 5G Fund performance requirements as of the deadline for each service milestone:

NON-COMPLIANCE FRAMEWORK

Compliance gap	Non-compliance measure
Tier 1: 5% to less than 15% required square kilometers coverage.	Quarterly reporting.
Tier 2: 15% to less than 25% required square kilometers coverage.	Quarterly reporting + withhold 15% of monthly support.
Tier 3: 25% to less than 50% required square kilometers coverage.	Quarterly reporting + withhold 25% of monthly support.
Tier 4: 50% or more required square kilometers coverage	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.

197. Consistent with the non-compliance framework for CAF Phase II and the Rural Digital Opportunity Fund, the Commission proposes that a 5G Fund support recipient would have the opportunity to move tiers as it comes into compliance, and it would receive any support that has been withheld if it moves from one of the higher tiers (*i.e.,* Tiers 2–4) to Tier 1 status (or comes into full compliance) during the service milestones. Consistent with what it adopted for the Rural Digital Opportunity Fund, the Commission proposes that non-compliance of 50 percent or more at the Year Three Interim Milestone will result in default with no additional time permitted to come back into compliance. The Commission proposes that if a support recipient misses the Year Six Final Service Milestone, it would have 12 months from the date of the Year Six Final Service Milestone deadline within which to come into full compliance. If the support recipient is not able to come into full compliance with the service deployment requirements after this grace period, but has deployed service to at least 80 percent but less than the required 85 percent of the total eligible square kilometers in a state, the Commission proposes that the support recipient be required to pay 1.25 times the average support amount per square kilometer that it has received in the state times the number of square kilometers unserved, up to the 85 percent coverage requirement. If the support recipient has deployed service to at least 75 percent but less than 80 percent of the total eligible square kilometers in a state, the Commission proposes that the support recipient be required to pay 1.5 times the average support per square kilometer that it has received in the state times the number of eligible square kilometers unserved, up to the 85 percent coverage requirement, plus 5 percent of its total 10-year support in the state. If the support recipient has deployed service to less than 75 percent of the total eligible square kilometers in a state, the Commission proposes that the support recipient be required to pay 1.75 times the average support per square kilometer that is has received in the state times the number of eligible square kilometers unserved up to the 85 percent coverage requirement, plus 10 percent of total 10-year 5G Fund support for the state. The Commission also proposes applying the same support reduction if USAC subsequently determines in the course of a compliance review that a support recipient did not provide evidence to demonstrate that it was offering service at the required performance levels to the square kilometers required by the Year Six Final Service Milestone. These proposals are consistent with those adopted for the Rural Digital Opportunity Fund, with adjustments to account for the fact that the Commission is proposing that the Year Six Final Service milestone require service to at least 85 percent of the total eligible square kilometers in a state.

198. The Commission additionally proposes a service deployment requirement that by the Year Six Final Service Milestone, a 5G Fund support recipient must demonstrate that it provides service aligning with the adopted 5G performance requirements established by the Commission to least 75 percent of the total square kilometers within each biddable area (*e.g.,* census

block group or census tract) for which it is authorized to receive support. If the support recipient is not able to come into full compliance with this service deployment requirement after the 12 month grace period mentioned above, the Commission proposes that USAC will recover an amount of support that is equal to 1.5 times the average amount of support per square kilometer that the support recipient had received in the eligible area times the number of square kilometers unserved within that eligible area, up to the 75 percent requirement.

199. As was adopted for the Rural Digital Opportunity Fund, the Commission proposes that USAC would be authorized to draw on the letter of credit for its full value to recover the support covered by the letter of credit in the event that a support recipient does not meet the relevant service milestones, does not come into compliance during the Year Six Final Service Milestone grace 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 above, the support recipient would have six months to pay back the support that USAC seeks to recover. The Commission proposes that if the support recipient does not repay USAC by the deadline, the Wireline Competition Bureau would issue a letter to that effect and USAC would draw on the letter of credit to recover all of the support covered by the letter of credit, with any remaining balance due being a debt owed to the Commission by the support recipient. If the Commission adopts its proposal to allow a support recipient to close its letter of credit after certification and verification of its compliance with its Year Six Final Service milestone obligations (prior to or at the end of Year Six of the support term, as it has proposed), the Commission proposes that if a support recipient is later determined to have ceased offering service at the required performance levels to the required square kilometers of eligible area in a state during the 10-year term of support, such a support recipient would be subject to additional non-compliance measures such as withholding of monthly payments and enforcement action if it does not repay the Commission within six months. The Commission further proposes that, consistent with other high-cost universal service support programs, the failure to comply with the public interest obligations or any other terms and conditions associated with receipt of 5G Fund support may subject the support recipient to the Commission's existing enforcement procedures and penalties, reductions in support amounts, potential revocation of ETC designation, and/or suspension or debarment.

200. 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 proposed 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 Universal Service Fund.

201. Given the inherent differences in deploying networks for wireline and mobile wireless broadband services, as an alternative to employing a tiered non-compliance framework for the 5G Fund, should the Commission consider a simpler approach? Should the failure by a 5G Fund support recipient to comply with the public interest obligations or any other terms or conditions associated with receipt of 5G Fund support result in the immediate withholding of a certain percentage of the support recipient's monthly support until such time as the support recipient has come into compliance? What percentage would be appropriate? Should that amount increase over time and, if so, by what percentage? Is there a period of time after which the Commission should consider withholding of 100 percent of a support recipient's monthly support and should it seek to recover a percentage of support previously awarded? If so, what period of time and what percentage of awarded support recoupment should the Commission consider? Should this amount differ depending upon the nature of the public interest obligation or other term or condition associated with the receipt of support that the 5G Fund support recipient has failed to meet? The Commission seeks comment on this alternative or any other non-compliance framework it should consider for 5G Fund support recipients that fail to meet a public interest obligation or other term or condition associated with the receipt of 5G Fund support.

6. Competitive Bidding Mechanisms and Procedures

202. Consistent with its practice for auctions, the Commission proposes to adopt high-level auction rules for the 5G Fund and defer to the pre-auction process the determination of the final procedures for a 5G Fund auction. The Commission has found that this two stage approach to establishing competitive bidding procedures—by first defining important elements of the basic structure while later considering the details that will implement those fundamentals—gives it the flexibility needed to integrate its auction objectives and high level decisions into a workable and consistent auction process. The Commission proposes to adopt its existing Part 1, Subpart AA competitive bidding process rules for universal service support for the 5G Fund. These high-level auction rules for the competitive bidding process in auctions for universal service support set out a range of options and mechanisms that the Commission may use for such purposes. The Commission seeks comment on this proposal.

IV. Procedural Matters

203. *Initial Paperwork Reduction Act Analysis.* This NPRM contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirement contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition 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.

204. *Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities from the policies and rules proposed in the NPRM. The Commission requests written public comment on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on 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**.

205. 5G mobile wireless networks promise to be the next leap in broadband technology, offering significantly increased speeds, reduced latency, and better security than 4G LTE networks can offer. 5G mobile wireless broadband service is expected to create as many as three million new jobs, generate $275 billion in private investment, and add $500 billion in new economic growth. The Commission anticipates that the progression to 5G service will be swift. Since late 2018, major U.S. mobile wireless carriers have lit up 5G networks covering more than 200 million Americans in aggregate. And, as part of its recently approved transaction, T-Mobile has committed to deploying 5G service to 99 percent of Americans within six years, including covering 90 percent of those living in rural America within that timeframe. The Commission is concerned, however, that even with these significant deployment commitments, some rural areas will remain where there is insufficient financial incentive for mobile wireless carriers to invest in 5G-capable networks, and those communities could be excluded from the technological and economic benefits of 5G for years to come. During this transition to 5G service, the Commission therefore reaffirms its commitment to using Universal Service Fund support to close the digital divide and to make sure that parts of rural America are not left behind.

206. Given the concerns many stakeholders raised about the accuracy of Mobility Fund Phase II 4G LTE coverage data, many of which were validated during Commission staff's investigation into carriers' maps, and in light of the changes taking place in the marketplace, it no longer makes sense to use limited universal service support to deploy 4G LTE networks. Rather, to ensure that all Americans enjoy the benefits of the most modern, advanced communications technologies offered in the marketplace no matter where they live, and to maintain American leadership in 5G, the Commission proposes to establish a 5G Fund for Rural America, which would use multi-round reverse auctions to distribute up to $9 billion, in two phases, over the next decade and beyond to bring voice and 5G broadband service to rural areas of our country that are unlikely to see unsubsidized deployment of 5G-capable networks. Phase I of the 5G Fund would target at least $8 billion of support to rural areas of our country that would be unlikely to see timely deployment of voice and 5G broadband service absent high-cost support or as part of T-Mobile's transaction-related commitments. To balance the Commission's policy goal of efficiently redirecting high-cost support to the areas where it is most needed with our obligation to ensure that we have an accurate understanding of the extent of nationwide mobile wireless broadband deployment, the Commission seeks comment on two options for identifying areas that would be eligible for 5G Fund support.

207. One approach for Phase I could take immediate action to define eligible areas based on current data sources that identify areas as particularly rural, and thus in the greatest need of universal service support. In recognition of the particular challenges of ensuring that voice and 5G broadband service are deployed to areas that lack any mobile broadband service, the Commission would prioritize areas that have historically lacked 4G LTE, or even 3G, service. This would ensure that the Commission could move quickly to target universal service support to those areas least likely to receive service without support, such as those with sparse populations, rugged terrain, or other factors. Under this approach, the Commission anticipates commencing the 5G Fund Phase I auction in 2021.

208. Alternatively, the Commission could delay the 5G Fund Phase I auction until after it collects and processes improved mobile broadband coverage data through the Commission's Digital Opportunity Data Collection proceeding. Collecting these data would allow the Commission to identify with greater precision those areas of the country that remain unserved by 4G LTE service. While this option would likely result in a less expansive and a more targeted list of eligible areas and help ensure prioritization of areas that currently lack service, it would potentially delay the start of the 5G Fund Phase I auction and deployment of 5G-capable networks in those areas.

209. Phase II of the 5G Fund would follow the completion of Phase I and would target universal service support to bring wireless connectivity to harder to serve and higher cost areas, such as farms and ranches, and make at least $1 billion available specifically aimed at deployments that would facilitate precision agriculture. By proposing to rely on a two-phased approach, as it did with the Connect America Fund and has adopted for the Rural Digital Opportunity Fund, the Commission can commence a 5G Fund Phase I auction while also ensuring that Phase II would cover harder-to-serve areas so that such areas are not left behind. Moreover, the Commission's proposal to implement this two-phased approach would allow it to build upon future recommendations from the Commission's Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States (Precision Agriculture Task Force) to more accurately target Phase II support towards services that will meet the growing needs of America's farms and ranches.

210. Full participation in today's society requires that all American consumers, not just those living in urban areas, have access to the most current and advanced technologies and services available in the marketplace. By supporting the build out of 5G mobile broadband networks in areas that likely would otherwise go unserved, the Commission can help Americans living, working, and travelling in rural communities gain access to communication options on par with those offered in urban areas.

211. The Commission's universal service obligations demand that it keep pace with changes in the communications marketplace. Similarly, the Commission's policy goal must be to use its limited Universal Service Fund dollars in rural America to support the deployment of service using the most current and advanced technology available consistent with what is being offered to urban consumers. The Commission's proposals for the 5G Fund recognize that market realities have changed since it adopted Mobility Fund Phase II, and that supporting the provision of 4G LTE service in unserved and underserved areas will not allow the Commission to accomplish this goal. By proposing to replace the planned Mobility Fund II with the 5G Fund, the Commission seeks to direct universal service funds to support networks that are more responsive, more secure, and up to 100 times faster than today's 4G LTE networks. The Commission reaffirms its commitment to fiscal responsibility and propose concrete performance requirements and public interest obligations to ensure that rural consumers would be adequately served by the mobile wireless carriers receiving universal service support from the 5G Fund. The Commission also proposes to amend its generally applicable competitive bidding rules for universal service support and to codify recent guidance regarding letters of credit for universal service competitive bidding mechanisms.

212. The legal basis for any action that may be taken pursuant to the NPRM is authorized pursuant to 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 §§ 1.1 and 1.412 of the Commission's rules, 47 CFR 1.1 and 1.412.

213. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

214. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* 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 broad groups of small entities 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 percent of all businesses in the United States which translates to 28.8 million businesses.

215. 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).

216. 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.''

217. The small entities that may be affected are Wireless Telecommunications Carriers (except Satellite) and internet Service Providers.

218. In the NPRM, the Commission begins the process of seeking comment on rules that will apply to a 5G Fund auction. We propose to establish additional public interest obligations, performance requirements, and reporting requirements that current mobile legacy high-cost support recipients must meet in order to continue receiving high-cost support, to ensure that the most advanced mobile services are available in all areas where a carrier is currently supported by legacy high-cost support. The Commission also proposes to adopt public interest obligations and performance requirements for 5G Fund support recipients, including data speed and latency requirements, usage allowances, and collocation and voice and data roaming obligations. Like all high-cost ETCs, the Commission proposes that 5G Fund support recipients would be required to offer voice and broadband services meeting the relevant performance requirements at rates that are reasonably comparable to what they offer in urban areas.

219. The Commission proposes to adopt a 10-year support term for 5G Fund support recipients. The Commission also proposes to adopt three interim construction milestones and a final construction milestone at which a recipient must demonstrate that it provides 5G service that aligns with any adopted performance requirements established by the Commission, and seeks comment on whether there are additional measures it could adopt that would help ensure that 5G Fund support recipients will meet their initial coverage milestone (and subsequent milestones).

220. The Commission proposes adopting certain eligibility requirements for entities that are interested in participating in a 5G Fund auction, as well as a two-step application process. The Commission proposes requiring applicants to submit a pre-auction short-form application that includes information about their ownership, any agreements relating to the support to be sought through the auction, technical and financial qualifications, current status as an ETC, access to spectrum, 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.

221. After the auction ends, the Commission proposes requiring winning bidders to submit a post-bidding long-form application in which they will submit ownership, agreement, and spectrum access information, as well as information about their qualifications, funding, and the networks they intend to use to meet their obligations. The Commission also proposes requiring winning bidders to obtain and submit documentation of an ETC designation from the state or the Commission as relevant that covers each of the geographic areas in which they won support within 180 days after the release of the public notice announcing winning bidders. The Commission proposes that prior to being authorized to receive support, winning bidders must submit an irrevocable stand-by letter of credit that meets the Commission's 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 the Universal Service Administrative Company (USAC) verify that the support recipient has met its service milestones. Commission staff will review the long-form applications and submitted documentation to determine whether winning bidders are qualified to be authorized to receive support. The Commission proposes subjecting a 5G Fund winning bidder that defaults during the long-form application process to forfeiture.

222. The Commission also proposes requiring a 5G Fund support recipient to submit a modified, renewed, or new letter of credit annually to receive its next year's support.

223. To monitor the use of 5G Fund support to ensure that it is being used for its intended purposes, the Commission proposes to require a 5G Fund support recipient to file annual certification reports certifying its compliance with each of the 5G Fund public interest obligations and performance requirements, which

would be filed in USAC's online High Cost Universal Broadband (HUBB) portal. The Commission also proposes to require a 5G Fund support recipient to file milestone reports demonstrating that it has met its interim and final milestones for deployment of 5G service that meets established performance requirements, which would be filed in USAC's HUBB portal and USAC's Performance Measurement Module data portal, and seek comment on the proposed requirements and procedures for 5G Fund recipients to certify and demonstrate compliance with the 5G Fund interim and final milestones for deployment of service. The Commission further proposes that 5G Fund support recipients collect and submit speed test data, in accordance with the guidelines outlined in the NPRM, and as developed further in the Commission's Digital Opportunity Data Collection proceeding that is considering more broadly applicable standards, and that support recipients report these data and make related certifications in their milestone reports.

224. As for other high-cost support recipients, 5G Fund support recipients would be subject to record retention and audit requirements, and to support reductions for untimely filings. The Commission also proposes subjecting a 5G Fund support recipient that fails to meet its public interest obligations and/or and performance requirements or other terms and conditions of receiving 5G Fund support to a reduction, or loss, in support, in accordance with 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.

225. The Commission also seeks comment on a proposed approach to incorporating a Tribal lands preference into the 5G Fund auction to address the distinct challenges of ensuring that Tribal lands are provided with 5G service.

226. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include (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.''

227. The Commission seeks comment on a number of issues to ensure that small entities have the opportunity to participate in a 5G Fund auction.

228. The Commission 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 the Commission found to be an appropriate but not burdensome screen to ensure participation by qualified providers, including small entities. Submission of a long-form application, which requires a more fulsome review of an applicant's qualifications to be authorized to receive support, would only be required if an applicant becomes a winning bidder. The Commission proposes establishing two pathways for an applicant to demonstrate its technical and financial qualifications to participate in a 5G Fund auction based on its experience providing mobile wireless voice and/or broadband service. Entities, including small entities, that have been providing mobile wireless voice and/or broadband service for at least three years would be required to submit information concerning the number of years they have been providing service and their FCC Form 477 filings for the past three years, but would not be required to submit any other technical or financial information, while entities that have been providing such service(s) for fewer than three years (or not at all) would need to submit information concerning their operational history, a preliminary project description, and an acceptable letter of interest from an eligible bank. The Commission expects that by proposing to require experienced entities to submit less information at the short-form application stage to demonstrate their technical and financial qualifications, more entities, including small entities, would be able to participate in the auction. The Commission also seeks comment on whether it should require applicants that have been providing mobile wireless voice and/or broadband service for at least three years, which may also include small entities, to submit other information to enable the Commission to assess its technical and financial qualification.

229. The Commission expects that all entities, including small entities, would benefit from its proposal to permit all winning bidders 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 have won support through the auction. Recognizing that some participants in the Commission's past universal service auctions, including small entities, have expressed concerns about the costs of obtaining and maintaining a letter of credit, the Commission also comments on whether there are viable alternatives that will minimize risk to public funds.

230. The Commission invites comments from all parties, including small entities and participants in its past universal service support auctions, on the public interest obligations and performance requirements, interim and final construction milestones, reporting obligations, and non-compliance measures that it proposes for the 5G Fund. 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 and compliance costs and burdens on 5G Fund participants.

231. Additionally, the Commission seeks comment on its proposal to incorporate a Tribal lands preference into the 5G Fund to address the distinct challenges of ensuring that Tribal lands are provided with 5G service in order to incentivize carriers, including small entities, to bid on and serve Tribal lands.

232. More generally, the proposals and questions outlined in the NPRM are designed to ensure the Commission has a complete understanding of the costs, benefits, and potential burdens associated with the different actions and methods. 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.

233. There are no federal rules that duplicate, overlap, or conflict with the rules proposed herein.

234. *Ex Parte Rules—Permit-But-Disclose.* Pursuant to 1.1200(a) of the Commission's rules, 47 CFR 1.1200(a), this document 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).

235. 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.

V. Ordering Clauses

1. 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 §§ 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**.

2. *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 §§ 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.

3. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the NPRM, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

Administrative practice and procedures, Reporting and recordkeeping requirements, Telecommunications.

47 CFR Part 54

Communications common carriers, internet, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1 and 54 to read as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461, unless otherwise noted.

■ 2. Amend § 1.1902 by revising paragraph (f) to read as follows:

§ 1.1902 Exceptions.

* * * * *

(f) Nothing in this subpart shall supersede or invalidate other Commission rules, such as the part 1 general competitive bidding rules (47 CFR part 1, subparts Q and AA) or the service specific competitive bidding rules, as may be amended, regarding the Commission's rights, including but not limited to the Commission's right to cancel a license or authorization, obtain judgment, or collect interest, penalties, and administrative costs.

■ 3. Amend § 1.21001 by:

■ a. Revising paragraph (b);

■ b. Redesignating paragraphs (c) and (d) as paragraphs (e) and (f), respectively;

■ c. Adding new paragraphs (c) and (d); and

■ d. Revising newly redesignated paragraph (f).

The revisions and additions read as follows:

§ 1.21001 Participation in competitive bidding for support.

* * * * *

(b) *Application contents.* Unless otherwise established by public notice, an applicant to participate in competitive bidding pursuant to this subpart shall provide the following information in an acceptable form:

(1) The identity of the applicant, *i.e.,* the party that seeks support, and the ownership information as set forth in § 1.2112(a);

(2) The identities of up to three individuals authorized to make or withdraw a bid on behalf of the applicant. No person may serve as an authorized bidder for more than one auction applicant;

(3) The identities of all real parties in interest to, and a brief description of, any agreements relating to the participation of the applicant in the competitive bidding;

(4) Certification that the applicant has provided in its application a brief description of, and identified each party to, any partnerships, joint ventures, consortia or other agreements, arrangements or understandings of any kind relating to the applicant's participation in the competitive bidding and the support being sought, including any agreements that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including the specific areas on which to bid or not to bid), or the post-auction market structure, to which the applicant, or any party that controls as defined in paragraph (d)(1) of this section or is controlled by the applicant, is a party;

(5) Certification that the applicant (or any party that controls as defined in paragraph (d)(1) of this section or is controlled by the applicant) has not entered and will not enter into any partnerships, joint ventures, consortia or other agreements, arrangements, or understandings of any kind relating to the support to be sought that address or communicate, directly or indirectly, bidding at auction (including specific prices to be bid) or bidding strategies (including the specific areas on which to bid or not to bid for support), or post-auction market structure with any other applicant (or any party that controls or is controlled by another applicant);

(6) Certification that if the applicant has ownership or other interest disclosed with respect to more than one application in a given auction, it will implement internal controls that preclude any individual acting on behalf of the applicant as defined in § 1.21002(a) from possessing information about the bids or bidding strategies (including post-auction market structure), of more than one party submitting an application for the auction or communicating such information with respect to a party submitting an application for the auction to anyone possessing such information regarding another party

submitting an application for the auction;

(7) Certification that the applicant has sole responsibility for investigating and evaluating all technical and marketplace factors that may have a bearing on the level of 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 obligations applicable to the type of support it wins and the Commission's rules generally;

(8) Certification that the applicant and all applicable parties have complied with and will continue to comply with § 1.21002;

(9) Certification that the applicant is in compliance with all statutory and regulatory requirements for receiving the universal service support that the applicant seeks, or, if expressly allowed by the rules specific to a high-cost support mechanism, a certification that the applicant acknowledges that it must be in compliance with such requirements before being authorized to receive support;

(10) Certification that the applicant will be subject to a default payment or a forfeiture in the event of an auction default and that the applicant will make any payment that may be required pursuant to § 1.21004;

(11) Certification that the applicant is not delinquent on any debt owed to the Commission and that it is not delinquent on any non-tax debt owed to any Federal agency as of the deadline for submitting applications to participate in competitive bidding pursuant to this subpart, or that it will cure any such delinquency prior to the end of the application resubmission period established by public notice.

(12) Certification that the individual submitting the application is authorized to do so on behalf of the applicant; and

(13) Such additional information as may be required.

(c) *Limit on filing applications.* In any auction, no individual or entity may file more than one application to participate in competitive bidding or have a controlling interest (as defined in paragraph (d)(1) of this section) in more than one application to participate in competitive bidding. In the case of a consortium, each member of the consortium shall be considered to have a controlling interest in the consortium. In the event that applications for an auction are filed by applicants with overlapping controlling interests, pursuant to paragraph (f)(3) of this section, both applications will be deemed incomplete and only one such applicant may be deemed qualified to bid.

(d) *Definitions.* For purposes of the certifications required under paragraph (b) of this section and the limit on filing applications in paragraph (c) of this section:

(1) The term *controlling interest* includes individuals or entities with positive or negative *de jure* or *de facto* control of the applicant. *De jure* control includes holding 50 percent or more of the voting stock of a corporation or holding a general partnership interest in a partnership. Ownership interests that are held indirectly by any party through one or more intervening corporations may be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that if the ownership percentage for an interest in any link in the chain meets or exceeds 50 percent or represents actual control, it may be treated as if it were a 100 percent interest. *De facto* control is determined on a case-by-case basis. Examples of *de facto* control include constituting or appointing 50 percent or more of the board of directors or management committee; having authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the support recipient; or playing an integral role in management decisions. In the case of a consortium, each member of the consortium shall be considered to have a controlling interest in the consortium.

(2) The term *consortium* means an entity formed to apply as a single applicant to bid at auction pursuant to an agreement by two or more separate and distinct legal entities.

(3) The term *joint venture* means a legally cognizable entity formed to apply as a single applicant to bid at auction pursuant to an agreement by two or more separate and distinct legal entities.

(e) *Financial requirements for participation.* As a prerequisite to participating in competitive bidding, an applicant may be required to post a bond or place funds on deposit with the Commission in an amount based on the default payment that may be required pursuant to § 1.21004. The details of and deadline for posting such a bond or making such a deposit will be announced by public notice. No interest will be paid on any funds placed on deposit.

(f) *Application processing.* (1) Any timely submitted application will be reviewed by Commission staff for completeness and compliance with the Commission's rules. No untimely applications will be reviewed or considered.

(2) Any application to participate in competitive bidding that does not identify the applicant or does not include all of the certifications required pursuant to this section is unacceptable for filing and cannot be corrected subsequent to the applicable deadline for submitting applications. The application will be deemed incomplete and the applicant will not be found qualified to bid.

(3) If an individual or entity submits multiple applications in a single auction, or if entities that are commonly controlled by the same individual or same set of individuals submit more than one application in a single auction, then only one of such applications may be deemed complete, and the other such application(s) will be deemed incomplete, and such applicants will not be found qualified to bid.

(4) An applicant will not be permitted to participate in competitive bidding if the applicant has not provided any bond or deposit of funds required pursuant to § 1.21001(e), as of the applicable deadline.

(5) The Commission will provide applicants a limited opportunity to cure defects (except for failure to sign the application and to make all required certifications) during a resubmission period established by public notice and to resubmit a corrected application. During the resubmission period for curing defects, an application may be amended or modified to cure defects identified by the Commission or to make minor amendments or modifications. After the resubmission period has ended, an application may be amended or modified to make minor changes or correct minor errors in the application. An applicant may not make major modifications to its application after the initial filing deadline. An applicant will not be permitted to participate in competitive bidding if Commission staff determines that the application requires major modifications to be made after that deadline. Major modifications include, but are not limited to, any changes in the ownership of the applicant that constitute an assignment or transfer of control, or any changes in the identity of the applicant, or any changes in the required certifications. Minor amendments include, but are not limited to, the correction of typographical errors and other minor defects not identified as major. Minor modifications may be subject to a deadline established by public notice. An application will be considered to be newly filed if it is amended by a major

amendment and may not be resubmitted after applicable filing deadlines.

(6) An applicant that fails to cure the defects in their applications in a timely manner during the resubmission period as specified by public notice will have its application dismissed with no further opportunity for resubmission.

(7) An applicant that is found qualified to participate in competitive bidding shall be identified in a public notice.

(8) Applicants shall have a continuing obligation to make any amendments or modifications that are necessary to maintain the accuracy and completeness of information furnished in pending applications. Such amendments or modifications shall be made as promptly as possible, and in no case more than five business days after applicants become aware of the need to make any amendment or modification, or five business days after the reportable event occurs, whichever is later. An applicant's obligation to make such amendments or modifications to a pending application continues until they are made.

■ 4. Revise § 1.21002 to read as follows:

§ 1.21002 Prohibition of certain communications during the competitive bidding process.

(a) *Definitions.* For purposes of this section:

(1) The term ''applicant'' shall include all controlling interests in the entity submitting an application to participate in a given auction, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting the application, and all officers and directors of that entity. In the case of a consortium, each member of the consortium shall be considered to have a controlling interest in the consortium; and

(2) The term *bids* or *bidding strategies* shall include capital calls or requests for additional funds in support of bids or bidding strategies.

(b) *Certain communications prohibited.* After the deadline for submitting applications to participate, an applicant is prohibited from cooperating or collaborating with any other applicant with respect to its own, or one another's, or any other competing applicant's bids or bidding strategies, and is prohibited from communicating with any other applicant in any manner the substance of its own, or one another's, or any other competing applicant's bids or bidding strategies, until after the post-auction deadline for winning bidders to submit applications for support.

Example: Company A is an applicant in area 1. Company B and Company C each own 10 percent of Company A. Company D is an applicant in area 1, area 2, and area 3. Company C is an applicant in area 3. Without violating the Commission's Rules, Company B can enter into a consortium arrangement with Company D or acquire an ownership interest in Company D if Company B certifies either:

(1) That it has communicated with and will communicate neither with Company A or anyone else concerning Company A's bids or bidding strategy, nor with Company C or anyone else concerning Company C's bids or bidding strategy, or

(2) That it has not communicated with and will not communicate with Company D or anyone else concerning Company D's bids or bidding strategy.

(c) Any party submitting an application for a given auction that has an ownership or other interest disclosed with respect to more than one application for an auction must implement internal controls that preclude any individual acting on behalf of the applicant as defined in paragraph (a)(1) of this section from possessing information about the bids or bidding strategies as defined in paragraph (a)(2) of this section of more than one party submitting an application for the auction or communicating such information with respect to a party submitting an application for the auction to anyone possessing such information regarding another party submitting an application for the auction. Implementation of such internal controls will not outweigh specific evidence that a prohibited communication has occurred, nor will it preclude the initiation of an investigation when warranted.

(d) An applicant must modify its application for an auction to reflect any changes in ownership or in membership of a consortium or a joint venture or agreements or understandings related to the support being sought.

(e) *Duty to report potentially prohibited communications.* An applicant that makes or receives communications that may be prohibited pursuant to paragraph (b) of this section shall report such communications to the Commission staff immediately, and in any case no later than 5 business days after the communication occurs. An applicant's obligation to make such a report continues until the report has been made.

(f) *Procedures for reporting potentially prohibited communications.* Any report required to be filed pursuant to this section shall be filed as directed in public notices detailing procedures for the bidding that was the subject of the reported communication. If no such public notice provides direction, the party making the report shall do so in writing to the Chief of the Auctions Division, Office of Economics and Analytics, by the most expeditious means available, including electronic transmission such as email.

■ 5. Amend § 1.21004 by:

■ a. Redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively;

■ b. Adding new paragraph (b); and

■ c. Revising newly redesignated paragraphs (c) and (d).

The addition and revisions read as follows:

§ 1.21004 Winning bidder's obligation to apply for support.

* * * * *

(b) *Dismissal for failure to prosecute.* The Commission may dismiss a winning bidder's application with prejudice for failure of the winning bidder to prosecute, failure of the winning bidder to respond substantially within the time period specified in official correspondence or requests for additional information, or failure of the winning bidder to comply with requirements for becoming authorized to receive support. A winning bidder whose application is dismissed for failure to prosecute pursuant to this paragraph has defaulted on its bid(s).

(c) *Liability for default payment or forfeiture in the event of auction default.* A winning bidder that defaults on its bid(s) is liable for either a default payment or a forfeiture, which will be calculated by a method that will be established as provided in an order or public notice prior to competitive bidding. If the default payment is determined as a percentage of the defaulted bid amount, the default payment will not exceed twenty percent of the amount of the defaulted bid amount.

(d) *Additional liabilities.* In addition to being liable for a default payment or a forfeiture pursuant to paragraph (c) of this section, a winning bidder that defaults on its winning bid(s) shall be subject to such measures as the Commission may provide, including but not limited to disqualification from future competitive bidding pursuant to this subpart.

PART 54—UNIVERSAL SERVICE

■ 6. 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, 229, 254, 303(r), 403, 1004, and 1302, unless otherwise noted.

■ 7. Amend § 54.5 by:

■ a. Revising the definition of ''High-cost support'';

■ b. Adding, in alphabetical order, a definition for ''Mobile competitive eligible telecommunications carrier''; and

■ c. Revising the definition of ''Tribal lands''.

The revisions and addition read as follows:

§ 54.5 Terms and definitions.

* * * * *

High-cost support. ''High-cost support'' refers to those support mechanisms in existence as of October 1, 2011, specifically, high-cost loop support, safety net additive and safety valve provided pursuant to subpart F of part 36, local switching support pursuant to § 54.301, forward-looking support pursuant to § 54.309, interstate access support pursuant to §§ 54.800 through 54.809, and interstate common line support pursuant to §§ 54.901 through 54.904, support provided pursuant to §§ 51.915 and 51.917 of this chapter, and § 54.304, support provided to competitive eligible telecommunications carriers as set forth in § 54.307(e), Connect America Fund support provided pursuant to § 54.312, and Mobility Fund and 5G Fund support provided pursuant to subpart L of this part.

* * * * *

Mobile competitive eligible telecommunications carrier. A ''mobile competitive eligible telecommunications carrier'' is a carrier that meets the definition of a ''competitive eligible telecommunications carrier'' in this section and that provides a terrestrial-based service meeting the definition of ''commercial mobile radio service'' in § 51.5 of this chapter.

* * * * *

Tribal lands. For the purposes of high-cost support, ''Tribal lands'' include any federally recognized Indian tribe's reservation, pueblo or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) and Indian Allotments, see § 54.400(e), as well as Hawaiian Home Lands—areas held in trust for native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act, 1920, July 9, 1921, 42 Stat 108, *et seq.,* as amended; and any land designated as such by the Commission.

* * * * *

■ 8. Amend § 54.307 by revising paragraphs (e)(5) through (7) to read as follows:

§ 54.307 Support to a competitive eligible telecommunications carrier.

* * * * *

(e) * * *

(5) *Eligibility for interim support before 5G Fund Phase I auction.* (i) A competitive eligible telecommunications carrier that receives monthly baseline support pursuant to this section and that is not a mobile competitive eligible telecommunications carrier, as that term is defined in § 54.5, shall no longer receive monthly baseline support starting the first day of the month following the effective date of the Report and Order, [[FCC XX–XXX]];

(ii) A mobile competitive eligible telecommunications carrier that receives monthly baseline support pursuant to this section for any area that is ineligible for 5G Fund Phase I support, as determined by the Office of Economics and Analytics and Wireline Competition Bureau, shall receive monthly support amounts as follows for that area:

(A) For 12 months starting the first day of the month following the effective date of the Report and Order, [[FCC XX–XXX]], or release by the Office of Economics and Analytics and Wireline Competition Bureau of a public notice announcing the final set of areas eligible for 5G Fund Phase I support, whichever is later, each competitive eligible telecommunications carrier shall receive monthly support that is two-thirds (⅔) of the level as described in paragraph (e)(2)(iii) of this section for the ineligible area.

(B) For 12 months starting the month following the period described in paragraph (e)(5)(ii)(A) of this section, each competitive eligible telecommunications carrier shall receive monthly support that is one-third (⅓) of the level as described in paragraph (e)(2)(iii) of this section for the ineligible area.

(C) Following the period described in paragraph (e)(5)(ii)(B) of this section, no competitive eligible telecommunications carrier shall receive monthly support for the ineligible area pursuant to this section.

(iii) A mobile competitive eligible telecommunications carrier that receives monthly baseline support pursuant to this section for any area that is eligible for 5G Fund support, as determined by the Office of Economics and Analytics and Wireline Competition Bureau, shall receive monthly support for that area at the same level as described in paragraph (e)(2)(iii) of this section for no more than 60 months from the first day of the month following the effective date of the Report and Order, [[FCC XX–XXX]].

(6) *Eligibility for support after 5G Fund Phase I auction.* (i) Notwithstanding the schedule described in paragraph (e)(5)(iii) of this section, a mobile competitive eligible telecommunications carrier that receives monthly support pursuant to paragraph (e)(5)(iii) of this section and is a winning bidder in the 5G Fund Phase I auction shall continue to receive support at the same level it was receiving support for such area at the time of the release of a public notice announcing the close of the 5G Fund Phase I auction until such time as the Office of Economics and Analytics and Wireline Competition Bureau determine whether to authorize the carrier to receive 5G Fund Phase I support.

(A) Upon the Office of Economics and Analytics and Wireline Competition Bureau's release of a public notice approving a mobile competitive eligible telecommunications carrier's application for support submitted pursuant to § 54.1014(b) and authorizing the carrier to receive 5G Fund Phase I support, the carrier shall no longer receive support at the level of monthly support pursuant to paragraph (e)(5)(iii) of this section for such area. Thereafter, the carrier shall receive monthly support in the amount of its 5G Fund Phase I winning bid pursuant to § 54.1017, provided that USAC shall adjust the amount of the carrier's support to the extent necessary to account for any difference in support the carrier received during the period between the close of the 5G Fund Phase I auction and the release of the public notice authorizing the carrier to receive 5G Fund Phase I support.

(B) A mobile competitive eligible telecommunications carrier that is a winning bidder in the 5G Fund Phase I auction but is not subsequently authorized to receive 5G Fund Phase I support shall receive monthly support as set forth in paragraph (e)(6)(iv) of this section for such area, as applicable, provided that USAC shall decrease such amounts to account for support payments received prior to the Office of Economics and Analytics and Wireline Competition Bureau's authorization determination that exceed the amount of support for such area as set forth in paragraph (e)(6)(iv) of this section, and the monthly support in the mobile competitive eligible telecommunications carrier's winning 5G Fund Phase I bid, which USAC shall

treat as the carrier's monthly support for purposes of paragraph (e)(6)(iv) of this section to the extent the carrier's winning bid is below that amount.

(ii) A mobile competitive eligible telecommunications carrier that does not receive monthly support pursuant to this section and is a winning bidder in the 5G Fund Phase I auction shall receive monthly support pursuant to § 54.1017.

(iii) A mobile eligible telecommunications carrier that receives monthly support pursuant to paragraph (e)(5)(iii) of this section for an eligible area for which support is not won in the 5G Fund Phase I auction shall continue to receive support as described in paragraph (e)(5)(iii) of this section provided that it is the carrier receiving the minimum level of sustainable support for the eligible area. The ''minimum level of sustainable support'' is the lowest monthly support received by a mobile competitive eligible telecommunications carrier for the eligible area that has deployed the highest level of technology within the state encompassing the eligible area.

(iv) All other mobile competitive eligible telecommunications carriers that receive monthly support pursuant to paragraph (e)(5)(iii) of this section shall receive the following monthly support amounts for areas that are eligible for 5G Fund Phase I support, as determined by the Office of Economics and Analytics and Wireline Competition Bureau:

(A) For 12 months starting the first day of the month following release by the Office of Economics and Analytics and Wireline Competition Bureau of a public notice announcing the close of the 5G Fund Phase I auction, each mobile competitive eligible telecommunications carrier shall receive monthly support that is two-thirds (⅔) of the level as described in paragraph (e)(5)(iii) of this section for the eligible area.

(B) For 12 months starting the month following the period described in paragraph (e)(6)(iv)(A) of this section, each mobile competitive eligible telecommunications carrier shall receive monthly support that is one-third (⅓) of the level as described in paragraph (e)(5)(iii) of this section for the eligible area.

(C) Following the period described in paragraph (e)(6)(iv)(B) of this section, no mobile competitive eligible telecommunications carrier shall receive monthly support for the eligible area pursuant to this section.

(7) *Eligibility for support after 5G Fund Phase II auction.* (i) Notwithstanding the schedule described in paragraphs (e)(6)(iii) or (iv) of this section, a mobile competitive eligible telecommunications carrier that receives monthly support pursuant to paragraphs (e)(6)(iii) or (iv) of this section, as applicable, and is a winning bidder in the 5G Fund Phase II auction shall receive support at the same level it was receiving support for such area at the time of the release of a public notice announcing the close of the 5G Fund Phase II auction until such time as the Office of Economics and Analytics and Wireline Competition Bureau determine whether to authorize the carrier to receive 5G Fund Phase II support.

(A) Upon the Office of Economics and Analytics and Wireline Competition Bureau's release of a public notice approving a mobile competitive eligible telecommunications carrier's application for support submitted pursuant to § 54.1014(b) and authorizing the carrier to receive 5G Fund Phase II support, the carrier shall no longer receive support at the level of monthly support pursuant to this section for such area. Thereafter, the carrier shall receive monthly support in the amount of its 5G Fund Phase II winning bid pursuant to § 54.1017, provided that USAC shall adjust the amount of the carrier's support to the extent necessary to account for any difference in support the carrier received during the period between the close of the 5G Fund Phase II auction and the release of the public notice authorizing the carrier to receive 5G Fund Phase II support.

(B) A mobile competitive eligible telecommunications carrier that is a winning bidder in the 5G Fund Phase II auction but is not subsequently authorized to receive 5G Fund Phase II support shall receive monthly support as set forth in paragraphs (e)(7)(iv) and (v) of this section for such area, as applicable, provided that USAC shall decrease such amounts to account for support payments received prior to the Office of Economics and Analytics and Wireline Competition Bureau's authorization determination that exceed the amount of support for such area as set forth in paragraphs (e)(7)(iv) and (v) of this section, and the monthly support in the mobile competitive eligible telecommunications carrier's winning 5G Fund bid, which USAC shall treat as the carrier's monthly support for purposes of paragraphs (e)(7)(iv) and (v) of this section to the extent the carrier's winning bid is below that amount.

(ii) A mobile competitive eligible telecommunications carrier that does not receive monthly support pursuant to this section and is a winning bidder in the 5G Fund Phase II auction shall receive monthly support pursuant to § 54.1017.

(iii) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to paragraph (e)(6)(iii) of this section for an eligible area for which support is not won in the 5G Fund Phase II auction shall continue to receive support for that area as described in paragraph (e)(6)(iii) of this section.

(iv) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to paragraph (e)(6)(iii) of this section for an eligible area for which support is won in the 5G Fund Phase II auction and the carrier is not the winning bidder shall receive the following monthly support amounts:

(A) For 12 months starting the first day of the month following release by the Office of Economics and Analytics and Wireline Competition Bureau of a public notice announcing the close of the 5G Fund Phase II auction, the mobile competitive eligible telecommunications carrier shall receive monthly support that is two-thirds (⅔) of the level as described in paragraph (e)(6)(iii) of this section for the eligible area.

(B) For 12 months starting the month following the period described in paragraph (e)(7)(iv)(A) of this section, the mobile competitive eligible telecommunications carrier shall receive monthly support that is one-third (⅓) of the level as described in paragraph (e)(6)(iii) of this section for the eligible area.

(C) Following the period described in paragraph (e)(7)(iv)(B) of this section, the mobile competitive eligible telecommunications carrier shall not receive monthly support for the eligible area pursuant to this section.

(v) All other mobile competitive eligible telecommunications carriers that receive monthly support pursuant to paragraph (e)(6)(iv) of this section shall continue to receive support for the eligible area as described in paragraph (e)(6)(iv) of this section.

* * * * *

■ 9. Amend § 54.313 by revising paragraph (k) to read as follows:

§ 54.313 Annual reporting requirements for high-cost recipients.

* * * * *

(k) This section does not apply to recipients that solely receive support from Phase I of the Mobility Fund.

* * * * *

■ 10. Amend § 54.315 by revising paragraph (c)(2)(iv)(B) to read as follows:

§ 54.315 Application process for Connect America Fund phase II support distributed through competitive bidding.

* * * * *

(c) * * *

(2) * * *

(iv) * * *

(B) Has a branch office:

(*1*) Located in the District of Columbia; or

(*2*) Located in New York City, New York, or such other branch office agreed to by the Commission, that will accept a letter of credit presentation from USAC via overnight courier, in addition to in-person presentations;

* * * * *

■ 11. Add § 54.322 to read as follows:

§ 54.322 Public interest obligations and performance requirements, reporting requirements, and non-compliance mechanisms for mobile legacy high-cost support recipients.

(a) *General.* A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(iii), (e)(6)(iii), or (e)(7)(iii) shall deploy voice and data services that meet at least the 5G–NR (New Radio) technology standards developed by the 3rd Generation Partnership Project with Release 15, or any successor release that may be adopted by the Office of Economics and Analytics and the Wireline Competition Bureau after notice and comment.

(b) *Service milestones and deadlines.* A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(iii), (e)(6)(iii), or (e)(7)(iii) shall deploy 5G service as specified in paragraph (a) of this section as follows:

(1) *Year two service milestone deadline.* The carrier shall deploy 5G service that meets the performance requirements specified in paragraph (c) of this section to at least 40 percent of the areas for which the carrier receives such monthly support no later than December 31 of the second full calendar year following adoption of the Report and Order, FCC XX–XXX.

(2) *Year three service milestone deadline.* The carrier shall deploy 5G service that meets the performance requirements specified in paragraph (c) of this section to at least 60 percent of the areas for which the carrier receives such monthly support no later than December 31 of the third full calendar year following adoption of the Report and Order, FCC XX–XXX.

(3) *Year four final service milestone deadline.* The carrier shall deploy 5G service that meets the performance requirements specified in paragraph (c) of this section to at least 85 percent of the areas for which the carrier receives such monthly support no later than December 31 of the fourth full calendar year following adoption of the Report and Order, FCC XX–XXX.

(c) *Performance requirements.* A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(iii), (e)(6)(iii), or (e)(7)(iii) shall meet the following minimum baseline performance requirements for data speeds, data latency, and data allowances in areas that it receives support for at least one plan that it offers:

(1) Outdoor data transmission rates of 3 Mbps upload and 35 Mbps download, with at least 90 percent of the required download speed measurements not less than a threshold speed as determined by the Office of Economics and Analytics and the Wireline Competition Bureau; and

(2) Transmission latency of 100 ms or less round trip for at least 96 percent of the measurements.

(3) At least one service plan offered must include a data allowance comparable to mid-level service plans offered by nationwide carriers.

(d) *Collocation obligations.* A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(iii), (e)(6)(iii), or (e)(7)(iii) shall allow for reasonable collocation by other carriers of services that would meet the performance requirements specified in paragraph (b) of this section on all network infrastructure constructed with universal service funds that it owns or manages in the area for which it receives such monthly support. In addition, the mobile competitive eligible telecommunications carrier that receives such support may not enter into facilities access arrangements that restrict any party to the arrangement from allowing others to collocate on the network infrastructure.

(e) *Voice and data roaming obligations.* A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(iii), (e)(6)(iii), or (e)(7)(iii) shall comply with the Commission's voice and data roaming requirements that are currently in effect on networks that are built with legacy high-cost support.

(f) *Reasonably comparable rates.* A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(iii), (e)(6)(iii), or (e)(7)(iii) shall offer its services in the areas for which it is authorized to receive legacy high-cost support at rates that are reasonably comparable to those rates offered in urban areas.

(g) *Initial report of current service offerings.* A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(iii), (e)(6)(iii), or (e)(7)(iii) shall submit an initial report describing its current service offerings in its subsidized service areas and how the monthly support it is receiving is being used in such areas no later than three months after the effective date of this rule. The party submitting the report must certify that it has been authorized to do so by the mobile competitive eligible telecommunications carrier that receives support.

(h) *Interim and final service milestone reports.* (1) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(iii), (e)(6)(iii), or (e)(7)(iii) shall submit a report on or before March 1 after each of the service milestone deadlines established in paragraph (a) of this section demonstrating that it has deployed 5G service that meets the performance requirements specified in paragraph (c) of this section, which shall include the following:

(i) Electronic shapefiles sufficient to demonstrate that the recipient has met the coverage obligations;

(ii) Representative data covering the area for which support was received demonstrating mobile transmissions to and from the network that demonstrate coverage and compliance with speed and latency requirements;

(iii) Information to support the accuracy of the shapefiles which includes, at a minimum, RF network design document with detailed site and sector information along with link budgets;

(iv) Additional information as required by the Commission in a public notice;

(v) All data submitted in a service milestone report shall be in compliance with standards set forth in the applicable public notice and shall be certified by a professional engineer.

(2) All data submitted in service milestone reports shall be subject to review and verification by USAC to confirm compliance with the performance requirements set forth in paragraph (c) of this section.

(i) *Annual reports.* (1) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(iii), (e)(6)(iii), or (e)(7)(iii) shall submit an annual report no later than July 1 in each year. Each such

report shall include the following information:

(i) Updated information regarding the carrier's current service offerings in its subsidized service areas and how monthly support is being used to provide 5G services in these areas, and a certification that the carrier is in compliance with the public interest obligations and all of the terms and conditions associated with the continued receipt of such monthly support disbursements; and

(ii) Certification that the carrier is in compliance with the public interest obligations and all of the terms and conditions associated with the continued receipt of monthly support.

(2) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(iii), (e)(6)(iii), or (e)(7)(iii) shall supplement the information provided to USAC in any annual report within 10 business days from the onset of any reduction in the percentage of areas for which the recipient receives support being served after the filing of an initial or annual certification report or in the event of any failure to comply with any of the requirements for continued receipt of such support.

(3) The party submitting the annual report must certify that it has been authorized to do so by mobile competitive eligible telecommunications carrier that receives support.

(4) Each annual report shall be submitted solely via the USAC Administrator's online portal.

(j) *Non-compliance measures for failure to comply with performance requirements or public interest obligations.* A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(iii), (e)(6)(iii), or (e)(7)(iii) that fails to comply with the public interest obligations set forth in paragraphs (d) through (g) of this section or fails to comply with the performance requirements set forth in paragraph (c) of this section at the prescribed level by the applicable interim deadline or by the final deadline established in paragraph (b) of this section must notify the Wireline Competition Bureau and USAC within 10 business days of its non-compliance. Upon notification, the carrier will be deemed to be in default, and for monthly support received pursuant to § 54.307(e)(5)(iii), (e)(6)(iii), or (e)(7)(iii), will no longer be eligible to receive such support, will receive no further support disbursements, and will be subject to full recovery of all such support disbursed since adoption of the public interest obligations and performance requirements specified in this section. The carrier may also be subject to further action, including the Commission's existing enforcement procedures and penalties, potential revocation of ETC designation, and suspension or debarment pursuant to § 54.8.

■ 12. Amend § 54.804 by revising paragraph (c)(2)(iv)(B) to read as follows:

§ 54.804 Rural Digital Opportunity Fund application process.

* * * * *

(c) * * *

(2) * * *

(iv) * * *

(B) Has a branch office:

(*1*) Located in the District of Columbia; or

(*2*) Located in New York City, New York, or such other branch office agreed to by the Commission, that will accept a letter of credit presentation from USAC via overnight courier, in addition to in-person presentations;

* * * * *

■ 13. Revise the heading for subpart L and §§ 54.1011 through 54.1021 to read as follows:

Subpart L—Mobility Fund and 5G Fund

* * * * *

§ 54.1011 5G Fund.

The Commission will use competitive bidding, as provided in part 1, subpart AA, of this chapter, to determine the recipients of support available through the 5G Fund and the amount(s) of support that they may receive for specific geographic areas, subject to applicable post-auction procedures.

§ 54.1012 Geographic areas eligible for support.

(a) 5G Fund support may be made available for census tracts identified as eligible by public notice.

(b) Coverage units for purposes of conducting competitive bidding and disbursing support based on square kilometers will be identified by public notice for each area eligible for support.

§ 54.1013 Applicant eligibility.

(a) An applicant shall be an Eligible Telecommunications Carrier in an area in order to receive 5G Fund support for that area. An applicant may obtain its designation as an Eligible Telecommunications Carrier after the close of a 5G Fund auction, provided that the applicant submits proof of its designation within 180 days of the public notice identifying the applicant as a winning bidder. An applicant shall not receive 5G Fund support prior to the submission of proof of its designation as an Eligible Telecommunications Carrier. After such submission, the Eligible Telecommunications Carrier shall receive a balloon payment that will consist of the carrier's monthly 5G Fund payment amount multiplied by the number of whole months between the first day of the month after the close of the auction and the issuance of the public notice authorizing the carrier to receive 5G Fund support.

(b) An applicant must have access to spectrum in an area that enables it to satisfy the performance requirements specified in § 54.1015 in order to receive 5G Fund support for that area. The applicant shall describe its access to spectrum and certify, in a form acceptable to the Commission, that it has such access in each area in which it intends to bid for support at the time it applies to participate in competitive bidding and at the time that it applies for support, and that it will retain such access for at least ten (10) years after the date on which it is authorized to receive support.

(c) An applicant shall certify that it is financially and technically qualified to provide the services supported by the 5G Fund within the specified timeframe in each geographic area for which it seeks and is authorized to receive support.

§ 54.1014 Application process.

(a) *Application to participate in competitive bidding for 5G Fund support.* In addition to providing information specified in § 1.21001(b) of this chapter and any other information required by the Commission, an applicant to participate in competitive bidding for 5G Fund support shall:

(1) Certify that the applicant is financially and technically capable of meeting the public interest obligations and performance requirements in § 54.1015 in each area for which it seeks support;

(2) Disclose its status as an Eligible Telecommunications Carrier in any area for which it will seek support or as an entity that will file an application to become an Eligible Telecommunications Carrier in any such area after winning support in a 5G Fund auction, and certify that the disclosure is accurate;

(3) Describe the spectrum access that the applicant plans to use to meet its public interest obligations and performance requirements in areas for which it will bid for support, including whether the applicant currently holds or leases the spectrum, including any necessary renewal expectancy, and whether such spectrum access is contingent upon receiving support in a

5G Fund auction, and certify that the description is accurate, that the applicant has access to spectrum in each area for which it intends to bid for support, and that the applicant will retain such access for at least ten (10) years after the date on which it is authorized to receive 5G Fund support;

(4) Submit specified operational and financial information;

(i) Indicate whether the applicant has been providing mobile wireless voice and/or mobile wireless broadband service for at least three years prior to the short-form application deadline (or is a wholly-owned subsidiary of an entity that has been providing such service for at least three years);

(ii) If the applicant has been providing mobile wireless voice and/or mobile wireless broadband service for at least three years prior to the short-form application deadline (or is a wholly-owned subsidiary of an entity that has been providing such service for at least three years), it must:

(A) Specify the number of years it (or its parent company, if it is a wholly-owned subsidiary) has been providing such service,

(B) Certify that it (or its parent company, if it is a wholly-owned subsidiary) has filed FCC Form 477s as required during that time period, and

(C) Provide each of the FCC Registration Numbers (FRNs) that the applicant or its parent company (and in the case of a holding company applicant, its operating companies) have used to submit mobile wireless voice and/or mobile wireless broadband data with FCC Form 477 data for the past three years.

(iii) If the applicant has been providing mobile wireless voice and/or mobile wireless broadband service for fewer than three years prior to the application deadline (or is not a wholly owned subsidiary of an entity that has been providing such service for at least three years), it must:

(A) Submit information concerning its operational history and a preliminary project description as prescribed by the Commission or the Office of Economics and Analytics and the Wireline Competition Bureau in a Public Notice;

(B) Submit a letter of interest from a qualified bank that meets the qualifications set forth in § 54.1016 stating that the bank would provide a letter of credit as described in section to the applicant if the applicant becomes a winning bidder for bids of a certain dollar magnitude, as well as the maximum dollar amount for which the bank would be willing to issue a letter of credit to the applicant; and

(C) Submit a statement that the bank would be willing to issue a letter of credit that is substantially in the same form as the Commission's model letter of credit.

(5) Certify that it will be subject to a forfeiture pursuant to § 1.21004 of this chapter in the event of an auction default; and

(6) Certification that the party submitting the application is authorized to do so on behalf of the applicant.

(b) *Application by winning bidders for 5G Fund support*—(1) *Deadline.* Unless otherwise provided by public notice, winning bidders for 5G Fund support shall file an application for 5G Fund support no later than ten (10) business days after the public notice identifying them as winning bidders.

(2) *Application contents.* An application for 5G 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) Updated information regarding the agreements, arrangements, or understandings related to 5G Fund support disclosed in the application to participate in competitive bidding for 5G Fund support. A winning bidder may also be required to disclose in its application for 5G Fund support the specific terms, conditions, and parties involved in any agreement into which it has entered and the agreement itself;

(iii) Certification that the applicant is financially and technically capable of providing the required coverage and performance levels within the specified timeframe in the geographic areas in which it won support;

(iv) Proof of the applicant's status as an Eligible Telecommunications Carrier, or a statement that the applicant will become an Eligible Telecommunications Carrier in any area for which it seeks support within 180 days of the public notice identifying them as winning bidders, and certification that the proof is accurate;

(v) A description of the spectrum access that the applicant plans to use to meet its public interest obligations and performance requirements in areas for which it is winning bidder for support, including whether the applicant currently holds or leases the spectrum, along with any necessary renewal expectancy, and certification that the description is accurate, that the winning bidder has access to spectrum in each area for which it is applying for support, and that the applicant will retain such access for the entire ten (10) year 5G Fund support term;

(vi) A detailed project description that describes the network to be built, identifies the proposed technology, demonstrates that the project is technically feasible, discloses the complete project budget, and discusses each specific phase of the project (*e.g.,* network design, construction, deployment, and maintenance), as well as a complete project schedule, including timelines, milestones, and costs;

(vii) Certifications that the applicant has available funds for all project costs that exceed the amount of support to be received from 5G Fund and that the applicant will comply with all program requirements, including the public interest obligations and performance requirements set forth in § 54.1015;

(viii) Any guarantee of performance that the Commission may require by public notice or other proceedings, including but not limited to the letters of credit required in § 54.1016, or a written commitment from an acceptable bank, as defined in § 54.1016, to issue such a letter of credit;

(viii) Certification that the applicant will offer services in supported areas at rates that are reasonably comparable to the rates the applicant charges in urban areas;

(ix) Certification that the party submitting the application is authorized to do so on behalf of the applicant; and

(x) Such additional information as the Commission may require.

(3) *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 winning bidder that may be authorized to receive 5G Fund support, after the winning bidder submits a Letter of Credit and an accompanying opinion letter as required by § 54.1016, in a form acceptable to the Commission, and any final designation as an Eligible Telecommunications Carrier that any applicant may still require. Each such winning bidder shall submit a Letter of Credit and an accompanying opinion letter as required by § 54.1016, in a form acceptable to the Commission, and any required final designation as an Eligible Telecommunications Carrier no later than ten (10) business days following the release of the public notice.

(vi) After receipt of all necessary information, a public notice will identify each winning bidder that is authorized to receive 5G Fund support.

§ 54.1015 Public interest obligations and performance requirements for 5G Fund support recipients.

(a) *General.* A 5G Fund support recipient shall deploy voice and data services that meet at least the 5G–NR (New Radio) technology standards developed by the 3rd Generation Partnership Project with Release 15, or any successor release that may be adopted by the Office of Economics and Analytics and the Wireline Competition Bureau after notice and comment.

(b) *Interim and final service milestones and deadlines.* A 5G Fund support recipient shall deploy 5G service as specified in paragraph (a) of this section as follows:

(1) *Year three interim service milestone deadline.* A support recipient shall deploy service that meets the 5G Fund performance requirements as specified in paragraph (c) of this section to at least 40 percent of the total square kilometers associated with the eligible areas for which it is authorized to receive 5G Fund support in a state no later than December 31 of the third full calendar year following authorization of support.

(2) *Year four interim service milestone deadline.* A support recipient shall deploy service that meets the 5G Fund performance requirements as specified in paragraph (c) of this section to at least 60 percent of the total square kilometers associated with the eligible areas for which it is authorized to receive 5G Fund support in a state no later than December 31 of the fourth full calendar year following authorization of support.

(3) *Year five interim service milestone deadline.* A recipient shall deploy service that meets the 5G Fund performance requirements as specified in paragraph (c) of this section to at least 80 percent of the total square kilometers associated with the eligible areas for which it is authorized to receive 5G Fund support in a state no later than December 31 of the fifth full calendar year following authorization of support.

(4) *Year six final service milestone deadline.* A support recipient shall deploy service that meets the 5G Fund performance requirements as specified in paragraph (c) of this section to at least 85 percent of the total square kilometers associated with the eligible areas for which it is authorized to receive 5G Fund support in a state no later than December 31 of the sixth full calendar year following funding authorization. In addition, a recipient shall deploy service meeting the 5G Fund performance requirements as specified in paragraph (c) of this section to at least 75 percent of the total square kilometers associated with every census tract or census block group for which it was authorized to receive 5G Fund support no later than December 31 of the sixth full calendar year following authorization of support.

(5) *Optional year two interim service milestone deadline.* A support recipient may, at its option, deploy service that meets the 5G Fund performance requirements as specified in paragraph (c) of this section to at least 20 percent of the total square kilometers associated with the eligible areas for which it is authorized to receive 5G Fund support in a state no later than December 31 of the second full calendar year following funding authorization. Meeting this optional interim service milestone would permit the support recipient, after confirmation of the service deployment by USAC, to reduce its letter of credit so that it is valued at an amount equal to one year of support as described in § 54.1016(a)(1)(v).

(c) *Performance requirements.* A recipient authorized to receive 5G Fund support shall meet the following minimum baseline performance requirements for data speeds, data latency, and data allowances in areas where it receives support:

(1) Outdoor data transmission rates of 3 Mbps upload and 35 Mbps download, with at least 90 percent of the required download speed measurements not less than a certain threshold speed that will be defined prior to a 5G Fund auction; and

(2) Transmission latency of 100 ms or less round trip for at least 96 percent of the measurements.

(3) At least one service plan offered must include a data allowance comparable to mid-level service plans offered by nationwide carriers.

(d) *Collocation obligations.* A recipient authorized to receive 5G Fund support shall allow for reasonable collocation by other carriers of services that would meet the performance requirements of the 5G Fund on all network infrastructure constructed with universal service funds that it owns or manages in the area for which it receives 5G Fund support. In addition, the recipient may not enter into facilities access arrangements that restrict any party to the arrangement from allowing others to collocate on the network infrastructure.

(e) *Voice and data roaming obligations.* A recipient authorized to receive 5G Fund support shall comply with the Commission's voice and data roaming requirements that are currently in effect on networks that are built with 5G Fund support.

(f) *Reasonably comparable rates.* A recipient authorized to receive 5G Fund support shall offer its services in the areas for which it is authorized to receive support at rates that are reasonably comparable to those rates offered in urban areas.

(g) *Liability for failure to comply with performance requirements and public interest obligations.* A support recipient that fails to comply with the performance requirements set forth in paragraph (c) of this section is subject to the non-compliance measures set forth in § 54.1020. A support recipient that fails to comply with the public interest obligations or any other terms and conditions associated with receiving 5G Fund support may be subject to action, including the Commission's existing enforcement procedures and penalties, reductions in support amounts, revocation of ETC designation, and suspension or debarment pursuant to § 54.8.

§ 54.1016 Letter of credit.

(a) Before being authorized to receive 5G Fund support, a winning bidder shall obtain an irrevocable standby letter of credit which shall be acceptable in all respects to the Commission.

(1) Each winning bidder that becomes authorized to receive 5G Fund support shall maintain the standby letter of credit in an amount equal to, at a minimum, one year of support, until the Universal Service Administrative Company has verified that the support recipient serves at least 85 percent of

the eligible square kilometers for which it is authorized to receive support in a state, and at least 75 percent of the eligible square kilometers in each eligible census tract, by the Year Six Final Service Milestone.

(i) For Year One of a support recipient's support term, it must obtain a letter of credit valued at an amount equal to one year of support.

(ii) For Year Two of a support recipient's support term, it must obtain a letter of credit valued at an amount equal to eighteen months of support.

(iii) For Year Three of a support recipient's support term, it must obtain a letter of credit valued at an amount equal to two years of support.

(iv) For Year Four of a support recipient's support term, and for each year thereafter unless the support recipient is allowed to reduce it pursuant to § 54.1015(b), it must obtain a letter of credit valued at an amount equal to three years of support.

(v) A support recipient may obtain a new letter of credit or renew its existing letter of credit so that it is valued at an amount equal to one year of support once it meets either the Optional Year Two Interim Service Milestone or the Year Three Interim Service Milestone specified in § 54.1015(b). The recipient may obtain or renew this letter of credit upon verification by USAC that it has deployed service that meets the 5G Fund performance requirements and deadlines as specified in § 54.1015(b). The recipient may maintain its letter of credit at this level for the remainder of its deployment term, so long as USAC verifies that the recipient successfully and timely meets its remaining required interim and final service milestones.

(vi) A support recipient that fails to meet its required interim service milestones must obtain a new letter of credit or renew its existing letter of credit valued at an amount equal to its existing letter of credit, plus an additional year of support, up to a maximum of three years of support.

(vii) A support recipient that fails to meet two or more required interim service milestones must maintain a letter of credit valued at an amount equal to three years of support and may be subject to additional noncompliance penalties as set forth in § 54.1020.

(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:

(*1*) Located in the District of Columbia; or

(*2*) Located in New York City, New York, or such other branch office agreed to by the Commission, that will accept a letter of credit presentation from USAC via overnight courier, in addition to in-person presentations; and

(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.

(b) A winning bidder for 5G Fund support shall provide with its Letter of Credit an opinion letter from 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, or the bankruptcy estate of any other bidder-related entity requesting issuance of the letter of credit, under section 541 of the Bankruptcy Code.

(c) Authorization to receive 5G Fund support is conditioned upon full and timely performance of all of the performance requirements set forth in § 54.1015(c), and any additional terms and conditions upon which the support was granted.

(1) Failure by a recipient authorized to receive 5G Fund support to comply with any of the performance requirements set forth in § 54.1015(c) will trigger reporting obligations and the withholding of support as described in § 54.1020. Failure to come into full compliance during the relevant cure period as described in § 54.1020(b)(4)(ii) or 54.1020(c) will trigger a recovery action by USAC set forth in § 54.1020(b)(4)(ii) or 54.1020(c), as applicable. If the recipient authorized to receive 5G Fund support does not repay the requisite amount of support within six months, USAC will be entitled to draw upon the entire amount of the letter of credit and may disqualify the 5G Fund support recipient from the receipt of 5G Fund support or additional universal service support.

(2) The default will be evidenced by a letter issued by the Chief of the Wireline Competition Bureau, or its respective designees, which letter, describing the performance default and 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.

§ 54.1017 5G Fund support disbursements.

(a) A winning bidder of 5G Fund support will be advised by public notice whether it has been authorized to receive support.

(b) 5G Fund support will be disbursed on a monthly basis to a recipient for ten (10) years following the date on which it is authorized to receive support.

(c) If a 5G Fund support recipient fails to comply with the performance requirements of the 5G Fund, USAC shall reduce, pause, or freeze, the monthly payments to the recipient until the recipient cures the non-compliance, as provided in § 54.1020. As set forth in § 54.1015(g), if a support recipient fails to comply with the public interest obligations or any other terms and conditions associated with receiving 5G Fund support, it may be subject reductions or suspension of support amounts.

§ 54.1018 Annual reports.

(a) A 5G Fund support recipient authorized to receive 5G Fund support shall submit an annual report to USAC no later than July 1 of each year after the year in which it was authorized to receive support. Each support recipient shall certify in its annual report that it is in compliance with the public interest

obligations, performance requirements, and all of the terms and conditions associated with the receipt of 5G Fund support in order to continue receiving 5G Fund support disbursements.

(b) All support recipients shall supplement the information provided in an annual report to USAC within 10 business days from the onset of any reduction in the percentage of the total eligible square kilometers being served in a state after the filing of an annual certification report or in the event of any failure to comply with any of the 5G Fund requirements.

(c) The party submitting the annual report must certify that it has been authorized to do so by the 5G Fund support recipient.

(d) Each annual report shall be submitted solely via the USAC Administrator's online portal.

§ 54.1019 Interim service and final service milestone reports.

(a) A recipient authorized to receive 5G Fund support shall submit a report to USAC on or before March 1 after the third, fourth, fifth, and sixth service milestone deadlines established in § 54.1015(b) demonstrating that it has deployed service meeting the 5G Fund performance requirements specified in § 54.1015(c), which shall include the following:

(1) Electronic shapefiles sufficient to demonstrate that the recipient has met the coverage obligations;

(2) Representative data covering the area for which support was received demonstrating mobile transmissions to and from the network that demonstrate coverage and compliance with speed and latency requirements;

(3) Information to support the accuracy of the shapefiles which includes, at a minimum, RF network design document with detailed site and sector information along with link budgets;

(4) Additional information as required by the Commission in a public notice;

(5) All data submitted in compliance with a recipient's public interest obligations in the milestone report shall be in compliance with standards set forth in the applicable public notice and shall be certified by a professional engineer.

(b) Each service milestone report shall be submitted solely via the USAC Administrator's online portal.

(c) All data submitted in service milestone reports shall be subject to verification by USAC for compliance with the 5G Fund performance requirements specified in § 54.1015(c).

§ 54.1020 Non-compliance measures for 5G Fund support recipients.

(a) *General.* Any support recipient that has not deployed service that meets the 5G Fund performance requirements specified in § 54.1015(c) to at least 20 percent of the total square kilometers associated with the eligible areas for which it is authorized to receive support in a state by the Year Three Interim Service Milestone deadline must notify the Wireline Competition Bureau and USAC within 10 business days of its non-compliance. Upon notification, the support recipient will be deemed to be in default and will be subject to full support recovery. The provisions of paragraph (b) of this section will not be applicable to such a support recipient.

(b) *Interim service milestones.* A 5G Fund support recipient must notify the Commission, USAC, and the relevant state, U.S. Territory, or Tribal government, if applicable, within 10 business days of its non-compliance with any interim milestone. Upon notification that a support recipient has defaulted on an interim service milestone, the Wireline Competition Bureau shall issue a letter evidencing the default. For purposes of determining whether a default has occurred, the support recipient must be offering service meeting the performance requirements specified in § 54.1015(c). The issuance of this letter shall initiate reporting obligations and withholding a percentage of the 5G Fund support recipient's total monthly 5G Fund support, if applicable, starting the month after issuance of the letter:

(1) *Tier 1.* If a support recipient has a compliance gap of at least five percent but less than 15 percent of the total square kilometers associated with the eligible areas in a state for which it is to have deployed service that meets the 5G Fund performance requirements specified in § 54.1015(c) by an interim service milestone, the Wireline Competition Bureau will issue a letter to that effect. Starting three months after the issuance of this letter, a support recipient will be required to file a report with USAC every three months that identifies the eligible square kilometers to which the support recipient has newly deployed facilities capable of delivering service that meets the requisite 5G Fund performance requirements in the previous quarter. The support recipient must continue to file quarterly reports until it has reported, and USAC has verified, that it has reduced the compliance gap to less than five percent of the total square kilometers associated with the eligible areas for which it is authorized to receive support in a state by that interim service milestone and the Wireline Competition Bureau issues a letter to that effect. A support recipient that files a quarterly report late, but within seven days after the due date established by the letter issued by the Wireline Competition Bureau for filing the report, will have its 5G Fund support reduced by an amount equivalent to seven days of support. If a support recipient does not file a report within seven days after the report's due date, it will have its 5G Fund support reduced on a pro-rata daily basis equivalent to the period of non-compliance, plus the minimum seven-day reduction, until such time as the quarterly report is filed.

(2) *Tier 2.* If a support recipient has a compliance gap of at least 15 percent but less than 25 percent of the total square kilometers associated with the eligible areas in a state for which it is to have deployed service that meets the 5G Fund performance requirements specified in § 54.1015(c) by an interim service milestone, USAC will withhold 15 percent of the support recipient's monthly support for that state and the support recipient will be required to file quarterly reports with USAC. Once the support recipient has reported, and USAC has verified, that it has reduced the compliance gap to less than 15 percent of the required eligible square kilometers for that interim service milestone for that state, the Wireline Competition Bureau will issue a letter to that effect, USAC will stop withholding support, and the support recipient will receive all of the support that had been withheld. The support recipient will then move to Tier 1 status.

(3) *Tier 3.* If a support recipient has a compliance gap of at least 25 percent but less than 50 percent of the total square kilometers associated with the eligible areas in a state for which it is to have deployed service that meets the 5G Fund performance requirements specified in § 54.1015(c) by an interim service milestone, USAC will withhold 25 percent of the support recipient's monthly support for that state and the support recipient will be required to file quarterly reports with USAC. Once the support recipient has reported, and USAC has verified, that it has reduced the compliance gap to less than 25 percent of the required eligible square kilometers for that interim service milestone for that state, the Wireline Competition Bureau will issue a letter to that effect, and the support recipient will move to Tier 2 or Tier 1 status, as applicable.

(4) *Tier 4.* If a support recipient has a compliance gap of 50 percent or more of the total square kilometers associated with the eligible areas in a state for

which it is to have deployed service that meets the 5G Fund performance requirements specified in § 54.1015(c) by an interim service milestone:

(i) USAC will withhold 50 percent of the support recipient's monthly support for that state and the support recipient will then be required to file quarterly reports with USAC. As with the other tiers, as the support recipient reports, and USAC verifies, that it has lessened the extent of its non-compliance, and the Wireline Competition Bureau issues a letter to that effect, it will move through the tiers until it reaches Tier 1 (or no longer is out of compliance with the applicable interim service milestone).

(ii) If after having 50 percent of its support withheld for six months, the support recipient has not reported that it is eligible for Tier 3 status (or one of the lower tiers), USAC will withhold 100 percent of the support recipient's forthcoming monthly support for that state and will commence a recovery action for a percentage of support that is equal to the support recipient's compliance gap plus 10 percent of the support recipient's support in that state that has been disbursed to that date.

(5) If at any point prior to the Year Six Final Service Milestone the support recipient reports, and USAC verifies, that it is eligible for Tier 1 status or that it is no longer out of compliance with the 5G Fund performance requirements specified in § 54.1015(c), it will have its support fully restored and USAC will repay any funds that were recovered or withheld.

(c) *Year six final service milestone.* A 5G Fund support recipient must notify the Commission, USAC, and the relevant state, U.S. Territory, or Tribal government, if applicable, within 10 business days of its non-compliance with the final milestone. Upon notification that the support recipient has not met the 5G Fund performance requirements specified in § 54.1015(c) by the Year Six Final Service Milestone, the support recipient will have twelve months from the date of the Year Six Final Milestone deadline to come into full compliance with performance requirements for Year Six Final Milestone. If the support recipient does not report that it has come into full compliance with the performance requirements for the Year Six Final Milestone within twelve months, as verified by USAC, the Wireline Competition Bureau will issue a letter to this effect. Recipients of 5G Fund support shall be subject to the following non-compliance measures related to the recovery of support after this grace period:

(1) If a support recipient has deployed service that meets the 5G Fund performance requirements specified in § 54.1015(c) to at least 80 percent of the total eligible square kilometers in a state, but less than the required 85 percent of the total eligible square kilometers in that state, USAC will recover an amount of support that is equal to 1.25 times the average amount of support per square kilometer that the support recipient has received in the state times the number of square kilometers unserved up to the 85 percent requirement;

(2) If a support recipient has deployed service that meets the 5G Fund performance requirements specified in § 54.1015(c) to at least 75 percent, but less than 80 percent, of the total eligible square kilometers in that state, USAC will recover an amount of support that is equal to 1.5 times the average amount of support per square kilometer that the support recipient has received in the state times the number of square kilometers unserved up to the 85 percent requirement, plus 5 percent of the support recipient's total 5G Fund support for the 10 year support term for that state;

(3) If a support recipient has deployed service that meets the 5G Fund performance requirements specified in § 54.1015(c) to less than 75 percent of the total eligible square kilometers in a state, USAC will recover an amount of support that is equal to 1.75 times the average amount of support per square kilometer that the support recipient has received in the state times the number of square kilometers unserved up to the 85 percent requirement, plus 10 percent of the support recipient's total 5G Fund support for the 10 year support term for that state.

(d) *Additional evidence required at year six final service milestone deadline.* At the Year Six Final Service Milestone deadline, a 5G Fund support recipient is also required to provide evidence, which is subject to verification by USAC, that it has provided service that meets the 5G Fund performance requirements specified in § 54.1015(c) to at least 75 percent of the total square kilometers for each census tract or census tract group in which it was authorized to receive support. If after the grace period permitted in paragraph (c) of this section USAC has not verified based on the evidence provided that the support recipient has provided service that meets the 5G Fund performance requirements specified in § 54.1015(c) to at least 75 percent of the total square kilometers for each census tract or census tract group in which it was authorized to receive support, USAC will recover an amount of support that is equal to 1.5 times the average amount of support per square kilometer that the support recipient had received in the eligible area times the number of square kilometers unserved within that eligible area, up to the 75 percent requirement.

(e) *Compliance reviews.* If USAC determines subsequent to the Year Six Final Service Milestone that a support recipient does not have sufficient evidence to demonstrate that it continues to offer service that meets the 5G Fund performance requirements specified in § 54.1015(c) to all of the eligible square kilometers in the state as required by the Year Six Final Service Milestone, USAC shall immediately recover a percentage of support from the support recipient as specified in paragraphs (c)(1) through(3) and (d) of this section.

§ 54.1021 Record retention for the 5G Fund.

A recipient authorized to receive 5G Fund support and its agents are required to retain any documentation prepared for, or in connection with, the award of the 5G Fund support for a period of not less than ten (10) years after the date on which the recipient receives its final disbursement of 5G Fund support.

■ 14. Amend § 54.1508 by revising paragraph (c)(4)(ii) to read as follows:

§ 54.1508 Letter of credit for stage 2 fixed support recipients.

* * * * *

(c) * * *

(4) * * *

(ii) Has a branch office:

(A) Located in the District of Columbia, or

(B) Located in New York City, New York, or such other branch office agreed to by the Commission, that will accept a letter of credit presentation from USAC via overnight courier, in addition to in-person presentations;

* * * * *

[FR Doc. 2020–09620 Filed 5–22–20; 8:45 am]

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Part III

The President

Memorandum of May 20, 2020—Providing Continued Federal Support for Governors' Use of the National Guard To Respond to COVID–19 and To Facilitate Economic Recovery

Federal Register
Vol. 85, No. 101
Tuesday, May 26, 2020

Presidential Documents

Title 3—

The President

Memorandum of May 20, 2020

Providing Continued Federal Support for Governors' Use of the National Guard To Respond to COVID–19 and To Facilitate Economic Recovery

Memorandum for the Secretary of Defense [and] the Secretary of Homeland Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the ''Stafford Act''), and section 502 of title 32, United States Code, it is hereby ordered as follows:

Section 1. *Policy.* It is the policy of the United States to take measures to assist State Governors under the Stafford Act in their responses to all threats and hazards to the American people in their respective States. On March 13, 2020, I declared a national emergency recognizing the threat that COVID–19, the disease caused by the novel (new) coronavirus known as SARS–CoV–2 (''the virus''), and the virus poses to the Nation's healthcare systems. I also determined that same day that the COVID–19 outbreak constituted an emergency, of nationwide scope, pursuant to section 501(b) of the Stafford Act (42 U.S.C. 5191(b)). Considering the profound and unique public health risks posed by the ongoing outbreak of COVID–19, the need for close cooperation and mutual assistance between the Federal Government and the States is greater than at any time in recent history. This need remains as the United States continues to battle the public health threat posed by the virus, while transitioning to a period of increased economic activity and recovery in those areas of the Nation where the threat posed by the virus has been sufficiently mitigated. To provide maximum support to the Governor of the State of Utah as he makes decisions about the responses required to address local conditions in his jurisdiction with respect to combatting the threat posed by the virus and, where appropriate, facilitating its economic recovery, I am taking the actions set forth in sections 2, 3, and 4 of this memorandum:

Sec. 2. *One Hundred Percent Federal Cost Share.* To maximize assistance to the Governor of the State of Utah to facilitate Federal support with respect to the use of National Guard units under State control, I am directing the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security to fund 100 percent of the emergency assistance activities associated with preventing, mitigating, and responding to the threat to public health and safety posed by the virus that Utah undertakes using its National Guard forces, as authorized by sections 403 (42 U.S.C. 5170b) and 503 (42 U.S.C. 5193) of the Stafford Act.

Sec. 3. *Support of Operations or Missions to Prevent and Respond to the Spread of COVID–19.* I am directing the Secretary of Defense, to the maximum extent feasible and consistent with mission requirements (including geographic proximity), to request pursuant to 32 U.S.C. 502(f) that the Governor of the State of Utah order National Guard forces to perform duty to fulfill mission assignments, on a fully reimbursable basis, that FEMA issues to the Department of Defense for the purpose of supporting State and local emergency assistance efforts under the Stafford Act.

Sec. 4. *Termination and Extension.* The 100 percent Federal cost share for the State of Utah's use of National Guard forces authorized pursuant to this memorandum shall extend to, and shall be available for orders of any length authorizing duty through, June 24, 2020. Such orders include duty necessary to comply with health protection protocols recommended by the Centers for Disease Control and Prevention or other health protection measures agreed to by FEMA and the Department of Defense.

Sec. 5. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

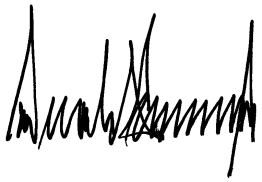
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Defense is authorized and directed to publish this memorandum in the *Federal Register.*



THE WHITE HOUSE,
May 20, 2020

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Vol. 85, No. 101

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FEDERAL REGISTER PAGES AND DATE, MAY

CFR PARTS AFFECTED DURING MAY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

120 .....26321, 26324, 27287, 29842, 29845, 29847, 30835, 31357
121.....29847, 30835
124.....27290, 27650
125.....27650
126.....27650
127.....27650

14 CFR

21.....26326
39 .....26842, 27109, 27112, 27665, 27667, 27670, 27909, 29596, 29598, 29601, 30589, 30592, 30595, 30597, 30601, 30837, 30840, 31042, 31046, 31359, 31361
61.....26326
63.....26326
65.....26326
71 .....25283, 26601, 26602, 26604, 26605, 26607, 26608, 26609, 26845, 26846, 27114, 27293, 27294, 27295, 27673, 27911, 27912, 27914, 27915, 27916, 28852, 30604, 31049
91.....26326
95.....29603
97 .....26611, 26613, 27917, 27919
107.....26326
125.....26326
141.....26326

Proposed Rules:

39 .....25343, 25346, 25351, 25354, 26374, 26375, 26888, 26891, 26893, 26896, 27167, 27170, 28888, 28890, 28893, 28895, 29673, 29676, 30664, 30891, 31083
71 .....26898, 26901, 27172, 27174, 27176, 27178, 27180, 27181, 27183, 27184, 27186, 27188, 27189, 27333, 27334, 27337, 27339, 28523, 28897
399.....26633

15 CFR

730.....29849
732.....29849
736.....29849
744.....29610, 29849
762.....29610
801.....31050
960.....30790

Proposed Rules:

922.....25357

16 CFR

1225.....30605

Proposed Rules:

Ch. 1.....27191, 29359
318.....31085

17 CFR

23.....27674
160.....29611
200 .....25962, 28484, 29614
227.....27116
230 .....25962, 28484, 29614
232 .....25962, 28484, 29614
239 .....25962, 27116, 28484, 29614
240 .....25962, 28484, 28853, 29614
270 .....25962, 28484, 29614
274 .....25962, 28484, 29614

Proposed Rules:

4.....26378
50.....27955
210.....28734
270.....28734

18 CFR

35.....27681

19 CFR

Ch. 1.....31057, 31059
103.....31054
351.....29615

20 CFR

404.....30842
641.....30608
655.....30608
656.....30608
658.....30608
667.....30608
683.....30608
702.....30608

21 CFR

888.....26350

Proposed Rules:

73.....27340
573 .....26902, 27692, 28898
1308.....28899, 29359
1401.....29366, 31087

22 CFR

120.....25285
122.....25285, 26847
123.....25285
124.....25285
129.....25285

24 CFR

5.....27133
891.....27133
960.....27133
962.....27133

25 CFR

Proposed Rules:

82.....26902

26 CFR

1 .....26848, 28867, 29323
54.....26351

Proposed Rules:

1 .....25376, 27693, 28524, 28539, 29368, 31096
300.....29878
301.....29368

27 CFR

Proposed Rules:

9.....31416

28 CFR

813.....29863

29 CFR

2.....30608
7.....30608
8.....30608
10.....30608
13.....30608
18.....30608
24.....30608
29.....30608
38.....30608
96.....30608
471.....30608
501.....30608
580.....30608
779.....29867
1978.....30608
1979.....30608
1980.....30608
1981.....30608
1982.....30608
1983.....30608
1984.....30608
1985.....30608
1986.....30608
1987.....30608
1988.....30608
2560.....26351
2590.....26351
4022.....29323

Proposed Rules:

1695.....30667

30 CFR

56.....30627
57.....30627
948.....27139

Proposed Rules:

733.....28904
736.....28904
842.....28904
935.....26413

31 CFR

208.....25285
541.....31060

Proposed Rules:

800.....30893

32 CFR

112.....27157
144.....27157
199.....26355, 27921

33 CFR

100.....26355, 31363
117.....26358
165 .....26359, 26615, 28488, 29615, 31363

Proposed Rules:

100 .....26903, 27341, 28539, 29369, 31099, 31102
110.....27343
117 .....28540, 28542, 28544, 28546
135.....28802
138.....28802
153.....28802

34 CFR

106.....30026
222.....31372
300.....31374

36 CFR

1253.....26848
1290.....26848
404.....29621

37 CFR

202.....27296

Proposed Rules:

360.....26906

39 CFR

111.....27299
3040.....27301
3045.....29324

Proposed Rules:

111.....28917
501.....30671

40 CFR

9.....26617, 26617
52 .....25291, 25293, 25299, 25301, 25305, 26361, 27927, 28490, 28493, 28883, 29325, 29327, 29329, 29331, 29627, 29628, 30844, 31378
63.....31286
70.....29329
81 .....29331, 30844, 31378
131.....28494
180 .....29338, 29340, 29630, 29633, 31383, 31386
300.....31389
721.....26617

Proposed Rules:

2.....31104
9.....28140
22.....29878
50.....26634
52 .....25377, 25379, 26418, 26635, 26641, 26643, 26647, 26907, 27344, 27976, 28548, 28550, 28919, 29369, 29377, 29381, 29678, 29879, 29882, 29895, 31112, 31113, 31116, 31118, 31421
59.....28140
60 .....28140, 31124, 31423
79.....29034, 29906
80.....29034, 29906
81 .....28550, 29381, 29895
85.....28140
86 .....28140, 28564, 29034, 29906
88.....28140
89.....28140
90.....28140
91.....28140
92.....28140
94.....28140
124.....29878
180.....27346, 31130
228.....31133
257.....29878
258.....27348
271.....26911
300.....27979, 31427
600.....28564
721.....26419, 29907
1027.....28140
1033.....28140
1036.....28140
1037 .....28140, 29034, 29906
1039.....28140
1042.....28140
1043.....28140
1045.....28140
1048.....28140
1051.....28140
1054.....28140
1060.....28140
1065.....28140
1066.....28140
1068.....28140
1090.....29034, 29906

41 CFR

5–203.....30608
60–30.....30608

42 CFR

406.....25508
407.....25508
409.....27550
410.....27550
412.....27550
413.....27550
414.....27550
415.....27550
422.....25508
423.....25508
424.....27550
425.....27550
431.....25508
438.....25508
440.....27550
457.....25508
482.....25508
483.....27550
484.....27550
485.....25508
600.....27550

Proposed Rules:

Ch. IV.....26438

44 CFR

64.....28499
333.....28500

45 CFR

146.....29164
149.....29164
155.....29164
156 .....25640, 27550, 29164
158.....29164
160.....29637
164.....29637
170.....25640
171.....25640
1355.....28410

46 CFR

30.....27308
150.....27308
153.....27308
545.....29638

47 CFR

0.....31390
11.....30627
15.....31390
64.....26857, 27309
76.....26364
96.....25309

Proposed Rules:

0.....29914, 30672
1 .....26438, 29914, 31616
2.....26438
18.....26438
51.....30899
54 .....25380, 26653, 30899, 31134, 31616
61.....30899
63.....29914
64.....30672
69.....30899
73.....28586
79.....30917

48 CFR

Ch. 1.....27086, 27102
1 .....27087, 27088, 27098, 29666
2.....27087
4.....27101
5.....27088, 29666
8.....27088, 29666
9.....27088, 29666
12 .....27088, 27098, 29666
13.....27088, 29666
15.....27088, 29666
19 .....27088, 27101, 29666
22 .....27087, 27088, 29666
25 .....27088, 27098, 27101, 29666
29.....27098
30.....27088, 29666
50.....27088, 29666
52 .....27087, 27088, 27098, 27101, 29666

Proposed Rules:

25.....28596

49 CFR

171.....27810
172.....27810
173.....27810
174.....27810
175.....27810
176.....27810
178.....27810
180.....27810
1250.....30849
1333.....26858, 26866
1570.....25313

Proposed Rules:

171.....30673
172.....30673
173.....30673
174.....30673
177.....30673
178.....30673
179.....30673
180.....30673
Ch. X.....26915
1201.....30680

50 CFR

17.....26786, 29532
91.....27313
216.....29666
219.....27028
300.....25315, 29666
635.....26365, 31414
648 .....26874, 29345, 29870
660.....27317, 27687
665.....26622
679 .....27158, 29670, 30851

Proposed Rules:

92.....27698
622.....28924, 29916
648.....27703

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List April 30, 2020

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